

The Township of Cavan Monaghan

By-law No. 2022-18

Being a by-law to authorize the execution of the Services Agreement between the The Corporation of the Township of Cavan Monaghan and The Corporation of the City of Peterborough


Whereas The Corporation of the City of Peterborough and The Corporation of the Township of Cavan Monaghan are proposing that the City, with the consent of the Township, provide to the Township water production, treatment, and storage and water distribution services and sewage collection and sewage treatment services;

Whereas The Corporation of the Township of Cavan Monaghan consents to the provision by The Corporation of the City of Peterborough of water production, treatment and storage services, water distribution services, sewage collection services and sewage treatment services to The Township of Cavan Monaghan.

Now Therefore the Council of the Township of Cavan Monaghan hereby enacts as follows:

1. That the Mayor and Clerk are hereby authorized and directed to execute the Services Agreement between the Corporation of the Township of Cavan Monaghan and The Corporation of The City of Peterborough.
2. That the Services Agreement is part of this By-law as Schedule "A".

Read a first, second and third time and passed this 4th day of April, 2022.



Scott McFadden
Mayor



Cindy Page
Clerk

Schedule "A"

Service Agreement

THIS AGREEMENT dated April 4, 2022 with effect as of April 1, 2022

Between

The Corporation of the Township of Cavan Monaghan
(the "Township")

And

The Corporation of the City of Peterborough
(the "Service Provider")

Recitals

- a) The Township wishes to retain the services of the Service Provider to operate and maintain the Facilities in accordance with the provisions of this Agreement; and
- b) The Township and the Service Provider (each a "Party" and, collectively, the "Parties") are entering into this Agreement to clarify and set out their respective rights and obligations with respect to the operation, management, maintenance, invoicing and payment arrangements for the Facilities.

NOW THEREFORE, in consideration of the premises and mutual covenants, terms and conditions contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged, the Parties agree as follows:

Table of Contents

Article 1. Interpretation of this Agreement 3

Article 2. Responsibilities of the Service Provider 3

Article 3. Responsibilities of the Township 10

Article 4. Term, Payment for Services and Other Charges 14

Article 5. Dispute Resolution 18

Article 6. Agreement and Termination 20

Article 7. Innovations 24

Article 8. Confidential Information 24

Article 9. General 26

Schedule A – Facilities 32

Schedule B – Definitions 33

Schedule C – Services 37

Schedule D – Excluded Services 43

Schedule E – [Intentionally Deleted] 44

Schedule F – [Intentionally deleted] 44

Schedule G – Insurance 45

Schedule H – [Intentionally Deleted] 47

Schedule I – Fixed Price Chart 48

Schedule J – [Intentionally Deleted] 51

Article 1. Interpretation of this Agreement

Section 1.01 Definitions

In this Agreement, unless the context requires otherwise, all capitalized words and terms have the meaning as assigned in Schedule B, or within applicable provisions as indicated.

Section 1.02 Schedules

The following Schedules attached hereto form part of this Agreement as if specifically restated herein:

- Schedule A – Facilities
- Schedule B – Definitions
- Schedule C – Services
- Schedule D – Excluded Services
- Schedule E – [Intentionally deleted]
- Schedule F – [Intentionally deleted]
- Schedule G – Insurance
- Schedule H – [Intentionally deleted]
- Schedule I – Fixed Pricing Chart
- Schedule J – [Intentionally deleted]

Section 1.03 Number and Gender

In this Agreement, words importing the singular number only include the plural and vice-versa, and words importing gender include all genders.

Section 1.04 Currency

All dollar amounts referred to in this Agreement are in lawful money of Canada.

Section 1.05 Time

Time is of the essence of this Agreement.

Article 2. Responsibilities of the Service Provider

Section 2.01 Retention of the Service Provider

The Township retains the Service Provider to provide management, operation, administration and maintenance services of the Facilities, as described in Schedule C to this Agreement, the Drinking Water Quality Management System Operational Plan and the parts of the DWQMS Operational Plan SOP-001 that are not identified as the Township's responsibility (collectively, the "Services"), each of which may be amended from time to time by mutual agreement of the Parties, all in accordance with the terms and conditions of this Agreement. For greater

certainty, the Township is responsible for the part of the DWQMS Operational Plan SOP-001 that is identified as the Township's responsibility.

Section 2.02 Performance of Services

- (a) Subject to paragraph (b), the Service Provider will deliver the Services throughout the Term in accordance with this Agreement and in compliance with all Applicable Law.
- (b) The Service Provider may temporarily cease to provide, or reduce the level of provision of, the Services hereunder, acting reasonably, in the event of an emergency caused by any Uncontrollable Circumstance or upon the occurrence of any of the following events
 - (i) a major mechanical failure of any material equipment at the Facilities; or
 - (ii) the Facilities ceasing to be in compliance with Applicable Law resulting from any of the following circumstances:
 - A) the water transmitted to the Facilities for treatment contains contaminants or other substances, which cannot be treated or removed by the Facilities' processes;
 - B) the wastewater transmitted to the Facilities for treatment does not meet the requirements of the Township's sewer use by-law or any Applicable Law;
 - C) the wastewater transmitted to the Facilities for treatment contains contaminants or other substances, which substances cannot be treated or removed by the Facilities' processes;
 - D) the quantity or quality of wastewater transmitted to the Facilities exceeds the Facilities' design or operating capacity;
 - E) failure or inadequacy of the water or wastewater treatment process as designed; or
 - F) the Township's refusal to approve Capital Expenditures proposed by the Service Provider in accordance with Section 4.06(b).
- (c) The Service Provider will use best efforts to notify the Township as soon as practicable, and in any event within two Business Days, upon the occurrence of any of the events set out in paragraph (b). The Service Provider will use commercially reasonable efforts to give the Township reasonable advance notice of each such cessation of, or reduction in, the Services.
- (d) During the course of any delays or periods of non-performance described in paragraph (b), the Service Provider will continue to furnish timely reports to the Township and will exercise all reasonable efforts to mitigate or limit damages to the Township resulting from any such events. The Service Provider will continue to use best efforts to continue to perform its obligations under this Agreement and, subject to Section 4.04(e), and

provided the Service Provider has obtained the Township's prior written approval, take all remedial measures that it determines are reasonably necessary to promptly correct or cure the event or condition excusing performance. The Parties will explore all reasonable avenues available to avoid or resolve the event described herein in the shortest time possible.

- (e) Notwithstanding paragraph (d), where the Service Provider is unable to obtain the Township's approval prior to undertaking remedial measures, the Service Provider may do only the emergency work it deems necessary to stabilize other parts of the Facilities, or the Facilities as a whole, or to facilitate the continued provision of the Services to other parts of the Facilities (the "Interim Emergency Measures"), until the Township's approval can be obtained for full remedial measures. In the interim, the Service Provider will communicate with the Township to provide it with as much information as possible, as soon as practicably possible thereafter, and will thereafter work with the Township to ensure the emergency situation is appropriately addressed.
- (f) When the Service Provider is able to resume performance of its obligations thereunder, it will give the Township written notice to that effect and will promptly resume performance thereunder.
- (g) The Service Provider will ensure that all regulatory sampling, testing and monitoring is performed at the intervals, and following the process, set out in Schedule C and as required by all Applicable Law.
- (h) [Intentionally deleted]
- (i) The Service Provider will, at its sole expense, obtain and maintain during the Term, all permits, licences and approvals required under Applicable Law or by any Governmental Authority to conduct its business generally and to provide the Services under this Agreement and, upon request, will provide the Township with proof thereof.
- (j) Notwithstanding any other provision of this Agreement, delay in the performance of, or a failure to perform any term of this Agreement by, the Service Provider under paragraph (b) will not constitute an Event of Default under this Agreement, or give rise to any claim for damages suffered by the Township, if and to the extent such delay or non-performance is caused by occurrences or circumstances beyond the reasonable control of the Service Provider, including decrees of government, changes in Applicable Law, unregulated septic dumping by third parties, illegal industrial waste discharges or overflows by third parties, 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, riots, explosions, fire, acts of third parties and epidemics or pandemics as declared by the federal or provincial governments (any such occurrence or circumstance is referred to as an "Uncontrollable Circumstance"). For greater clarity, an "Uncontrollable Circumstance" does not include any circumstance fully or partially caused by, or directly or indirectly

related to, the Service Provider's grossly negligent maintenance or operation of the Facilities or any Event of Default by the Service Provider.

Section 2.03 Excluded Services

Any services not set out in Schedule C are excluded from this Agreement (collectively, the "Excluded Services"), and, without limiting the generality of the foregoing, those services set out in Schedule D to this Agreement are examples of Excluded Services. For greater clarity, Excluded Services include specific services for which the Township has made prior arrangements. If the Township subsequently requires the Service Provider to provide the Excluded Services, the Excluded Services may be provided at additional cost to the Township to be mutually agreed upon by the Parties, acting reasonably, and thereafter such services will be provided in accordance with this Agreement.

Section 2.04 Standard of Care

The Service Provider will deliver the Services in accordance with industry standards and using Good Industry Practices.

Section 2.05 The Service Provider as Independent Contractor

- (a) In performing the Services, the Service Provider is acting as an independent contractor and only to the extent and for the specific purposes expressly set forth herein. Neither the Service Provider nor its Representatives is subject to the direction and control of the Township, except as expressly provided for in this Agreement. The Service Provider and its Representatives have no authority to legally bind the Township. Nothing in this Agreement is deemed to constitute a partnership, limited partnership, limited liability partnership or a joint venture or to create any fiduciary relationship between the Service Provider and the Township.
- (b) The Service Provider may hire subcontractors from time to time in respect of the Services (the "Subcontractors"). The Service Provider will notify the Township upon hiring or retaining any Subcontractors in respect of any of the Services contemplated by this Agreement.
- (c) No agreement between the Service Provider and a Subcontractor constitutes a contractual bond between the Township and the Subcontractor, nor does it exempt, relieve or excuse the Service Provider from any obligations or liabilities owed to the Township hereunder.
- (d) The Service Provider remains principally liable to the Township for the due observance and performance of the Services and all the covenants, obligations, agreements and conditions of this Agreement that are to be observed and performed by the Service Provider and any breach of this Agreement by a Subcontractor is deemed to be a breach of this Agreement by the Service Provider.

Section 2.06 Authorized Representative

Each of the Parties is entitled to designate, in writing to the other, one or more individuals who will be authorized to represent it in connection with the day-to-day administration of the provisions of this Agreement (the "Authorized Representative"). Each of the Parties is 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 2.07 Reporting

The Service Provider is required to provide certain reports to the Township and any other third party, within the required timeframes, all as set out in Schedule C and Applicable Law.

Section 2.08 Ownership of Records and Facilities

- (a) Unless otherwise provided for in Section 9.01, all reports prepared in whole or in part by the Service Provider during the Term that are prepared for delivery to the Township and arise from or are incidental to the Services and any related work (other than the data and internal reports generated by the Service Provider to maintain its own internal quality control in respect of the performance of the Service Provider) are the property of the Township and the Service Provider hereby waives any moral rights and assigns to the Township any such rights, and agrees to give the Township and its Representative all assistance as may be reasonably required to protect such rights.
- (b) The Parties agree that this Agreement does not, in any way, transfer any ownership, in whole or in part, of the Facilities, and any equipment and materials therein, to the Service Provider.
- (c) Notwithstanding anything else in this Section 2.08, the Township acknowledges that the Service Provider will, in carrying out the Services, supply and use certain equipment (the "Service Provider Equipment"). The Parties agree that this Agreement does not, in any way, transfer any ownership, in whole in part, of the Service Provider Equipment to the Township.

Section 2.09 Retention of Records

The Service Provider will, for the purposes of confirming that the Service Provider has performed its obligations in accordance with this Agreement:

- (a) for a period of two years from the date of transfer of records and documentation to the Township in accordance with this Agreement, or such other period of time specified by Applicable Law, keep complete and accurate copies of all reports and other documentation that are contemplated under this Agreement to be owned by, and transferred to, the Township; and

- (b) during the Term, and for a period of three years thereafter or such other longer period of time specified by Applicable Law, keep complete and accurate books, accounts, records and all other data, other than those contemplated by paragraph (a), reasonably required for the Township to verify the Services performed hereunder and the expenditures made pursuant to this Agreement.

Section 2.10 Verification and Audit

The Service Provider acknowledges that this Agreement is subject to measurement and verification by the Township and agrees to cooperate and assist the Township in any measurement and verification activities. The Service Provider agrees that during the period referred to in Section 2.09(a) it will make available to the Township such books, accounts, records, invoices and receipts relating to the Agreement, and on reasonable notice from the Township agrees during such period that it will: (i) permit the Township and its Representatives to examine, audit and take copies of such documents and make extracts of the same; and (ii) make available to the Township and its Representatives any employees or Subcontractors of the Service Provider who were involved in the performance of the Services. The Service Provider and the Township agree that assistance with such measurement and verification efforts does not fall within the scope of the Services and all reasonable costs incurred by the Service Provider in providing such assistance will be considered an Excluded Cost for the purposes of Section 4.04.

Section 2.11 Minimal Business Disruption

In conducting an audit pursuant to Section 2.10, the Township will not unreasonably interfere with the operations of the Service Provider and will take all commercially reasonable measures to minimize disruption to the Service Provider's business.

Section 2.12 Representations and Warranties of the Service Provider

The Service Provider represents and warrants to the Township that the following statements are true and correct, and acknowledges that the Township is relying on such representations and warranties in entering into this Agreement:

- (a) the Service Provider is duly constituted, validly existing and in good standing under the laws of its governing jurisdiction;
- (b) the Service Provider has full power and authority, and has taken all necessary steps, to enter into and perform its obligations under this Agreement;
- (c) this Agreement constitutes a legal, valid and binding obligation of the Service Provider, enforceable against it in accordance with its terms and conditions;
- (d) the Service Provider has the experience, ability and financial capacity to perform and fulfil its obligations hereunder, and covenants to maintain during the Term the financial and other ability to perform and fulfil its obligations hereunder;

- (e) by the commencement of the Term, the Service Provider will have carried out the due diligence and site tours of the Facilities, will have received the information it requires to assess its ability to carry out the Services and will have identified for the Township any deficiencies respecting the Facilities that will or may impact the Service Provider's ability to provide Services;
- (f) the Service Provider's staff are trained and capable, and where required by Applicable Law, certified and/or licensed to carry out the Services under the terms of this Agreement;
- (g) the Service Provider has all authority, power and right to grant the rights as set forth in Section 9.01; and
- (h) the Service Provider is not a non-resident of Canada within the meaning of the Income Tax Act (R.S.C., 1985, c. 1 (5th Supp.)), as amended.

The Service Provider covenants that all of the foregoing representations and warranties set forth in this Section 2.12 will continue to be true and correct throughout the Term.

Section 2.13 Indemnification of the Township

- (a) Subject to paragraph (c), the Service Provider will indemnify and hold harmless the Township, and its directors, officers, employees and agents (the "Township 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 the Township as a result of:
 - (i) any Claim for, or in respect of, the death, personal injury, disease or illness of any person, including the Township Indemnified Parties, arising by reason of any:
 - A) grossly negligent act or omission of the Service Provider;
 - B) willful misconduct of the Service Provider; or
 - C) non-compliance by the Service Provider with any material provisions of this Agreement or any document, instrument or agreement delivered to the Township as required under this Agreement;
 - (ii) breach of any representation or warranty by the Service Provider under this Agreement;
 - (iii) breach by the Service Provider of, or non-compliance by the Service Provider with, Applicable Law; or
 - (iv) any infringement or misappropriation of Intellectual Property Rights of any person by the Service Provider.

- (b) The Township is deemed to hold the provisions of this Section 2.13 that are for the benefit of the Township Indemnified Parties in trust for such Township Indemnified Parties as third party beneficiaries under this Agreement.
- (c) The indemnity in paragraph (a) excludes any amount paid in relation to a deductible for insurance contemplated by this Agreement.

Section 2.14 Insurance

- (a) Each party will arrange for, and maintain, insurance coverage during the Term, as described in Schedule G to this Agreement (the "Insurance").
- (b) The Service Provider will, within thirty (30) Business Days of the beginning of the Term, or such other longer period as agreed to by Parties, deliver to the Township a Certificate of Insurance evidencing each coverage comprising the Insurance, and such certificates must provide for thirty (30) days' notice to the Township of any termination of coverage.
- (c) Except as otherwise set out in this Agreement, all coverages comprising the Insurance must apply on a primary and non-contributory basis.
- (d) The Service Provider will, within thirty (30) Business Days of the date of this Agreement, or such longer period as agreed to by the Parties, deliver to the Township a clearance certificate issued by the Workplace Safety & Insurance Board, issued no earlier than ten Business Days prior to the date of this Agreement. The Service Provider must deliver updated clearance certificates to the Township annually.
- (e) The Township may, at its own cost, arrange for and maintain additional insurance in respect of the Facilities, and the Service Provider will be an additional insured under such insurance.
- (f) The Township is responsible for arranging and maintaining its own insurance for any Excluded Services and for its property. The Township acknowledges that it has no recourse under the Service Provider's policies of insurance for any such Excluded Services or property.
- (g) In the event of a claim under the Insurance, the Party responsible for payment of deductibles, and the amount of such deductibles, will be as specified in Schedule G.

Article 3. Responsibilities of the Township

Section 3.01 Representations and Warranties of the Township

The Township represents and warrants to the Service Provider that the following statements are true and correct, and acknowledges that the Service Provider is relying on such representations and warranties in entering into this Agreement:

- (a) the Township has the full power and authority to enter into and perform its obligations under this Agreement;
- (b) this Agreement constitutes a legal, valid and binding obligation of the Township, enforceable against it in accordance with its terms and conditions;
- (c) The Council of the Township has consented to the Service Provider providing that part of Services comprising sewage treatment and sewage collection within the geographic boundaries of the Township pursuant to Municipal Act, 2001, s. 19(2)3.iii; and
- (d) The Council of the Township has consented to the Service Provider providing that part of Services comprising water production, treatment and storage and water distribution within the geographic boundaries of the Township pursuant to Municipal Act, 2001, s. 19(2)3.i.

Section 3.02 Covenants of the Township

- (a) The Township agrees to provide promptly to the Service Provider, upon request from the Service Provider, and in all other instances within a reasonable time, any information relating to the Facilities which could have a material bearing on the provision of Services by the Service Provider.
- (b) The Township will use commercially reasonable efforts to carry out final inspections on the Facilities before the expiry of any existing warranties on the Facilities, and the Parties agree that any repairs arising from such inspections will be carried out under any such warranty, or, if the warranty does not cover such repairs, such repairs will be presented by the Service Provider to the Township as a Capital Expenditure in accordance with Section 4.06(b).
- (c) The Township will forthwith remedy any deficiencies identified by the Service Provider pursuant to Section 2.12(e).

Section 3.03 Indemnification of the Service Provider

- (a) Subject to paragraph (c), the Township will indemnify and hold harmless the Service Provider, and its directors, officers, employees and agents (the "Service Provider Indemnified Parties" and together with the "Township Indemnified Parties", 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 the Service Provider as a result of:
 - (i) any loss or physical damage to property or assets of the Service Provider or any Service Provider Indemnified Party, or any Claim made by one or more third parties (including for loss of or physical damage to property or assets), or any Claim for, or in respect of, the death, personal injury, disease or illness of any person, including the Service Provider Indemnified Parties, arising by reason of any:

- A) grossly negligent act or omission of the Township;
 - B) willful misconduct of the Township; or
 - C) non-compliance by the Township with any material provisions of this Agreement or any document, instrument or agreement delivered to the Service Provider as required under this Agreement;
- (ii) breach of any representation or warranty by Township under this Agreement;
 - (iii) breach by the Township of, or non-compliance by Township with, Applicable Law; or
 - (iv) any infringement or misappropriation of Intellectual Property Rights of any person by the Township.
- (b) The Service Provider is deemed to hold the provisions of this Section 3.03 that are for the benefit of the Service Provider Indemnified Parties in trust for such Service Provider Indemnified Parties as third party beneficiaries under this Agreement.
 - (c) The indemnity in paragraph (a) excludes any amount paid in relation to a deductible for insurance contemplated by this Agreement.

Section 3.04 Waiver of Consequential Damages

In no event will the Parties be liable to each other for, 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, or indemnity), or any other theory of legal liability.

Section 3.05 Conduct of Third Party Claims

This Section 3.05 applies to the conduct of a Claim made by a third party against a Party having or claiming to have with respect to such third party Claim, the benefit of an indemnity or a right of compensation under this Agreement (the "Third Party Claim"). The Party having, or claiming to have, the benefit of the indemnity or right to compensation is referred to as the "Beneficiary" and the Party from whom the indemnity or compensation is sought is referred to as the "Indemnifier". Accordingly, and subject to the requirements of any insurer who may have an obligation to provide an indemnity in respect of any liability arising under this Agreement:

- (a) If the Beneficiary receives any notice, demand, letter or other document concerning any Third Party Claim for which it appears that the Beneficiary is, or may become entitled to, indemnification or compensation under this Agreement in respect of the entire claim, the Beneficiary must give notice in writing to the Indemnifier as soon as reasonably practicable and in any event within ten Business Days of receipt thereof;

- (b) Subject to paragraphs (e) and (f), the Indemnifier may dispute the Third Party Claim in the name of the Beneficiary at the Indemnifier's own expense and take conduct of any defence, dispute, compromise, or appeal of the Third Party Claim and of any incidental negotiations. The Beneficiary must give the Indemnifier all reasonable co-operation, access and assistance for the purposes of considering and resisting such Third Party Claim;
- (c) In defending such Third Party Claim described in paragraph (b) in which there is a conflict of interest between the Indemnifier and the Beneficiary, the Beneficiary may appoint independent legal counsel in respect of such Third Party Claim and, if it is determined that the Beneficiary is entitled to indemnification by or compensation from the Indemnifier, all reasonable costs and expenses incurred by the Beneficiary in so doing will be included in the indemnity or compensation from the Indemnifier;
- (d) With respect to any Third Party Claim conducted by the Indemnifier pursuant to paragraph (b) the Indemnifier must:
 - (i) keep the Beneficiary fully informed and consult with it about material elements of the conduct of the Third Party Claim;
 - (ii) demonstrate to the Beneficiary, at the reasonable request of the Beneficiary, that the Indemnifier has sufficient means to pay all costs and expenses that it may incur by reason of conducting the Third Party Claim; and
 - (iii) not pay or settle such Third Party Claim without the consent of the Beneficiary, such consent not to be unreasonably withheld or delayed;
- (e) The Beneficiary may take conduct of any defence, dispute, compromise or appeal of the Third Party Claim and of any incidental negotiations if:
 - (i) the Indemnifier is not entitled to take conduct of the Third Party Claim in accordance with paragraph (c); or
 - (ii) the Indemnifier fails to notify the Beneficiary of its intention to take conduct of the relevant Third Party Claim within ten Business Days of the notice from the Beneficiary under paragraph (a) or notifies the Beneficiary that it does not intend to take conduct of the Third Party Claim; or
 - (iii) the Indemnifier fails to comply in any material respect with paragraph (d).

In the case of clause (iii) above, the Beneficiary may pay or settle any Third Party Claim on such terms as it thinks fit (provided such settlement is in monetary terms only) and without prejudice to its rights and remedies under this Agreement. Otherwise, the Beneficiary must not pay or settle such Third Party Claim without the consent of the Indemnifier, such consent not to be unreasonably withheld or delayed.

- (f) The Beneficiary may at any time give notice to the Indemnifier that it is retaining or taking over, as the case may be, the conduct of any defence, dispute, compromise, settlement or appeal of any Third Party Claim, or any incidental negotiations, to which paragraph (b) applies. On receipt of such notice the Indemnifier must promptly take all steps necessary to transfer the conduct of such Third Party Claim to the Beneficiary, and provide to the Beneficiary all reasonable co-operation, access and assistance for the purposes of considering and resisting such Third Party Claim. If the Beneficiary gives any notice pursuant to this paragraph (f) (for the sake of clarity, for reasons other than as provided in clauses (e)(ii) or (e)(iii)), then the Indemnifier will be released from any liability under its indemnity or its obligation to provide compensation, as the case may be, under Section 2.13 and Section 3.03, as applicable; and
- (g) In response to any Third Party Claim of infringement or misappropriation, or alleged infringement or misappropriation, of the Intellectual Property Rights of any person, the allegedly infringing Party may replace such infringing or allegedly infringing thing provided that:
 - (i) the replacement is performed without additional cost to the other Party; and
 - (ii) the replacement has at least equal quality performance capabilities when used in conjunction with the Facilities.

Section 3.06 Reductions and Subrogation

If the amount of damages incurred by an Indemnified Party at any time subsequent to the making of a payment for indemnification is reduced by:

- (a) any net tax benefit to the Indemnified Party; or
- (b) any recovery, settlement or otherwise under or pursuant to any insurance coverage, or pursuant to any claim, recovery, settlement or payment by or against any other person;

the amount of such reduction (less any costs, expenses (including taxes) or premiums incurred in connection therewith) will promptly be repaid by the Indemnified Party to the Indemnifier. Upon making a full payment of the indemnity amount, the Indemnifier will, to the extent of such indemnity payment, be subrogated to all rights of the Indemnified Party against any third party in respect of payment of its damages, any and all claims of the Indemnifier against any such third party on account of the indemnity payment will be postponed and subrogated in right of payment to the Indemnified Party's rights against such third party.

Article 4. Term, Payment for Services and Other Charges

Section 4.01 Term

The term for this Agreement starts as of April 1, 2022 and continues in effect for five (5) years (the "Term").

Section 4.02 Annual Price for the Term

Subject to any adjustments made pursuant to other provisions of this Agreement, the Township will pay to the Service Provider, for the Service Provider's provision of the Services, the Annual Price as set out in Schedule I for the Term.

Section 4.03 Payment of the Annual Price

The Township will pay to the Service Provider the Annual Price for each year of the Term in twelve (12) equal monthly payments, on the first day of each month following the month's service.

Section 4.04 Items not Included in the Annual Price

The Annual Price, for each year of the Term, includes all costs related to the Services other than:

- (a) Extra Costs;
- (b) customer billing costs;
- (c) costs related to Excluded Services;
- (d) subject to Section 4.05, any costs resulting from changes to Applicable Law;
- (e) any costs associated with the remedial measures undertaken pursuant to Section 2.02(d);
- (f) any costs associated with Interim Emergency Measures;
- (g) any Approved Capital Expenses;
- (h) any costs contemplated by Section 2.10;
- (i) any costs associated with work required by regulatory order or identified through an inspection by a Governmental Authority, unless such work is related to the Service Provider's failure to ensure the Facility meets all Applicable Law;

(collectively, the "Excluded Costs").

Unless otherwise provided in this Agreement, and with the exception of the Interim Emergency Measures, the prior written approval of the Township is required with respect to Excluded Costs. The Service Provider will provide the Township with an invoice for such approved Excluded Costs monthly, which invoice is due and payable by the Township within thirty (30) days of receipt of such invoice.

Section 4.05 Costs Related to Changes in Applicable Law

Where compliance with a change in Applicable Law requires a change to this Agreement that, in the opinion of the Parties, acting reasonably, results in a substantial change in the scope or implementation of the Services, and such substantial change has, in the Service Provider's opinion, acting reasonably, a Material Adverse Effect on the Service Provider or in the amount or terms of payment to be made to the Service Provider under this Agreement, then the Service Provider:

- (a) may request an equitable increase in the amounts set out in Schedule I to this Agreement, which increase will be mutually agreed upon in writing; or
- (b) may terminate this Agreement by giving notice of Early Termination to the Township, whereupon the Agreement will terminate as at the effective date of termination specified in the notice, which date will be no earlier than ninety days from the date of the notice, and the provisions of Section 6.02(c) in respect of an Early Termination will apply.

Section 4.06 Capital Expenditures

- (a) "Capital Expenditures" means the costs for all capital items in relation to the Facilities that a Party believes, acting reasonably, are required to ensure the ongoing operation of the Facilities and compliance of the Facilities with Applicable Law, including the procurement of additional or replacement material equipment, any overhaul or rebuild of material equipment, or any non-routine repair and non-routine maintenance.
- (b) No later than September 20th of each year of the Term, or a date as the Parties may otherwise agree in writing, the Service Provider will provide the Township with an estimate of the Capital Expenditures to optimize plant operation and preserve the Township's assets which are reasonably required for the operation of the Facilities for the following year. The estimate of Capital Expenditures will include the reason for the recommendation and potential implications of not performing the work.
- (c) The Township's written approval of any estimate for Capital Expenditures is required, and upon such approval the Service Provider may incur the Capital Expenditures in the following year of the Term (the "Approved Capital Expenditures").
- (d) The Township reserves the right to refuse to approve, or to delay the incurring of, any Capital Expenditures that it does not consider necessary to maintain the Facilities in compliance with Applicable Law.
- (e) The Township reserves the right to propose to, and require the implementation of any Capital Expenditures by, the Service Provider that it considers necessary to ensure compliance of the Facilities with Applicable Law.

- (f) The Service Provider will invoice the Township for the costs incurred as a result of the Approved Capital Expenditures or any Capital Expenditures required by the Township pursuant to paragraph (e) (collectively, the "Implemented Capital Expenditures"), and will deliver with such invoice any relevant supporting documentation to the Township, and the Township must pay the invoice within thirty (30) days of receipt.
- (g) It is agreed that the impact of the Implemented Capital Expenditures will be reviewed on an annual basis and:
 - (i) if the Implemented Capital Expenditures result in operational savings, as agreed to by the Parties, the Service Provider will pay the amount of such savings to the Township, in a lump sum, in the year following the completion of the work; or
 - (ii) if the Implemented Capital Expenditures result in additional operational expenses (the "Additional Operational Expenses"), as agreed to by the Parties, the Service Provider will invoice the Township in the year following the completion of the work.

Section 4.07 Interest on Late Payments

If the Township's payment of any amounts set out in this Agreement are not made within the timeframes set out in this Agreement, or, if not specified in this Agreement, as otherwise specified in the respective invoice, interest will be incurred at the rate of 1 ¼ % per month starting the day after payment was due.

Section 4.08 Partial Payment of Disputed Invoices

If the Township disputes any portion of an invoice, the Township must nonetheless pay to the Service Provider the undisputed portion of the invoice by the due date. If any additional amount is finally determined to be payable to the Service Provider, the Township must pay the Service Provider the additional amount, plus interest as provided in Section 4.07, within ten days from the date of final determination.

Section 4.09 Taxes

- (a) The Parties acknowledge that, although the Service Provider is not charging Harmonized Sales Tax ("HST") under the Excise Tax Act (Canada) in respect of the Services, any HST charged by Subcontractors under this Agreement will be charged to, and payable by, the Township on a flow-through basis. The Township will be entitled to claim input tax credits in respect of such amounts.
- (b) The Service Provider will, or will require its Subcontractors to, provide the Township with sufficient documentation, as requested by the Township, to support the Township in claiming input tax credits in respect of any amounts paid in tax to the Service Provider. If the Township has reasonable grounds to challenge whether such taxes should be paid by the Township, the Service Provider will use reasonable efforts, or

require its Subcontractors to, assist the Township, at the Township's expense, with such challenge.

Section 4.10 Cooperation

The Parties will cooperate with each other with respect to any audits or other inquiries, filings, reports and payment of taxes arising under this Agreement, which may be required, initiated or requested from any duly authorized Governmental Authority.

Section 4.11 [Intentionally Deleted]

Article 5. Dispute Resolution

Section 5.01 Negotiations

Both Parties will make all reasonable efforts to resolve disputes by amicable negotiations and agree to provide, without prejudice, open and timely disclosure of relevant facts, information, and documents to facilitate these negotiations. When a settlement cannot be reached by this means within a reasonable time, the Parties will proceed with mediation under Section 5.02 or arbitration under Section 5.03.

Section 5.02 Mediation

- (a) If a dispute arises between the Township and the Service Provider which cannot be resolved within a reasonable time and the Parties opt for mediation under Section 5.01, the issue will be referred to an independent third party mediator, which mediator will be mutually agreed upon by the Parties.
- (b) Within a reasonable time, the mediator will provide, without prejudice, a non-binding recommendation to settlement.
- (c) The fees and expenses of the mediator will be divided equally between the Parties.
- (d) Involvement in mediation is on a without prejudice basis and does not preclude either Party from pursuing arbitration pursuant to Section 5.03.

Section 5.03 Arbitration

- (a) Failing a resolution of the dispute pursuant to Section 5.02, or if elected by the Parties pursuant to Section 5.01, the Parties may submit any arbitration under this Section 5.03 to a single arbitrator agreed upon by both Parties. If the Parties cannot agree upon a single arbitrator within ten Business Days after the dispute is referred to arbitration, each Party must within ten more Business Days choose one individual who will sit on a three-member arbitration panel. The two arbitrators appointed will name the third arbitrator within ten Business Days of the appointment of the last of such two arbitrators to be appointed or if they fail to do so within that time period, either Party

may make application to a court of competent jurisdiction for appointment of the third arbitrator, failing which the dispute will be deemed to have been abandoned by the aggrieved Party, in which case the reasonable costs incurred by the other Party will be borne by the aggrieved Party.

- (b) The arbitrator or arbitration panel selected pursuant to paragraph (a) (hereinafter referred to as the "Arbitrator") will provide each of the Parties an opportunity to be heard and will conduct the arbitration hearing in accordance with the provisions of the Arbitration Act, 1991 (Ontario). The arbitration will be conducted in the City of Toronto, Ontario, unless the Parties agree otherwise. Unless otherwise agreed to by the Parties, the Arbitrator must render a decision within ninety (90) days after the end of the arbitration hearing and must notify the Parties in writing of such decision and the reason(s) therefore. The Arbitrator has no power to modify or change this Agreement in any manner.
- (c) The Parties are bound by the decision of the Arbitrator.
- (d) The rules and procedures of the Arbitration Act, 1991 (Ontario), apply to any arbitration conducted hereunder except to the extent that they are modified by the express provisions of this Section 5.03.
- (e) The Arbitrator must not be interested financially in the Agreement or a Party's business and must not be employed by either Party. Any Arbitrator selected to act under this Agreement must have no connection to either of the Parties other than acting in previous arbitrations.
- (f) The Arbitrator is not bound by the rules of evidence which govern the trial of cases in court but may hear and consider any evidence which the Arbitrator considers relevant.
- (g) The Arbitrator's fee and associated arbitration costs will be equally shared by both Parties.
- (h) All proceedings and the making of the award in respect of this Section 5.03 will be in private and the Parties must ensure that the conduct of the arbitration and the terms of the award will, subject to registration of the award in any court, be kept confidential unless the Parties otherwise agree; provided, however, that such obligation to maintain confidentiality does not prohibit any Party from complying with Applicable Law. All information disclosed, including all statements made and documents produced in the course of the arbitration must be held in confidence and no Party may rely on, or introduce as evidence in any subsequent proceeding, any admission, view, suggestion, notice, response, discussion or position of either Party, or any acceptance of any settlement proposal or recommendation for settlement made during the course of the arbitration, except (i) as required by Applicable Law; or (ii) to the extent that disclosure is reasonably necessary for the establishment or protection of a Party's legal rights

against a third party to enforce the award of the Arbitrator or to otherwise protect a Party's rights under the arbitration.

Section 5.04 Continued Obligations

Unless otherwise required by the Township, each of the Parties must continue to perform all of its obligations under this Agreement notwithstanding the existence of any dispute, as set out in Article 5, that arises from time to time between the Parties in respect of any matter related to this Agreement or during the resolution of any dispute in accordance with Article 5.

Article 6. Agreement and Termination

Section 6.01 Event of Default

- (a) During the Term, the occurrence of any of the following constitutes an event of default on the part of a Party (an "Event of Default"):
 - (i) failure to comply with any material covenant or obligation of the Party as set forth in this Agreement, if such failure is not remedied within ten Business Days after written notice of such failure by the other Party;
 - (ii) any representation made by a Party in this Agreement which is not true or correct in any material respect when made and is not made true or correct in all material respects within thirty (30) Business Days after receipt by the Party of written notice of such fact from the other Party, provided that such cure period will be extended by another thirty (30) Business Days if the Party, in the reasonable opinion of the other Party, is diligently correcting such breach and such breach is capable of being corrected during such extended cure period;
 - (iii) a Party assigns this Agreement without first obtaining the written consent of the other Party in accordance with Section 9.12;
 - (iv) by decree, judgment or order of any Governmental Authority, the Party is adjudicated bankrupt or insolvent or any substantial part of the Party's property is sequestered, and such decree, judgment or order continues to be undischarged and unstayed for a period of thirty (30) days after the entry thereof;
 - (v) an effective resolution is passed or documents are filed in an office of public record in respect of, or a decree, judgement or order is issued by a court of competent jurisdiction ordering the dissolution, termination of existence, liquidation or winding up of a Party, unless such filed documents are immediately revoked or otherwise rendered inapplicable, or unless there has been a permitted and valid assignment of this Agreement by the Party under this Agreement to a Person which is not dissolving, terminating its existence, liquidating or winding up and such Person has assumed all of the Party's obligations under this Agreement;

- (vi) a receiver, manager, receiver-manager, liquidator, monitor or trustee in bankruptcy of a Party or any of a Party's property is appointed by a Governmental Authority or pursuant to the terms of a debenture or a similar instrument, and such receiver, manager, receiver-manager, liquidator, monitor or trustee in bankruptcy is not discharged or such appointment is not revoked or withdrawn within thirty (30) days of the appointment;
 - (vii) a Party files, or consents to the filing of, or has filed against it, a petition for bankruptcy or seeks or consents to an order of protection under any law relating to arrangements with creditors, insolvency or bankruptcy, and such petition, proceeding or filing is not dismissed or withdrawn within thirty (30) days;
 - (viii) a Party fails or ceases to hold a valid licence, permit, certificate, registration, authorization, consent or approval issued by a Governmental Authority where such failure or cessation results in or could reasonably be expected to result in a Material Adverse Effect on the Party and it fails to cure such breach within thirty (30) days after notice specifying such breach; and
 - (ix) a Party breaches any Applicable Law where such breach results in or could reasonably be expected to result in a Material Adverse Effect on the Party and it fails to cure such breach within thirty (30) days after notice specifying such breach.
- (b) Upon the occurrence of any Event of Default, the non-defaulting Party may, in addition to and not in substitution for any other remedies available at law or equity: (a) terminate this Agreement immediately by giving written notice to the other Party; (b) suspend payment of any amounts owing hereunder to the defaulting Party; and/or (c) set off any payments due to the defaulting Party against any amounts payable by the defaulting Party to the non-defaulting Party.
 - (c) If a Party disputes the existence of a breach or that the breach is material, the dispute will be subject to the dispute resolution provisions in Article 5 of this Agreement.
 - (d) Subject to Section 6.02, prior to the expiry of the Term, unless otherwise provided for in this Agreement, the Agreement may only be terminated on the mutual agreement of the Parties. In the event of any such termination, neither Party will be responsible for costs incurred by the other Party in respect of such termination.
 - (e) Subject to Section 6.02, after the expiry of the Term, either Party may terminate this Agreement for any reason upon 12 months' prior written notice (an "Early Termination")

Section 6.02 Consequences of Termination

If the Agreement has been terminated in accordance with the provisions of Section 6.01(b), Section 6.01(d) or Section 6.01(e)

- (a) The Township will pay the Service Provider any amount which has been properly incurred by the Service Provider and payable under the terms of this Agreement up to and including the date of termination. The relevant provisions of this Agreement will continue in effect after expiry or termination to the extent necessary to provide for any billings, adjustments and payments or, in the case of any overpayment by the Township to the Service Provider under this Agreement, applicable repayments by the Service Provider related to the period prior to termination, and for the delivery by the Service Provider to the Township of all reports required to be delivered in respect of the Services up to the date of termination;
- (b) The termination of this Agreement will not affect any rights or obligations which may have accrued prior to such termination or any other rights which the terminating Party may have arising out of either the termination or the event giving rise to the termination and will not affect any continuing obligations of either of the Parties under this Agreement, which are expressed to continue after termination of this Agreement;
- (c) In the event of an Early Termination only, the terminating Party will be liable for all reasonable costs relating to the Early Termination, which will be limited to, for costs incurred by the Township, the reasonable incremental costs for one year above the current Annual Price of hiring a replacement operator and, for costs incurred by the Service Provider, the reasonable costs of demobilization. Other than as set out in this paragraph (c), the terminating Party will have no liability whatsoever to the other Party arising from such Early Termination, other than in respect of rights an Indemnified Party may have pursuant to any indemnity given under this Agreement;
- (d) Each Party will use commercially reasonable efforts to mitigate all costs and damages from the date of the notice of termination; and
- (e) The Service Provider acknowledges that if the Agreement is terminated for any reason, or otherwise expires, the Township is entitled to subsequently contract for the Services with another entity without any liability to the Service Provider.

Section 6.03 No Release

Neither the expiration of the Term, nor the earlier termination of this Agreement releases either Party from any obligation or liability incurred prior to such expiration or termination.

Section 6.04 Transitional Arrangements

- (a) The Parties will conduct an inventory count of consumables/supplies at the Facilities on the first day of the Term or as soon as the Parties may agree. If the Service Provider no longer operates the Facilities at termination of this Agreement, the Service Provider will either:

- (i) 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 Term; or
- (ii) reimburse the Township 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 Term, the Township will either reimburse the Service Provider for any excess or the Service Provider may take possession of any excess, as the Service Provider may determine, acting reasonably.

- (b) Upon the effective date of termination of the Agreement for any reason, the Service Provider will return the Facilities to the control of the Township in the same or better condition than existed at the Facilities at the time the Service Provider commenced providing the Services under this Agreement, with the exception of normal wear and tear.
- (c) On request by the Township, the Service Provider will, for a period not to exceed six months after the effective date of the termination of the Agreement, and provided that the Service Provider retains the care and control of the Facilities and remains the operator of record for the Facilities accordingly for any such period:
 - (i) co-operate fully with the Township and any successor providing to the Township services in the nature of any of the Services or any part of the Services to achieve a smooth transfer of the manner in which the Township obtains services in the nature of the Services and to avoid or mitigate in so far as reasonably practicable any inconvenience or any risk to the health and safety of the public; and
 - (ii) continue to provide the Services or any part of the Services required by the Township, and the Township will pay to the Service Provider a reasonable price for such services determined with reference to the Service Provider's price for such Services prior to the effective date of termination.
- (d) Subject to Section 8.05, on the effective date of termination, the Service Provider will deliver to the Township:
 - (i) all keys, access codes and other devices required to operate the Facilities; and
 - (ii) all documentation, reports, maintenance schedules and any other relevant documentation or information that would be reasonably required for the Township, or another service provider, to operate the Facilities, or that otherwise belongs to the Township under this Agreement.

Section 6.05 Final Settlement

Subject to Section 6.04(c), if the Service Provider ceases to operate and maintain the Facilities, there will be a final settlement of all accounts with respect to the Annual Price and any other

expenses incurred by the Service Provider and amounts owing by or to the Township under this Agreement and any Existing Agreement no later than ninety (90) days after the Service Provider ceases to provide the Services or thirty (30) days after the Service Provider has delivered to the Township the final invoice, whichever comes later.

Article 7. Innovations

Section 7.01 Innovations

- (a) The Service Provider will use commercially reasonable efforts to, and the Township may, bring forward innovative ideas for enhancing the operation and performance of the Facilities and reducing overall costs of operating the Facilities without impacting health and safety or acceptable operating standards (the "Innovations"), and both Parties agree to reasonably consider any such Innovations.
- (b) Consideration by the Parties of Innovations is expected take place at the same time as Capital Expenditures are being considered pursuant to Section 4.06(b), or such other time as agreed to by the Parties.
- (c) Any Innovations must be approved in advance by the Township and will be at the expense of the Township.
- (d) Unless otherwise agreed to by the Parties, any cost savings resulting from such Innovations will be first applied to the capital cost, if any, of implementing such Innovations, then any remaining cost savings will be shared equally between the Parties for the balance of the Term.

Article 8. Confidential Information

Section 8.01 Definition

- (a) In this Agreement, "Confidential Information" means:
 - (i) the purpose, nature and provisions of this Agreement;
 - (ii) all matters in respect of, in connection with, or arising from this Agreement, whether discussed or documented between the Parties, and whether during meetings or otherwise;
 - (iii) personal information, as that term is defined in the Municipal Freedom of Information and Protection of Privacy Act (Ontario) ("MFIPPA"); and
 - (iv) all information and data of any nature disclosed by one Party (the "Disclosing Party") to the other Party (the "Receiving Party"), whether prior to or after the execution of this Agreement, relating to this Agreement or the Services.

Without limiting the generality of the foregoing, "Confidential Information" includes all information or data that relates to the business or operations of a Party or any of its affiliates, information or data that is technical, business, financial, operational or marketing in nature, or relates to research, development, marketing plans, facilities, machinery, equipment configurations, generation, costs, customers, suppliers, formulae or terms of sale, whether factual or interpretive, and in all cases whether in written, oral, visual, photographic, electronic, magnetic or other form, and whether or not identified verbally, visually or in writing by a Disclosing Party as confidential.

- (b) Notwithstanding paragraph (a), the non-disclosure obligations set forth in Section 8.02 do apply to the disclosure of any part of the Confidential Information which:
- (i) is in the public domain at the time of its disclosure to the Receiving Party or which thereafter enters the public domain otherwise than by any breach of this Agreement;
 - (ii) is already known to or in the possession of the Receiving Party at the time of its disclosure by the Disclosing Party as evidenced by the Receiving Party's records; or
 - (iii) is lawfully acquired at any time by the Receiving Party without restrictions from a third party without breach of confidentiality by such third party.

Section 8.02 Non-Disclosure

Save and except with the prior written consent of the Disclosing Party or as otherwise permitted by this Agreement, the Confidential Information must be kept in strict confidence by the Receiving Party and must not be disclosed to any person other than the Receiving Party's service providers, including lawyers, accountants, internal and external auditors and other professional advisers, subcontractors, directors, officers, employees, Authorized Representative, and affiliates (collectively, the "Representatives") on a need-to-know basis in the course of their duties on behalf of the Receiving Party, but only for the purposes required to perform the Services, provided that any such person is notified of the confidentiality of the Confidential Information and of the provisions of this Article 8 and is subject to written confidentiality provisions no less stringent than those contained in this Article 8.

Section 8.03 Permitted Disclosure

Notwithstanding Section 8.02:

- (a) the Parties hereby acknowledge and agree that the Township, and the Service Provider on the Township's behalf in accordance with this Agreement, are permitted to disclose Confidential Information relating to the Services and this Agreement to Governmental Authorities to which either Party may be required to report regarding the Services and this Agreement, whether to satisfy the Party's obligations under Applicable Law or otherwise;

- (b) each Party is entitled to present this Agreement to its municipal council for approval and reporting purposes, thereby disclosing the Agreement in the public record, and to make public any reports or other documentation prepared by the Service Provider, in its sole and absolute discretion, on its website or otherwise; and
- (c) the Parties agree that this Agreement and any materials or information provided to a Party hereto through the performance of the Services may be subject to MFIPPA and that such Party may be required to disclose Confidential Information concerning the Services and this Agreement in accordance with the provisions of MFIPPA.

Section 8.04 Liability for Breach

Except for disclosures made pursuant to Section 8.03 of this Agreement including to any Governmental Authority as required pursuant to the Service Provider's provision of the Services, each Receiving Party is responsible for any breach of Article 8 by the Receiving Party, its Representatives and any person to whom it or its Representatives discloses any Confidential Information. The Parties agree that a Disclosing Party would be irreparably injured by a breach of this Agreement by a Receiving Party or by any person to whom it discloses any Confidential Information and that monetary damages would not be a sufficient remedy. Therefore, in such event, the Disclosing Party will be entitled to equitable relief, including injunctive relief without proof of actual damages, as well as specific performance, and such remedies will not be deemed to be exclusive remedies for a breach of this Agreement but will be in addition to all other remedies available at law and equity.

Section 8.05 Return of Confidential Information

Upon written request from the Disclosing Party, the Receiving Party will promptly redeliver to the Disclosing Party all Confidential Information it received, and at the option of the Disclosing Party, destroy or have destroyed any copies or other reproductions of such Confidential Information together with such notes, analyses, reports and all other written material whatsoever prepared by the Receiving Party, or on behalf of the Receiving Party, from such Confidential Information; provided that the Receiving Party will be entitled to keep, subject always to the provisions of this Agreement, one copy of such notes, analysis, reports or other written material prepared by, or on behalf of, the Receiving Party for its records. The Receiving Party will provide to the Disclosing Party, upon request, a certificate of one of its senior managers certifying such destruction. Notwithstanding anything in this Section 8.05 to the contrary, each Party's destruction of records is subject to the Party's records obligations pursuant to the Municipal Act, 2001, to MFIPPA and otherwise at law.

Article 9. General

Section 9.01 Ownership of Technology

- (a) The Township acknowledges and agrees that in providing the Services, the Service Provider may utilize certain technology developed by or for the Service Provider,

whether existing now or in the future, including technology such as WMMS, PDC and UBS (the "Service Provider Technology"). The Township further agrees that the use of the Service Provider Technology at the Facilities does not in any way give the Township any ownership rights in or Intellectual Property Rights to the Service Provider Technology or any periodic upgrades thereto. The Service Provider agrees to secure and deliver to the Township any necessary licences required by the Township to access any Service Provider Technology as required by this Agreement.

- (b) The Service Provider and the Township agree that the Service Provider will use the Township's Supervisory Control and Data Acquisition (SCADA) system in providing the Services, including to control and document all preventative, scheduled and emergency maintenance activities, which technology is licensed to the Township (the "Township Technology"). The Service Provider further agrees that the use of the Township Technology at the Facilities does not in any way give the Service Provide any ownership rights in or Intellectual Property Rights to the Township Technology or any upgrades thereto. The Parties agree that the Service Provider will utilize SCADA through specific licenses held by the Township and procured for use by the Service Provider for carrying out the Services under this Agreement.
- (c) The Parties agree that the Township will have complete and immediate read-only access to SCADA, as well as any operations and maintenance databases used by the Service Provider in carrying out the Services, whether constituting the Service Provider Technology or the Township Technology, at the Facilities and through an online terminal. The Parties further agree that all information contained in the maintenance databases for the Facilities is the property of the Township.

Section 9.02 Inquiries or Complaints

If the Service Provider receives an inquiry or complaint regarding any issue under this Agreement that is the responsibility of the Township, such inquiries or complaints will be directed to the Township. If the Township receives an inquiry or complaint regarding any issue under this Agreement that is the responsibility of the Service Provider, including with respect to any of its Subcontractors, such inquiries or complaints will be directed to the Service Provider, provided that the Township retains the discretion to also investigate any such complaints or follow up on any such inquiry upon giving notice to the Service Provider.

Section 9.03 Agreement to Govern

If there is any inconsistency between (1) the main body of this Agreement or any of its Schedules and (2) either of the Drinking Water Quality Management System Operational Plan or the DWQMS Operational Plan SOP-001, then the main body of this Agreement or the applicable Schedule(s) governs to the extent of the inconsistency provided that if there is any inconsistency between the main body of this Agreement and any Schedule to this Agreement, the main body of this Agreement governs to the extent of the inconsistency.

Section 9.04 Structure of Agreement

- (a) The division of this Agreement into articles, sections, paragraphs and clauses and the insertion of a table of contents and headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement.
- (b) Unless otherwise stated,
 - (i) a reference to a paragraph is a reference to the paragraph of the section within which the reference is made; and
 - (ii) a reference to a clause is a reference to the clause of the paragraph within which the reference is made.

Section 9.05 Entire Agreement

This Agreement, together with the Schedules attached hereto, the Drinking Water Quality Management System Operational Plan and the DWQMS Operational Plan SOP-001 constitute the entire agreement between the Parties with respect to the subject matter hereof.

Section 9.06 [Intentionally deleted]

Section 9.07 Amendments and Waivers

No amendment to this Agreement is valid or binding unless it is in writing and duly executed by both of the Parties. All amendments will be attached to this Agreement as a Schedule. No waiver of any breach of any provision of this Agreement is effective or binding unless it is in writing and signed by the Party purporting to give such waiver, and, unless otherwise provided, is limited to the specific breach waived. No failure to exercise, and no delay in exercising, any right or remedy under this Agreement is deemed to be a waiver of such right or remedy. A waiver of any breach of any provision of this Agreement will not be deemed to be a waiver of any subsequent breach of that provision or of any similar provision

Section 9.08 Successors and Assigns

This Agreement operates to the benefit of and be binding upon, the Parties and their successors and assigns. This Agreement may be assigned with the prior written approval of both Parties.

Section 9.09 Survival

In addition to any terms of this Agreement that are expressly stated to survive termination or by their nature are to survive termination, Section 2.08, Section 2.09, Section 2.10, Section 2.13, Section 2.14, Section 3.03, Section 3.04, Section 3.05, Section 3.06, Section 4.09, Section 4.10, Article 5, Section 6.02, Section 6.04, Section 6.05, Article 8, Section 9.01 and Section 9.11 survive termination of this Agreement and remain in full force and effect.

Section 9.10 Severability

If any covenant, obligation or provision hereof or the application thereof to any person or circumstance is, to any extent, invalid or unenforceable, the remaining provisions or the application of each provision to persons or circumstances other than those as to which it is invalid or unenforceable, are not affected thereby and will continue to be valid and enforceable.

Section 9.11 Notices

- (a) Any notice, or other communication required or permitted to be given hereunder by either Party to this Agreement must be in writing and must be delivered in person, transmitted by fax or sent by registered mail, addressed as follows:

- (i) If to the Township:

The Corporation of the Township of Cavan Monaghan
Fax: (705) 932-3458
E-mail: cpage@cavanmonaghan.net
Attention: The Clerk of the Township
988 County Road 10
Millbrook, ON LOA 1G0

- (ii) If to the Service Provider:

The Corporation of the City of Peterborough
Fax: (705)742 4138
E-mail: clerks@peterborough.ca
Attention: City Clerk
500 George Street North
Peterborough, ON K9H 3R9

- (b) If mailed, any such notice or other communication is deemed to have been given and received on the third Business Day following the date of mailing; provided, however, that if at the time of mailing or within three Business Days afterwards a labour dispute or other event occurs, which might reasonably be expected to disrupt the delivery of documents by mail, any notice or other communication hereunder must be delivered or transmitted by fax or e-mail as provided in this Section 9.11.
- (c) A Party to this Agreement may change its address for the purpose of this Section 9.11 by giving the other Party notice of such change of address in the manner provided in this Section 9.11.

Section 9.12 Assignment

A Party may not assign or transfer, by operation of law or otherwise, this Agreement or any of its obligations hereunder without the other Party's express prior written consent, not to be unreasonably withheld. No such consent is required in the case of an amalgamation or merger with a municipal affiliate, provided that the relevant Party delivers written notice to the other Party of any such merger or amalgamation no later than 10 Business Days prior to the effective date of the merger or amalgamation.

Section 9.13 Counterparts

This Agreement may be executed in one or more counterparts and delivered electronically, each of which constitutes an original and all of which taken together constitute one and the same instrument.

Section 9.14 Further Assurances

The Parties will do, execute and deliver, or will cause to be done, executed and delivered, all such further acts, documents (including certificates, declarations, affidavits, reports and opinion) and things as the other may reasonably request for the purpose of giving effect to this Agreement, carrying out the Services, or establishing compliance with the representations, warranties and obligations of this Agreement.

Section 9.15 Governing Law

This Agreement is governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Unless otherwise provided for in Article 5, the Parties irrevocably attorn to the exclusive jurisdiction of the courts of the Province of Ontario.

IN WITNESS WHEREOF the Township and the Service Provider have affixed their corporate seals attested by the signature of their duly authorized signing officers.

The Corporation of the Township of Cavan Monaghan

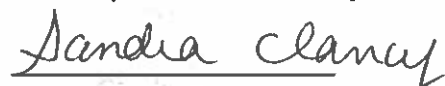


Scott McFadden, Mayor



Cindy Page, Clerk

The Corporation of the City of Peterborough



Sandra Clancy, CAO



John Kennedy, Clerk

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Schedule A – Facilities

1. The Facilities consist of the Millbrook Water Supply and Wastewater Facilities, including all booster systems, pumping stations, etc., that are or may be located inside or outside of the boundaries of Millbrook. A brief description of the Millbrook Water Supply and Wastewater system is set out below.
2. The Millbrook Drinking Water System consists of three (3) non-GUDI well, groundwater source pump house, distribution system and standpipes located at 86 King Street West, and 988 County Road 10, Millbrook, Ontario. Water Treatment involves Sodium Hypochlorite metered feed system with continuous analyzers.
3. The Millbrook wastewater System consists of an ISAM™ Sequence Batch Reactor (SBR) system developed by Fluidyne Corporation for secondary treatment and continuous backwash filters for tertiary treatment at the wastewater plant, sewage pumping stations, and collection system in Millbrook, Ontario.

[end of Schedule A]

Schedule B – Definitions

1. In this Agreement, the following terms are defined below or in the section, paragraph or clause in which they first appear:
 - (a) "Additional Operational Expenses" is defined in Section 4.06(g)(ii) of this Agreement.
 - (b) "Agreement" means this agreement together with Schedules A, B, C, D, E, F, G, H and I attached hereto and together with the Drinking Water Quality Management System Operational Plan and the DWQMS Operational Plan SOP-001 and all amendments made to each of the aforementioned by written agreement between the Service Provider and the Township.
 - (c) "Annual Price" is defined in Section 4.02 and further described in Schedule I of this Agreement.
 - (d) "Applicable Law" is to be broadly interpreted and means, with respect to any person, property, transaction, event or other matter dealt with in this Agreement, any and all statutes, by-laws, regulations, enactments, ordinances, rules, permits, consents, approvals, certificates of approval, licences, judgments, orders, judicial decisions, common-law rules, decrees, injunctions, agreements, authorizations, regulations, policies, guidelines, directives, objectives, 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, Environmental Laws, Building Code, or workers' compensation matters, all as amended from time to time.
 - (e) "Approved Capital Expenditures" is defined in Section 4.06(c) of this Agreement.
 - (f) "Arbitration Act, 1991 (Ontario)" means the Arbitration Act, 1991, S.O. 1991, c. 17, as amended.
 - (g) "Arbitrator" is defined in Section 5.03(b) of this Agreement.
 - (h) "Authorizations" means each of the sewer use and water by-laws, licences, certificates of approval, permits, consents and other authorizations or approvals required under any Applicable Law from time to time in order to operate the Facilities.
 - (i) "Authorized Representative" is defined in Section 2.06 of this Agreement.
 - (j) "Bank Act (Canada)" means the Bank Act (Canada), S.C 1991, c. 46, as amended.
 - (k) "Beneficiary" is defined in Section 3.05 of this Agreement.

- (l) "Business Day" means a day other than a Saturday, Sunday or statutory holiday in the Province of Ontario.
- (m) "Capital Expenditures" is defined in Section 4.06(a) of this Agreement.
- (n) "Certificate of Approval" means has the meaning given to it under Applicable Law.
- (o) "Claim" means any claim, fine, penalty, liability, damages, loss and judgements (including but not limited to, costs and expenses incidental thereto) of any kind and nature whatsoever.
- (p) "Confidential Information" is defined in Section 8.01(a) of this Agreement.
- (q) "Disclosing Party" is defined in Section 8.01(a)(iv) of this Agreement.
- (r) "Drinking Water Quality Management System Operational Plan" or "DWQMSOP" means the document with that title, Rev. 1.0 2022-03-21, that describes in detail thirteen (13) elements of the Drinking Water Quality Management Standard (DWQMS) 2.0 that was developed for the Township as one part of the DWQMS 2.0 that is a requirement of the Ministry of Environment, Conservation and Parks' (MECP) Municipal Drinking Water Licensing Program for all drinking water systems in the Province of Ontario.
- (s) "DWQMS Operational Plan SOP-001" means the document with that title, Ver. 1.0 2022 03 22.
- (t) "Early Termination" is defined in Section 6.01(e) of this Agreement.
- (u) "Environmental Laws" means any and all statutes, by-laws, regulations, permits, approvals, certification 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 drinking-water and wastewater treatment facilities.
- (v) "Event of Default" is defined in Section 6.01(a) of this Agreement.
- (w) "Excluded Costs" is defined in Section 4.04 of this Agreement.
- (x) "Excluded Services" is defined in Section 2.03 and further described in Schedule D of this Agreement.
- (y) "Excise Tax Act (Canada)" means the Excise Tax Act, R.S.C., 1985, c. E-15.
- (z) "Extra Costs" is defined Schedule I of this Agreement.
- (aa) "Facilities" are defined in Schedule A of this Agreement.

- (bb) "Good Industry Practice" means, in relation to any undertaking in any circumstances, the exercise of that degree of skill, diligence, prudence or foresight which would ordinarily be expected from a skilled and experienced operator engaged in the same type of undertaking, under the same or similar circumstances. For greater clarity, this definition is not meant to refer to the same term used under any Applicable Law.
- (cc) "Governmental Authority" means any government, parliament, legislature or any regulatory authority, agency, commission or a board of any government, parliament or legislature, or any political subdivision thereof, or any court or, without limitation to the foregoing, any other law, regulation or rule making entity or any person acting under the authority of the foregoing or any other authority charged with the administration or enforcement of laws, including the Ministry of the Environment, Conservation and Parks, Ministry of Municipal Affairs and Housing.
- (dd) "Implemented Capital Expenditures" is defined in Section 4.06(f) of this Agreement.
- (ee) "Indemnified Party" is defined in Section 3.03(a) of this Agreement.
- (ff) "Indemnifier" is defined in Section 3.05 of this Agreement.
- (gg) "Innovations" is defined in Section 7.01(a) of this Agreement.
- (hh) "Insurance" is defined in Section 2.14(a) and further described in Schedule G.
- (ii) "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.
- (jj) "Interim Emergency Measures" is defined in Section 2.02(e) of this Agreement.
- (kk) "Material Adverse Effect" means any change (or changes taken together) in, or effect on, the affected Party that materially and adversely affects the ability of such Party to perform its obligations under this Agreement.
- (ll) "Municipal Act, 2001" means the Municipal Act, 2001, S.O. 2001, c. 25, as amended.
- (mm) "Municipal Freedom of Information and Protection of Privacy Act" or "MFIPPA" means the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990 c. M.56.
- (nn) "Parties" and "Party" has the meaning given to it in the recitals to this Agreement.

- (oo) "PDC" or "Process Data Collection" 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.
- (pp) "Receiving Party" is defined in Section 8.01(a)(iv) of this Agreement.
- (qq) "Representatives" has the meaning given to it in Section 8.02 of this Agreement.
- (rr) "SCADA" has the meaning given to it in Section 9.01(b) of this Agreement.
- (ss) "Services" is defined in Section 2.01 and further described in Schedule C of this Agreement.
- (tt) "Service Provider" means The Corporation of the City of Peterborough.
- (uu) "Service Provider Equipment" has the meaning given to it in Section 2.08(c).
- (vv) "Service Provider Indemnified Parties" is defined in Section 3.03(a) of this Agreement.
- (ww) "Service Provider Technology" is defined in Section 9.01 of this Agreement.
- (xx) "Subcontractors" is defined in Section 2.05(b).
- (yy) "Term" is defined in Section 4.01 of this Agreement.
- (zz) "Third Party Claim" is defined in Section 3.05 of this Agreement.
- (aaa) "Township" means The Corporation of the Township of Cavan Monaghan.
- (bbb) "Township Indemnified Parties" is defined in Section 2.13(a) of this Agreement.
- (ccc) "Township Technology" is defined in Section 9.01(b) of this Agreement.
- (ddd) "Uncontrollable Circumstance" is defined in Section 2.02(j) of this Agreement.
- (eee) "WMMS" or "Work Management Maintenance System" means a computer program used to determine a program of preventive maintenance activities for equipment in Facilities based on a risk analysis that considers factors such as equipment life expectancy, present value and replacement cost.

[end of Schedule B]

Schedule C – Services

1. Operating and Maintenance Duties

Subject to the provisions of this Agreement, the Service Provider will do the following:

(a) Water Treatment - General Operation

- Ensure that daily operations comply with and fulfil the requirements of Applicable Law;
- Inspect process control equipment to ensure proper operations of chlorinators;
- Operate pump controls and valve controls for pumping of all process streams;
- Check well and level of groundwater to ensure aquifer is not over-pumped;
- Mix, monitor and adjust process chemicals to ensure adequate treatment;
- Records and analyze water flow, chemicals used, chlorine residuals, turbidity and other process readings as required;
- Routinely conduct water sampling/testing in accordance with Applicable Law, including the Facility's Drinking Water Work Licence & Permit to Take Water;
- Complete internal operational data forms for statistical input into a reporting system;
- Modify the current Drinking Water Quality Management System;
- Calibrate equipment in accordance with the Water Treatment Facility's Drinking Water Work Licence & Permit to Take Water and with regard to applicable OEM manuals.

(b) Water Distribution - General Operation

- Ensure that daily operations comply with and fulfil the requirements of Applicable Law;
- Open, exercise and flush water hydrants annually, make repairs and winterize each fall;
- Inspect stand-pipe exterior reservoir through visual inspection, checking controls and valves, or by monitoring pressure and water levels;
- Inspect distribution system, visually for major leaks, monitor chlorine residual and routinely conduct water sampling/testing in accordance with Applicable law including any applicable Certificate of Approval;
- Provide supervision and/or inspection of water distribution repairs during normal working hours;

- Complete internal operational data forms for statistical input into a reporting system;
- Calibrate equipment in accordance with any applicable Drinking Water Work Licence & Permit.

(c) Wastewater Treatment

- Ensure that daily operations comply with Applicable Law;
- Inspect process control equipment to ensure proper operation of pumps, blowers, ISAM, tertiary filters, compressors, ultraviolet system, valves and chemical feeders;
- Operate pump controls and valve controls for pumping of all process streams;
- On a routine basis;
 - Monitor and adjust dosage of process chemicals, as required;
 - Record and analyze chemicals used, chlorine residuals, disinfection, process water and wastewater flow calculations;
 - Collect samples and perform routine wastewater tests in accordance with Applicable Law, including ensuring compliance with the relevant Certificate of Approval.
- Calculate, record and analyze the amount of wastewater treated, the daily and monthly flows, and standby equipment running hours;
- Complete internal operations data forms for statistical input into PDC;
- Calibrate equipment in accordance with any applicable Environmental Compliance Approval.
- Inspect and maintain Odour Control Unit and undertake odour investigations as required.

(d) Wastewater Collection

- Ensure that daily operations comply with Applicable Law;
- Record flow readings on operational forms for computer input;
- Calibrate equipment in accordance with any applicable Environmental Compliance Approval.
- Routinely undertake readings of pumping stations' run hours and flow rates including visual checks.

2. Routine Maintenance

The Service Provider will provide routine maintenance of the Facilities, as would a reasonable operator, in accordance with Good Industry Practices and the manufacturer's recommendations and, upon request, provide proof thereof to the satisfaction of the Township. Specifically, the Service Provider will:

- Carry out a routine lubrication program including greasing and oiling as specified in the lubrication schedule for all required equipment requiring lubrication including pumps, valves and compressors;
- Perform routine maintenance duties to equipment by following preventive maintenance procedures;
- Maintain an inventory on all equipment, tools and supplies related to Services including oil, grease, gaskets, filters, ferric and sodium hypochlorite;
- Ensure the security of the project by locking doors and gates;
- Replace UV bulbs;
- Operate and maintain backup generators including monthly load test runs;
- Conduct routine alarm tests;
- Maintain proper calibration of all vital instruments including laboratory equipment, samplers, chlorine analyzers, dissolved oxygen probes and flow meters;
- Properly handle and dispose of all debris and materials that may accumulate from time to time in grit channels and other operating areas of the Facilities; and
- Provide recommendations to improve system efficiency.

3. Capital Improvements

The Service Provider, acting as a reasonable operator, will record information on the frequency of equipment breakdown and repair costs to determine replacement needs. Parts of the Facilities requiring upgrading or improvement will be identified and brought to the attention of the Township in accordance with Section 4.06(b) of this Agreement. The Service Provider will provide advice to the Township from an operational, maintenance and practical operating perspective in respect of such proposed Capital Expenditures.

4. Optimization and Compliance of Operation

The Service Provider will routinely analyse, investigate and, where appropriate, implement measures to improve the effectiveness and efficiency of the Facilities.

The Service Provider, acting reasonably, is responsible for ensuring an efficient operation of the process and keeping records on a daily basis.

Within sixty (60) days of the date of this Agreement, the Service Provider will undertake a detailed risk analysis on the Facilities in respect of the Drinking Water Quality Management System and will document suggested methods to manage identified risks. A copy of such risk assessment will be delivered to the Township within a reasonable time of completion.

5. Reporting

Within sixty (60) days of the end of each calendar year or such other period as the Township and the Service Provider may agree upon, the Service Provider will provide the Township's Authorized Representative with a report describing the Facilities' performance for the previous calendar year and copies of all reports as required by the Ministry of the Environment, Ministry of Municipal Affairs and Housing or other Applicable Law.

In addition, the Service Provider will provide, at a minimum, formal quarterly (or as regulated by any Governmental Authority) performance reports to the Township by the end of the month following each quarter. The reports will identify, as a minimum, the following criteria:

(a) Water Treatment & Distribution

- Flows (daily, average, maximum);
- Static and pumping levels on 30 minute intervals;
- Facility and equipment repairs and maintenance details;
- Related water distribution system issues (e.g. water main breaks);
- Complaints and other public inquiries received and action taken;
- Regulatory issues (e.g. inspections, orders, reports filed with any Governmental Authority);
- Adverse water quality responses;
- Health & safety issues; and
- Status of capital projects.
- As necessary per Applicable Law and/or at the Township's request;

(b) Wastewater Collection and Treatment

- As necessary per Applicable Law and/or at the Township's request;

As well such quarterly reports will summarize the content of operational meetings and identify items requiring special consideration or special impacts on the budget. Quarterly reports will also be provided of all maintenance activities and related costs.

The Township reserves the right to request that the Service Provider deliver to the Township a detailed list of specific reports to be provided by the Service Provider and their frequency throughout the Term, which list will include the reports described in this section 5.

6. Meetings

The Service Provider and the Township will meet, at minimum, quarterly, unless otherwise agreed to by the Parties, to discuss the operations of the Facilities within the preceding quarter and to plan as necessary for the upcoming quarter.

In addition, the Service Provider and the Township will conduct an annual meeting, attended at a minimum by the Client Services Manager and the relevant supervisory staff, to present the annual report for the previous year and the proposed Capital Expenditures provided for in Section 4.06.

7. Regulatory Matters

The Service Provider will handle day-to-day regulatory requirements and contacts with Governmental Authorities in respect of operating issues concerning the Facilities. The Service Provider will review any inspection reports prepared by Governmental Authorities that are provided to the Service Provider. Subject to providing notice to the Township, and unless the Township notifies otherwise, the Service Provider will either correct deficiencies identified in such inspection reports or negotiate changes to the reports with the Governmental Authorities.

8. Staffing

As appropriate and as set out in this Agreement, the Service Provider will:

- (a) staff the Facilities with certified operators and other trained staff as required by regulation under the Safe Drinking Water Act, 2002, S.O. 2002, c. 32, as amended, and as otherwise required by Applicable Law to carry out the Services;
- (b) ensure all staff at the Facilities are trained for the normal process operation and maintenance of the Facilities, and will also receive training on how to deal with emergency situations;
- (c) provide 24-hour, 7 day per week on-call coverage at the Facilities in the event of illness or emergencies;
- (d) provide staffing that is equivalent to 1 ½ employee full time, Monday to Friday at the Facilities, in addition to staff for on-site inspections on Saturday, Sunday and holidays and other staff of the Service Provider on an as-needed basis; and

- (e) implement an answering service to be used to accept customer calls outside of regular business hours (provided that during regular business hours the calls would go through the Township offices) and retain the existing auto-dialer.

9. Emergency Situations and Safety

The Service Provider will ensure that the Facilities have a contingency plan in place to deal with non-routine operational situations and emergency situations such as spills, by-passes, overflows, electrical interruptions and equipment failure.

10. Sludge

The Township acknowledges and agrees that it is responsible for arranging for all aspects of sludge removal, storage and spreading, and has contracted with a third party for the provision of this service to comply with all relevant Applicable Law, including but not limited to, any relevant regulatory guidelines on biosolids management and disposal issued by the Ministry of the Environment and any relevant certificates of approval. The Service Provider agrees to use best efforts to cooperate and coordinate with and assist in the administration of the Township's arrangement with such third party for sludge removal.

[end of Schedule C]

Schedule D – Excluded Services

Services that will not be provided by the Service Provider, as the Township has made arrangements for them, include, but are not limited to, the following ("Excluded Services"):

- (a) Snow removal
- (b) Lawn maintenance
- (c) General site maintenance
- (d) Non-routine site maintenance, or site maintenance unrelated to the Services (e.g. maintenance of solar panels on Facilities)
- (e) Sludge removal

[end of Schedule D]

Schedule E – [Intentionally Deleted]

Schedule F – [Intentionally deleted]

Schedule G – Insurance

1. The Township must obtain and maintain for the Term the insurance outlined in this section 1:
 - a) Commercial General Liability Insurance:
 - i) Commercial General Liability in an amount no less than \$10,000,000 and in a form consistent with an owner of a similar facility and operation. The policy must list the Service Provider as an additional insured.
 - b) Property Insurance:
 - i) The property to cover includes a water and wastewater facility.
 - ii) The wastewater facility is valued at \$17MM or as from time to time determined by the Township.
 - iii) The water facility (3 raw water pumps including booster pump building, standpipe) is valued at \$4MM or as from time to time determined by the Township.
 - iv) All commissioned after construction in October 2015, all facilities have backup power, new computer systems and new electrical controls systems.
 - v) Components included in these values and property are sewage pump station, water tower and booster pumping station.
 - vi) Sewage Pump Station details: One (1) raw sewage well with dimensions of 4.7m x 8.65m x 4.0m Side Water Depth (SWD) complete with two (2) duty and two (2) standby submersible lift pumps.
 - vii) Water Tower details: 12.8m diameter, above-ground, glass-fused-to-steel water storage tank, capacity 2,600 m³.
 - viii) Booster Pumping details: Three (3) vertical in-line centrifugal booster pumps (2 duty, 1 standby), each rated at 11 Us at 28 mTDH, with variable frequency drives including pumps with two (2) vertical inline centrifugal high flow pumps (duty/standby), each rated at 120 Us at 28 mTDH.
 - c) Equipment Breakdown/Boiler Insurance:
 - i) Equipment Breakdown/Boiler Insurance in an amount and in a form consistent with an owner of a similar facility and operation.
 - d) Pollution Liability Insurance:

- i) Covering third party property damage and bodily injury and cleanup costs for pollution conditions emanating from the Facilities with a coverage limit of \$10,000,000 per occurrence. The policy must list the Service Provider as a named insured.
 - ii) Deductible: Maximum of \$50,000 per claim or as determined by the Township.
- 2. The Service Provider must obtain and maintain for the Term the insurance outlined in this section2:
 - a) Commercial General Liability Insurance:
 - i) Commercial General Liability in an amount no less than \$10,000,000 containing no materially restrictive language against the work. Tenant's Legal Liability in an amount no less than \$5,000,000 and naming the Township as an additional insured.
 - b) Automobile Insurance:
 - i) Standard OAP 1 Automobile insurance in an amount no less than \$5,000,000. The Service Provider's use of automobiles is at the discretion of the Service Provider. The Township is not responsible for any physical loss or damage to any vehicles used by the Service Provider in relation to this Agreement or for any deductibles required to be paid by the Service Provider in relation to the use or operation of such vehicles.
 - c) Professional Liability Insurance
 - i) Professional Liability insurance in an amount of no less than \$5,000,000 per claim and in the aggregate.
 - ii) Deductible: As determined by the Service Provider.
- 3. All deductibles related to the insurance described in this Schedule G are to be paid by the policy holder.

[end of Schedule G]

Schedule H – [Intentionally Deleted]

Schedule I – Fixed Price Chart

Item	1 st year	2 nd year	3 rd year	4 th year	5 th year
Personnel Services	233,700	237,790	242,427	252,124	262,209
Materials and Supplies (includes Chemicals and Equipment)	41,348	43,416	45,587	47,866	50,259
Outside Services	29,500	30,385	31,297	32,235	33,203
Insurance as an estimated price	25,000*	25,750*	26,523*	27,318*	28,138*
Maintenance and Repair	45,250	47,512	49,888	52,382	55,001
Transition Costs	0	0	0	0	0
Other (Identify)	0	0	0	0	0
Total Excluding HST	374,798	384,853	395,722	411,925	428,810

Total five (5) Year Contract Cost: **\$1,996,108**_(excluding HST)

All items that follow in this Schedule I are "Extra Costs":

Item description	Cost (including taxes)
Providing installation and/or inspection of new water and sewer connections.	\$600.00 plus material
Flushing Services, including reporting	\$130.00 per hour
Boil Water Advisory notification preparation and distribution	\$50.00 Per person Per hour
Providing water shut offs and start ups when the same is required, for billing issues and seasonal uses during business hours	\$150.00 per property (both shut off and on)
Sewer cross-connection inspection	\$150.00 per hour , plus material
Sludge Contract Administration & Negotiation Fee	n/c - value added service
Hydrant Flow Test	\$80.00/hydrant in groups of 10

2022 WATER & WASTEWATER CHARGE OUT RATES					
	Regular Rate	Regular Hours	After Hours OT	Call-Out (Mon - Sat)	Call-Out (Sun & Stat)
HRS (minimum)		1	1	3	4
Billed		1	1	1.5	2
Labour (Xrate)		2.1	3.3	3.3	3.3
Water & Wastewater Operator	\$41.87	\$87.93	\$138.17	\$207.26	\$276.34
Water & Wastewater Maintenance Operator	\$40.30	\$84.63	\$132.99	\$199.49	\$265.98
Water & Wastewater Electrician	\$42.70	\$89.67	\$140.91	\$211.37	\$281.82
Water & Wastewater Treatment Foreperson	\$41.69	\$87.55	\$137.58	\$206.37	\$275.15
Water & Wastewater Treatment Supervisor	\$54.10	\$113.61	\$178.53	\$267.80	\$357.06
Water Distribution/Wastewater Collection - Service Maintenance Operator	\$37.91	\$79.61	\$125.10	\$187.65	\$250.21
Water Distribution/Wastewater Collection - Foreperson	\$41.70	\$87.57	\$137.61	\$206.42	\$275.22
Water Distribution/Wastewater Collection - Supervisor	\$54.97	\$115.44	\$181.40	\$272.10	\$362.80
Equipment					
Dump Truck - Water & Wastewater	\$27.32	\$27.32	\$27.32	\$42.08	\$54.64
Pickup - Water & Wastewater	\$27.32	\$27.32	\$27.32	\$40.98	\$54.64
Backhoe - Water & Wastewater	\$60.10	\$60.10	\$60.10	\$90.16	\$120.20
Vacuum Excavator - Water & Wastewater	\$56.82	\$56.82	\$56.82	\$85.23	\$113.64
Camera Truck - Wastewater	\$52.45	\$52.45	\$52.45	\$78.68	\$93.97
Van - Water	\$13.11	\$13.11	\$13.11	\$19.67	\$26.23
Cube Van - Water	\$27.32	\$27.32	\$27.32	\$40.98	\$54.64
Compressor - Water	\$16.39	\$16.39	\$16.39	\$24.59	\$32.78

Wastewater Collection System – Flushing/Clean \$130.24 Plus Admin Fees*

Wastewater Collection System - Flushing and CCTV work; \$242.48 Plus admin Fees*

*Rates are also subject to labour costs for travel and dumping costs that vary depending on the nature and extent of the work. Further, an administrative fee of 15% will be added to any such costs other than for labour.

Extra Costs to be increased by 2.95% every January 1, annually for the Term

Schedule J – [Intentionally Deleted]