

# Agenda

## Lake Huron Primary Water Supply System Joint Board of Management

4th Meeting of the Lake Huron Primary Water Supply System Joint Board of Management  
October 7, 2021, 2:00 PM  
2021 Virtual Meeting - during the COVID-19 Emergency

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<b>1. Call to Order</b>	
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| 4.4. | Kelly Scherr, Chief Administrative Officer - Ministry of the Environment, Conservation and Parks Air Quality Monitoring Station - Licence Extension and Amending Agreement | 166 |

**5. Deferred Matters/Additional Business**

**6. Confidential**

6.1. Litigation/Potential Litigation/Matters Before Administrative Tribunals

A matter pertaining to litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board with respect to an event which may result in litigation against the Lake Huron Water Supply System.

**7. Upcoming Meeting Dates**

December 2, 2021

March 3, 2022

June 2, 2022

**8. Adjournment**

# Lake Huron Primary Water Supply System Report

3rd Meeting of the Lake Huron Primary Water Supply System Joint Board of Management  
June 3, 2021

Attendance: Meeting held remotely on Thursday, June 3, 2021, commencing at 2:05 PM.

PRESENT: M. van Holst (Chair), A. DeViet, D. Faubert, J. Fergusson, S. Hillier, J. Vanderheyden, P. van Meerbergen, P. Walden, J. Wilcox and B. Willard and J. Bunn (Committee Clerk)

ALSO PRESENT: A. Henry and K. Scherr

## 1. Call to Order

### 1.1 Disclosures of Pecuniary Interest

That it BE NOTED that no pecuniary interests were disclosed.

## 2. Adoption of Minutes

### 2.1 Minutes of the 2nd Meeting held on Thursday, March 4, 2021

VANDERHEYDEN AND VAN MEERBERGEN

That the minutes of the 2nd meeting of the Lake Huron Primary Water Supply System Board of Management, held on March 4, 2021, **BE NOTED AND FILED. CARRIED**

**Motion Passed**

## 3. Consent Items

### 3.1 Quarterly Compliance Report (1st Quarter 2021: January - March)

FERGUSSON AND VAN MEERBERGEN

That, on the recommendation of the Chief Administrative Officer, the report dated June 3, 2021, with respect to the general, regulatory and contractual obligations of the Lake Huron Primary Water Supply System, for January to March 2021, **BE RECEIVED. CARRIED**

**Motion Passed**

3.2 Environmental Management System and Quality Management System

FERGUSSON AND VAN MEERBERGEN

That, on the recommendation of the Chief Administrative Officer, the report dated June 3, 2021, with respect to the Environmental Management System and Quality Management System for the Lake Huron Primary Water Supply System, **BE RECEIVED. CARRIED**

**Motion Passed**

3.3 Quarterly Operating Financial Status - 1st Quarter 2021

FERGUSSON AND VAN MEERBERGEN

That, on the recommendation of the Chief Administrative Officer, the report dated June 3, 2021, with respect to the Quarterly Operating Financial Status of the Lake Huron Water Supply System, **BE RECEIVED. CARRIED**

**Motion Passed**

3.4 Water System Operation - Contract Status Update

FERGUSSON AND VAN MEERBERGEN

That, on the recommendation of the Chief Administrative Officer, the report dated June 3, 2021, with respect to the status of the contract with the Ontario Clean Water Agency as the contracted operating authority, **BE RECEIVED. CARRIED**

**Motion Passed**

3.5 2020 Audited Financial Statement and Auditors Report

FERGUSSON AND VAN MEERBERGEN

That, on the recommendation of the Chief Administrative Officer, the 2020 Audited Financial Statement for the Lake Huron Primary Water Supply System, as appended to the report dated June 3, 2021, **BE RECEIVED AND ACCEPTED. CARRIED**

**Motion Passed**

3.6 LH1242 Pressure Transient Monitoring Program - Status Update

FERGUSSON AND VAN MEERBERGEN

That, on the recommendation of the Chief Administrative Officer, the report dated June 3, 2021, with respect to a status update on the Pressure Transient Monitoring Program (Project LH1242), **BE RECEIVED. CARRIED**

**Motion Passed**

3.7 LH1385 Crop Yield Monitoring Program - 1996 Pipeline Twinning Project

FERGUSSON AND VAN MEERBERGEN

That, on the recommendation of the Chief Administrative Officer, the report dated June 3, 2021, with respect to the Crop Yield Monitoring Program (Project LH1385), associated with the 1996 Pipeline Twinning Project, **BE RECEIVED. CARRIED**

**Motion Passed**

3.8 LH1256 Crop Yield Monitoring Program - 2014 Pipeline Twinning Project

FERGUSSON AND VAN MEERBERGEN

That, on the recommendation of the Chief Administrative Officer, the report dated June 3, 2021, with respect to the Crop Yield Monitoring Program (Project LH1256), associated with the 2014 Pipeline Twinning Project, **BE RECEIVED. CARRIED**

**Motion Passed**

**4. Items for Discussion**

4.1 Financial Plan Update Project - Consulting Award

DEVIET AND WILLARD

That, on the recommendation of the Chief Administrative Officer, the following actions be taken with respect to the report dated June 3, 2021, related to the Financial Plan Update (LH1020) project:

- a) the proposal from Watson & Associates Economists Ltd., for the Financial Plan Update in the amount of \$45,000.00, including contingency and excluding HST **BE ACCEPTED**; and,
- b) the above-noted report **BE RECEIVED. CARRIED**

**Motion Passed**

#### 4.2 Locate Service Provider - Contract Award

VAN MEERBERGEN AND WILLARD

That, on the recommendation of the Chief Administrative Officer, the following actions be taken with respect to the report dated June 3, 2021, related to retaining a Locate Service Provider:

- a) the proposal from Utility Marx, for the provision of Utility Locate Services, **BE ACCEPTED**;
- b) the Board Chair and Chief Administrative Officer **BE AUTHORIZED** to execute an agreement with Utility Marx for the provision of Utility Locate Services; and,
- c) the above-noted report **BE RECEIVED. CARRIED**

**Motion Passed**

#### 4.3 LH1317 Distressed Pipe Replacement Program (Pipe 1-162)

FERGUSON AND WILLARD

That, on the recommendation of the Chief Administrative Officer, the following actions be taken with respect to the report dated June 3, 2021, related to the LH1317 Distressed Pipe Replacement Program (Pipe 1-162):

- a) the sole source procurement to Xylem (formerly Pure Technologies) **BE APPROVED** to complete the removal and reinstallation of the proprietary Acoustic Fibre Optic Monitoring System related to the proactive replacement of pipe 1-162, as well as to undertake the external electromagnetic verification at an estimated cost of \$59,575;

b) the single source procurement to L82 Construction **BE APPROVED** to complete the proactive replacement of pipe 1-162, at an estimated cost of \$142,645; and,

c) the above-noted report **BE RECEIVED. CARRIED**

**Motion Passed**

4.4 LH1243 McGillivray Electrical Upgrades - Consulting Award

WILLARD AND DEVIET

That the following actions be taken with respect to the report dated June 3, 2021, related to LH1243 McGillivray Electrical Upgrades Consulting Award (Project LH1243):

a) the proposal from Stantec Consulting Ltd., for the McGillivray Electrical Upgrades, in the amount of \$294,850.60, including contingency and excluding HST, **BE ACCEPTED**; it being noted that Stantec Consulting Ltd. submitted a proposal which meets the Request for Proposal requirements and evaluated as having the best value;

b) the Chair and Chief Administrative Officer **BE AUTHORIZED** to execute a consulting services agreement with Stantec Consulting Ltd. for the completion of the McGillivray Electrical Upgrades project; and,

c) the above-noted report **BE RECEIVED. CARRIED**

**Motion Passed**

**5. Deferred Matters/Additional Business**

None.

**6. Confidential**

VANDERHEYDEN AND WILCOX

That the Lake Huron Primary Water Supply System Board of Management convene, In Closed Session, for the purpose of considering the following:

6.1. Position, Plan, Procedure, Criteria or Instruction for Negotiation Purposes

A matter pertaining to a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board related to the Service Agreement between the Ontario Clean Water Agency and the Lake Huron Primary Water Supply System.

**Motion Passed**

The Lake Huron Primary Water Supply System Board of Management convened, In Closed Session, from 2:39 PM to 3:17 PM.

**7. Next Meeting Date**

October 7, 2021

**8. Adjournment**

The meeting adjourned at 3:20 PM.





**To:** Chair and Members, Board of Management  
Lake Huron Primary Water Supply System

**From:** Kelly Scherr, P.Eng., MBA, FEC  
Chief Administrative Officer

**Subject:** Quarterly Compliance Report (2<sup>nd</sup> Quarter 2021: April - June)

## RECOMMENDATION

That the Quarterly Compliance report with respect to the general, regulatory and contractual obligations of the Lake Huron Primary Water Supply System **BE RECEIVED** for the information of the Board of Management; it being noted that there were no Adverse Water Quality Incidents reported in the 2<sup>nd</sup> quarter of 2021.

## BACKGROUND

Pursuant to Board of Management resolution, this Compliance Report is prepared on a quarterly basis to report on general, regulatory and contractual compliance issues relating to the regional water system. For clarity, the content of this report is presented in two basic areas, namely regulatory and contractual, and does not intend to portray an order of importance or sensitivity nor a complete list of all applicable regulatory and contractual obligations.

## DISCUSSION

### Regulatory Issues

**Recent Regulatory Changes:** At the time of drafting this report, there were no new regulatory changes for this reporting period which may significantly impact the LHPWSS.

**New Environmental Registry of Ontario (ERO) Postings:** At the time of drafting this report, there were no new postings on the ERO that may have a significant impact on the LHPWSS.

**Quarterly Water Quality Reports:** The [Water Quality Quarterly Report](#) for the period of April 1 – June 30, 2021 was completed by the operating authority, and is posted on the Water Systems' website for public information.



Lake Huron

Primary Water Supply System

**Report No.:** LH-2021-03-01

**Report Page:** 2 of 2

**Meeting Date:** October 7, 2021

**File No.:**

**Note:** In order to better comply with the *Accessibility for Ontarians with Disabilities Act, 2005*, the detailed tables of water quality test results which were previously appended to this Report have been removed. The full list of test results of drinking water quality parameters is posted on the water system's website and available in print at the Board's Administration Office in London upon request. In addition, the detailed water quality information is also published within the water system's Annual Report required by O.Reg. 170/03 under the *Safe Drinking Water Act*.

**Adverse Water Quality Incidents (AWQIs):** There were no AWQI reported by the operating authority or the third-party accredited laboratory during this quarter.

**Compliance Inspections:** There were no compliance inspections conducted during this quarter.

## **Contractual Issues**

### **ARTICLE 3, "Operation and Maintenance of the Facilities – General":**

Board staff informally meets with OCWA on a monthly basis to discuss operations and maintenance related issues, and formally on a quarterly basis to review contractual performance. The 2021 second quarter Contract Report was received from OCWA on July 29, 2021 and was discussed at the quarterly administration meeting between Board staff and OCWA on August 12, 2021. Copies of the monthly Operations and Maintenance Reports, or quarterly Contract Reports are available at the Board's Administration Office in London upon request.

**Prepared by:** Erin McLeod, Quality Assurance & Compliance Manager

**Submitted by:** Andrew Henry, P. Eng.,  
Director, Regional Water

**Recommended by:** Kelly Scherr, P.Eng., MBA, FEC  
Chief Administrative Officer



**To:** Chair and Members, Board of Management  
Lake Huron Primary Water Supply System

**From:** Kelly Scherr, P.Eng., MBA, FEC  
Chief Administrative Officer

**Subject:** Environmental Management System and Quality Management System

## RECOMMENDATION

That the following report with respect to the Environmental Management System and Quality Management System for the Lake Huron Primary Water Supply System **BE RECEIVED** for information.

## BACKGROUND

### Environmental Management System (EMS)

The Lake Huron Primary Water Supply System (LHPWSS) has an Environmental Management System (EMS) which has been registered to the ISO 14001 standard since 2003. The LHPWSS underwent a three-year registration audit in October 2020 and was recommended for registration to the ISO14001:2015 standard for a three-year period (ending in 2023).

The continued utilization and registration of the EMS to the ISO 14001 standard is a requirement of the Service Agreement with Ontario Clean Water Agency (OCWA), the contracted Operating Authority for the LHPWSS.

### Quality Management System (QMS)

In 2006, the Drinking Water Quality Management Standard (DWQMS) was integrated with the existing EMS and the combined EMS/QMS is maintained by the contracted Operating Authority. The *Safe Drinking Water Act* (SDWA) and the water system's Municipal Drinking Water License (MDWL) require that an accredited Operating Authority be in operational charge of the drinking water system. In order to become accredited, the Operating Authority must utilize and maintain an Operational Plan that meets the requirements of the DWQMS and must undergo an external accreditation audit every three years.

OCWA received full scope DWQMS re-accreditation in November 2019 and is currently accredited for the three-year period ending in 2022.

## DISCUSSION

### Management Review

The documented EMS/QMS and its performance requires Management Review by Top Management a minimum of once every calendar year to ensure that the management team of the Board and the Operating Authority stay informed of environmental and quality related issues. Items discussed at the Management Review meetings include, but are not limited to,



water quality test results, environmental and quality performance, legislative changes, identified non-conformances, corrective and preventive actions, staff suggestions, changing circumstances and business strategies, and resource requirements. Corrective and preventive actions include not only those to address non-conformance issues and opportunities for improvement identified as part of internal and external audits, but also non-compliance issues identified by the Ministry of the Environment, Conservation and Parks (MECP), suggestions from staff, and opportunities for improvement identified during the Management Review process.

In order to carry out more effective Management Review meetings, the Board's administration has opted to conduct shorter meetings at more frequent intervals. Although each required Management Review input may not be covered at every meeting, over the course of the year all required inputs are reviewed at least once. Management Review meetings are held in a combined format for both the LHPWSS and the Elgin Area Primary Water Supply System (EAPWSS).

A Management Review meeting was held on June 23, 2021. The meeting minutes are attached to this report as [Appendix A](#) for the information of the Board.

### **Internal Audits**

Pursuant to the international ISO 14001 EMS standard and the provincial DWQMS standard, periodic "internal" audits are performed by the Board's administration to ensure continued compliance with legislated, contractual, and other requirements, as well as conformance with the ISO 14001 EMS standard and DWQMS standard. Internal audits also ensure that the ongoing operation of the LHPWSS conforms to the EMS and QMS as implemented. As required by the standards, internal audits are performed a minimum of once every calendar year.

There were no internal audits conducted during this reporting period.

### **External Audits**

Annual surveillance audits (third-party external audits) are conducted for both the EMS and QMS, with a recertification audit taking place every third year. The external registrar for both the EMS and QMS is currently SAI Global. External audits review all aspects of the EMS or QMS, including the internal audits, subsequent management reviews, and corrective action processes.

There were no external audits conducted during this reporting period.

### **Corrective and Preventive Actions**

For the EMS/QMS to be effective on an on-going basis, an organization must have a systematic method for identifying actual and potential non-conformities, making corrections and taking corrective and preventive actions, preferably preventing problems before they occur. The Internal Audit process and Management Review are the two main drivers for proactively identifying potential problems and opportunities for improvement for the LHPWSS

and implementing corrective actions. Preventive actions may originate from identified opportunities for improvement as part of an audit, but also staff suggestions and discussions with management.

It is important to note that action items should not be construed as **compliance failures**, but rather an action to be undertaken which will improve the LHPWSS's overall performance.

Action items are the result of the "Plan-Do-Check-Act" continual improvement process. The identification of action items is a critical component of continual improvement and an essential element of management systems. The identification of action items should be seen as a positive element, as this drives continual improvement.

A key concept of Plan-Do-Check-Act is that it does not require nor expect 100% conformance, but promotes an environment of continual improvement by identifying shortfalls, implementing corrective and preventive measures, and setting objectives and targets for improvement. Figure 1 outlines the general process.

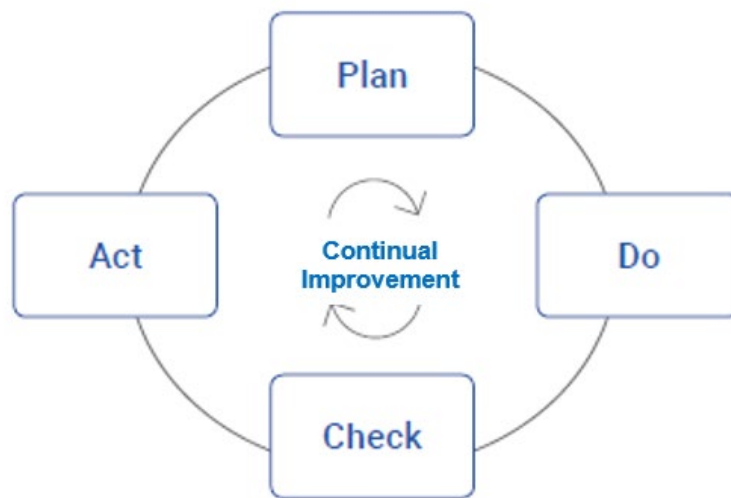


Figure 1: Plan-Do-Check-Act improvement process

Since the last report to the Board, the following summarizes new action items that have been added to the EMS/QMS action item tracking system:

- Three (3) new action items were added as a result of an Environmental Compliance Audit performed in April 2021.
- Seven (7) new action items were added as a result of an EMS Internal Audit performed in April 2021.
- Five (5) new action items were added as a result of the corrective action process related to a spill and a leak on the alum system in May 2021.
- Thirteen (13) new action items were added as a result of the Management of Change process. Management of Change checklists were completed for Site Security, and the Coagulation Upgrade Project.

As of September 3, 2021, there are currently twenty-one (21) open action items in the system. Action items are prioritized and addressed using a risk-based approach, and deadlines established given reasonable timeframes and resources that are available. Board staff are pleased with the performance of the corrective and preventive action process and have no concerns with the number of open action items.

## CONCLUSION

The Internal Audits and frequent Management Review meetings continue to effectively identify system deficiencies. The EMS/QMS for the LHPWSS continues to be suitable, adequate and effective. Activities by OCWA continue to address the need for change, and the management systems are being revised and refined as required.

**Prepared by:** Erin McLeod, Quality Assurance & Compliance Manager

**Submitted by:** Andrew Henry, P. Eng.,  
Director, Regional Water

**Recommended by:** Kelly Scherr, P.Eng., MBA, FEC  
Chief Administrative Officer

**Attachments:** [Appendix A](#) – Management Review Meeting Minutes (June 23, 2021)

## **APPENDIX A: MANAGEMENT REVIEW MEETING MINUTES (JUNE 23, 2021)**

### **Lake Huron & Elgin Area Primary Water Supply Systems EMS/QMS Management Review**

**Date:** June 23, 2021

**Time:** 1:00pm

**Location:** Virtual – Microsoft Teams

**Attendees:** Andrew Henry (RWS), Erin McLeod (RWS), Blair Tully (OCWA), Denny Rodrigues (OCWA), Simon Flanagan (OCWA), Greg Henderson (OCWA),

**Regrets:** Randy Lieber (OCWA)

N.B.: Management Review meetings are held in a combined format for both the Lake Huron Primary Water Supply System (LHPWSS) and the Elgin Area Primary Water Supply System (EAPWSS).

#### **-----Meeting Notes-----**

#### **1. Review and Approval of Previous Minutes (LH & EA)**

Revision 1 of the minutes from the previous meeting (March 22, 2021) are posted to SharePoint. The minutes were approved.

#### **2. Results of Board Meetings (LH & EA)**

Huron Board Meeting (June 3, 2021)

- Quarterly Compliance Report: The report was received for information.
- EMS/QMS Report: The report was received for information.

Elgin Board Meeting (June 3, 2021)

- Quarterly Compliance Report: The report was received for information.
- EMS/QMS Report: The report was received for information.

#### **3. Monitoring and Measurement Results – 2019 Energy Reporting (LH & EA)**

EAPWSS

In 2019, the total volume, electricity, natural gas, GHG emissions, and energy intensity were all down from the previous year. A reduction in electricity and energy intensity in 2019 may partially be related to the removal of A-Pipeline from service. We may see a further reduction in electricity usage from the new high lift pumps that were installed in 2020.

LHPWSS

In 2019, the total volume, electricity, and energy intensity were down from the previous year. Natural gas and subsequently the GHG emissions were up from the previous year. We should see a further reduction in electricity usage in future with new high lift pumps scheduled to be

installed in 2022.

For both systems, in future consider incorporating natural gas usage into the environmental objectives and targets.

#### **4. Status of Environmental Objectives and Targets (LH)**

The 5-year trends for electricity efficiency and chemical efficiency were reviewed and discussed. Overall, the trends are improving over time. Updates to the environmental programmes were reviewed and discussed.

Additional items to be incorporated into the trend notes:

- In winter 2021 and spring 2021, due to higher raw water turbidity the Huron RMF ran more frequently, which may have contributed to increased electricity usage during that time.
- The south clearwell repairs in spring 2021 could have contributed to electricity usage as more frequent filter backwashes were required during that time.

Additional items to be incorporated into the programme notes:

- The low lift pump motors were replaced in 2020-2021, which now have a higher efficiency rating.
- Recent overhead door replacements (higher efficiency rating and less energy loss).
- The future backwash turbidimeter project should reduce electricity consumption as the backwash pumps will run for a shorter period.
- The ongoing instrumentation and flow meter replacement programs at both Huron and Elgin incorporate newer models and improved technology which allows for more accurate monitoring.

#### **5. Status of Environmental Objectives and Targets (EA)**

The 5-year trends for electricity efficiency and chemical efficiency were reviewed and discussed. Overall, the electricity trend is improving over time. The chemical efficiency trend is stable. Residuals Management Facility (RMF) efficiency for the past year was reviewed. Updates to the environmental programmes were reviewed and discussed.

General discussion on the electricity trend:

- In winter 2021 and spring 2021, high electricity usage was noted. This is somewhat unexplained as the new high lift pumps were commissioned in 2020. Staff indicated the trend is unrelated to UV intensity, or other equipment changes.
- Raw water turbidity was lower than the previous year, so increased electricity usage cannot be attributed to additional filter backwashes or additional RMF run time.
- Winter temperatures could be investigated to see if colder temperature caused an increased usage of electric heat.



Items to be incorporated into the programme notes:

- Recent overhead door replacements (higher efficiency rating and less energy loss). Windows were replaced in the administration building and the roof was replaced.
- Implementation of the HVAC heat pump unit at the low lift. This should reduce service water and associated electricity for mechanical cooling.

## **6. Internal Audit Results (LH & EA)**

EAPWSS Compliance Audit – March 26, 2021

No non-compliances or opportunities for improvement were identified during the audit. There was one observation identified during the audit. The observation was discussed, and it was determined no further action is required at this time.

LHPWSS Compliance Audit – April 6, 2021

No non-compliances or opportunities for improvement were identified during the audit. There were three observations identified during the audit. The observations were discussed, with action items finalized to address them.

EAPWSS Environmental Management System (EMS) Audit – April 16, 2021

One (1) non-conformance and three (3) opportunities for improvement were identified during the audit. The audit findings were discussed, with action items finalized to address them.

LHPWSS Environmental Management System (EMS) Audit – April 22, 2021

Two (2) non-conformances and five (5) opportunities for improvement were identified during the audit. The audit findings were discussed, with action items finalized to address them.

## **7. Environmental and Quality Policies (LH & EA)**

Each of the LHPWSS & EAPWSS Environmental and Quality Policies were reviewed and discussed. The Policies were last revised in 2018. No changes are recommended at this time. There have been no concerns with the Policies during external audits.

An Asset Management Plan update is currently in progress, which will include the creation of a new Asset Management (AM) Policy. In future we may want to consider coordination between the Policies. This should be further reviewed once the AM Policies are finalized.

The Strategic Plan that is currently under development may also have implications, and once finalized should be considered in the next Policy review.

## **8. Incidents of Adverse Drinking Water Tests (LH & EA)**

EAPWSS: No incidents of adverse drinking water quality have been reported since this item was last discussed (June 2020).

LHPWSS: No incidents of adverse drinking water quality have been reported since this item was last discussed (September 2020).

## **9. QMS – Effectiveness of the Risk Assessment Process (LH & EA)**

The annual review of the QMS Risk Assessments was completed in June 2021. The full 36-month re-assessments are scheduled to be completed in 2022.

### **LHPWSS**

During the annual review, the following were addressed in the update: addition of on-site security; risk assessed for failure of a chemical storage tank; updated the terminology related to Harmful Algal Blooms (HABs) to match the terminology on the Municipal Drinking Water Licence (MDWL).

### **EAPWSS**

During the annual review, the following were addressed in the update: risk assessed for failure of a chemical storage tank; the new plant drain flushing procedure was incorporated as a control for the risk of a plant drain blockage; updated the terminology related to Harmful Algal Blooms (HABs) to match the terminology on the MDWL.

Upcoming changes to be considered next year:

- Addition of on-site security at Elgin
- Security camera upgrade projects at both Huron and Elgin
- Shoreline erosion monitoring program at Elgin
- Modifications to the park entrance and surrounding property changes at Huron

## **10. QMS Operational Plan Currency, Content & Updates (LH & EA)**

The QMS Operational Plans were reviewed and updated in 2021, and top management signed the commitment and endorsement pages. The Plans are now current with the 2020 raw water characteristics incorporated. The other associated procedures (administrative, operational, emergency etc.) are updated on as-needed basis. To address the new Director's Directions (Minimum Requirements for Operational Plans), the MDWL number has been added to the Plans, and the website has been updated to indicate that the Plans are available to the general public upon request.

## **11. Results of Emergency Response Testing (LH & EA)**

For both systems, actual events were used as tests of the emergency response plan.

LHPWSS: A failure of the 6" service line at Arva was used as a test of the procedure for catastrophic equipment failure.

EAPWSS: A loss of SCADA event which occurred in June 2021 was used as a test of the procedure for catastrophic equipment failure. An outcome of this review was a recommendation to include a more comprehensive checklist for conducting a manual shutdown of the WTP.

The annual fire drill tests at each WTP are standard reoccurring tests that are generated through work orders in the CMMS.

OCWA now maintains a spreadsheet for tracking the various tests that have occurred. Test records will be documented and uploaded into SharePoint, with any action items added to the tracking sheet.

## **12. Overall Decision on the Suitability, Adequacy & Effectiveness of the EMS & QMS (LH & EA)**

A discussion took place on the management systems as a whole, reflecting back over the past year. Top management confirmed that the management systems continue to be suitable, adequate and effective. The following observations support this conclusion.

**Audit results:** Internal audits continue to identify issues, including non-conformances, and recommend opportunities for improvement. There were no non-conformances identified during the most recent EMS and QMS external audits. Incremental continual improvement is evident.

**MECP Inspection results:** The annual MECP Inspection ratings for the 2020-2021 reporting year were 100% for both the LHPWSS & EAPWSS. This is an improvement from the previous reporting year.

**Objectives and targets:** Overall the trends generally continue to improve for the EMS objectives and targets, particularly for electricity consumption. Planned capital projects are anticipated to continue the improvement and optimization.

**System uptime/downtime:** There have been no major upsets or unplanned events in the past year that have impacted our ability to supply customers.

**Customer Satisfaction:** Overall the Board and municipal staff (ie. customers) seem to be satisfied with management system results.

**Resources:** During COVID-19 there has been a shift in work practices - working remotely; conducting web-based meetings; finding alternate means of communications which we have all adopted; utilization of hybrid options such as conducting portions of internal audit remotely; general system flexibility.

**Water quality:** No recent AWQIs and the operating authority met all contractual water quality performance criteria in 2020 (ie. full incentive payment received).

### **13. Management of Change (LH & EA)**

LHPWSS: The following changes were reviewed and documented on Management of Change checklists. All action items have been added to the tracking sheet.

- Site Security
- Coagulation Upgrade Project

EAPWSS: No Management of Change checklists have been completed since the last meeting.

Top Management noted the following projects that should also be reviewed:

- Huron South Clearwell Repair
- Huron Security Camera Upgrade Project
- Huron Beach Chamber Repair
- Huron HLP Project (future)
- Elgin Security Camera Upgrade Project (future)
- Elgin Site Security (future)

The EMS/QMS Project Coordinators will complete the checklists for their respective projects.

### **14. Corrective Action Forms (LH & EA)**

The following incidents have been documented and reviewed using Corrective Action Forms (CAFs):

- Huron Alum Chemical Piping Leak (May 16, 2021)
- Huron Alum Chemical Leak – Partial Open Valve (May 19, 2021)
- Elgin RMF Truck Oil Leak (May 17, 2021)

Corrective action items associated with each of these events have been added to the tracking sheet.

### **15. Compliance Obligations Update (LH & EA)**

#### **[Proposed amendments to drinking water operator and water quality analyst certification regulation to address impacts of emergencies](#)**

**Source:** MECP

**Date Posted/Notice Received:** May 18, 2021

**Comments Due:** July 2, 2021

**Summary:** The proposed regulatory changes would give the ministry and drinking water systems the tools they need to act quickly to help ensure the province's drinking water is protected during an emergency, such as providing systems with temporary staffing options, and operators with temporary relief from training and certification requirements.

**Potential Impacts:** None anticipated.

### **Public Consultation for Guideline Technical Document - Malathion**

**Source:** Health Canada

**Date Posted/Notice Received:** March 26, 2021

**Comments Due:** May 26, 2021

**Summary:** The existing guideline technical document on malathion was developed in 1986, and established a MAC of 0.19 mg/L. This document has been revised to reflect the most recent re-evaluation of malathion. An updated MAC of 0.29 mg/L is proposed for malathion in drinking water.

**Potential Impacts:** None anticipated. The current MAC in Ontario is 0.19 mg/L. All treated water results from 2015-2021 were non-detect for malathion at both the LHPWSS and EAPWSS.

### **Update - Hazardous Waste Digital Reporting Service Modernization Project**

**Source:** Ministry of the Environment, Conservation and Parks (MECP)

**Date Posted/Notice Received:** April 13, 2021

**Comments Due:** N/A

**Summary:** MECP is transitioning the digital reporting of the Hazardous Waste program to the Resource Productivity and Recovery Authority. The Authority advised the Ministry to extend the launch date of the Hazardous Waste digital reporting service from January 1, 2022 to January 1, 2023. This extension has been approved, and the digital reporting service must now be ready by January 1, 2023. The registration launch date, which was initially anticipated before July 1, 2021, will also be adjusted accordingly in consultation with the Ministry.

**Potential Impacts:** Opportunity for improved compliance. This new digital reporting service may help resolve some recent administrative issues associated with the paper copies of waste manifests.

### **Incident Management System (IMS) Guidance Version 2.0**

**Source:** Ministry of the Solicitor General

**Date Posted/Notice Received:** March 31, 2021

**Comments Due:** N/A

**Summary:** The development of IMS 2.0 builds on the standardized organizational structures, functions, processes and terminology of IMS 1.0 and offers guidance on communicating, coordinating and collaborating during an incident response. Although the fundamentals of IMS remain the same, improvements have been made to the guidance document, including flexibility and interoperability, Emergency Operations Centre structures, coordination at all levels, public information management, response escalation structure, and others. The Ministry is in the process of updating training materials.

**Potential Impacts:** The LHPWSS & EAPWSS Incident Management System must be reviewed and updated, with changes to the guidance being incorporated.

### **Decision Notice – Amendments to the Ontario Water Resources Act**

**Source:** MECP

**Date Posted/Notice Received:** A previous decision notice was updated on March 31, 2021

**Comments Due:** N/A

**Summary:** MECP has updated the decision notice to provide information that the amendments



to the Ontario Water Resources Act (OWRA) (the new section 34.0.1) will come into effect on April 1, 2021, along with the other proposed enhancements to Ontario's water taking program (amendments to the Water Taking and Transfer Regulation (O. Reg 387/04) under the OWRA and Ontario Regulation 63/16, Environmental Activity Sector Registry – Water Taking (under the Environmental Protection Act). The April 1, 2021 date coincides with the expiry date of the bottled water moratorium. No other changes were made to the decision notice originally published on December 18, 2020.

**Potential Impacts:** None anticipated.

### **Decision - Updating Ontario's Water Quantity Management Framework**

**Source:** MECP

**Date Posted/Notice Received:** March 31, 2021

**Comments Due:** N/A

**Summary:** MECP is moving forward with enhancements to Ontario's policies, programs and scientific tools for managing water takings to ensure water resources in the province are protected and used sustainably.

Ontario's new water quantity framework is established by amendments to O. Reg. 387/04 and O. Reg. 63/16, which were filed on March 31, 2021 and come into effect on April 1, 2021, to coincide with the expiry of the bottled water moratorium. The government claims that, taken together, the amendments will:

- establish priorities of water use to be considered in water taking decisions;
- replace rules governing permit decisions in high use watersheds with a new, more adaptive area-based approach to manage the cumulative effect of water takings in water quantity-stressed areas; and
- make water taking data more accessible to the public to increase transparency and enhance water management.

**Potential Impacts:** None anticipated.

### **Decision - Proposed Implementation of Updates to Ontario's Water Quantity Management Framework**

**Source:** MECP

**Date Posted/Notice Received:** March 31, 2021

**Comments Due:** N/A

**Summary:** MECP is moving forward with guidance to help enhance the management of water takings in areas where quantity is a concern and where there are competing demands for water. MECP is also revoking the interim guidance on water bottling renewals at the same time that the enhancements to Ontario's water taking program will be put in place on April 1, 2021. This new guidance is intended to help water permit holders understand the new rules and to assist in the implementation of the new regulatory enhancements to the Water Taking and Transfer regulation to:

- manage water takings in areas where water sustainability is a concern; and
- establish provincial priorities of water use to guide decisions where there are competing demands for water.

**Potential Impacts:** None anticipated.

**[New Canada-Ontario Agreement on Great Lakes Water Quality and Ecosystem Health](#)**

**Source:** MECP

**Date Posted/Notice Received:** May 27, 2021

**Comments Due:** N/A

**Summary:** Ontario and Canada have finalized a new agreement to restore, protect and conserve Great Lakes water quality and ecosystem health. The [Canada-Ontario Agreement](#) is effective June 1, 2021.

**Potential Impacts:** None anticipated.

**Other:**

The following Health Canada documents were previously reported on and have now been finalized and published:

[Guideline Technical Document - Metribuzin](#)

[Guideline Technical Document – 1,4-Dioxane](#)

The Canada Water Agency's report, "[Toward the Creation of a Canada Water Agency: Public & Stakeholder Engagement – What We Heard](#)," is now available.

The report reflects input from those who provided feedback on the Canada Water Agency Discussion Paper, "Toward the Creation of a Canada Water Agency," available on the consultation website. The feedback will inform the Government of Canada's next steps in implementing the commitment to create a Canada Water Agency. Public and stakeholder consultation is now closed, but Indigenous engagement will continue throughout 2021.

**[Regulatory proposals \(Phase 1\) under the Conservation Authorities Act](#)**

**Source:** MECP

**Date Posted/Notice Received:** May 13, 2021

**Comments Due:** June 27, 2021

**Summary:** The Ministry is proposing new regulations to focus Conservation Authorities on their core mandate by prescribing mandatory programs and services they must provide, give municipalities greater control over what Conservation Authority programs and services they will fund, consolidate "Conservation Areas" regulations and to require community advisory boards.

**Potential Impacts:** None anticipated. It was noted by staff that there will be a second related proposed regulation posted sometime this summer regarding changes to the municipal levy, ability to enter into agreements for non-core functions of the Conservation Authority, etc.

**16. Communications, Complaints, Consumer Feedback (LH & EA)**

Due to time constraints this item was deferred to the next meeting.

**Next Meeting:** TBD (September 2021)



**Report No.:** LH-2021-03-03  
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**Meeting Date:** October 7, 2021  
**File No.:**

**To:** Chair and Members, Board of Management  
Lake Huron Primary Water Supply System

**From:** Kelly Scherr, P.Eng., MBA, FEC  
Chief Administrative Officer

**Subject:** Quarterly Operating Financial Status – 2<sup>nd</sup> Quarter 2021

## RECOMMENDATION

That this report regarding the Quarterly Operating Financial Status of the Lake Huron Water Supply System be **RECEIVED** by the Board of Management for information; it being noted that the financial information presented in this report is unaudited and subject to adjustments including the preparation of the financial statements and completion of the annual audit.

## BACKGROUND

At the request of the Board of Management, a Financial Status Report is provided on a quarterly basis for information. The financial status provides a high-level overview of incurred expenditures and revenues on a cash-flow basis and is compared to the approved operating budget of the water supply system. All expenditures and revenues provided in this Financial Status Report are unaudited and may include accrued and/or unaccrued expenses from a previous or future fiscal year.

A high-level summary of incurred expenses and revenues for the water supply system is attached to this report as Appendix A for the second quarter 2021 (April 1 to June 30) as well as a comparative accumulation of expensed for the year to date.

**Note:** The reported expenditures and revenues may be subject to adjustments, including but not limited to the preparation of financial statements and completion of the annual audit.



## DISCUSSION

For the information and reference of the Board, the following highlights of the attached summary provides a brief explanation of notable deviations from the approved budget and/or clarifications of the financial summary:

- Contracted Operating Services in the summary report reflects the total direct operating costs of the contracted operation of the water treatment and transmission system, as well as other related contracted services. The total accumulated operating costs over the year (unaudited) is higher than the same period in 2020 and is reflective of contractual increases in service agreements with the operating authority and other contracted services.
- Contracted Administrative Services in the summary report reflects the fees paid to the City of London.
- Electricity expenditures include the purchase of energy and related energy management service charges for the water system. The water system is currently tracking approximately \$80,000 higher than the previous year, largely due to increased volumes supplied to the region.
- Salaries, wages and benefits expenditures include all direct labour costs for administrative staff including benefits. Variations over the same period in 2020 are attributed to annual salary adjustments, staff vacancies, and marginally lower total staffing costs as a result of the pandemic. In addition, the 2020 YTD amount shown is understated as the onset of the pandemic delayed accounting entries related to salaries, wages and benefits.
- Administration and Other Expenses relates to various overhead operating expenses, including subscriptions and memberships, office supplies and property taxes. While the reported expenditures will be adjusted as part of the year-end process, accounting for 2022 pre-payments and other cost accounting adjustments, the costs to date are lower than the same period in 2020.
- Vehicles and Equipment expenditures include costs associated with vehicles, computers and office equipment for administrative staff. Additional costs in 2020 were incurred related to replacement of computer equipment, travel and vehicles due to the pandemic.
- Purchased Services and Professional Fees largely relates to allowances for ad hoc professional consulting and legal services, security services, office lease, telephone charges, network and SCADA maintenance, printing services, and pipeline locate costs. The increased cost when compared to the same period in 2020 is largely attributed to increased insurance costs, the addition of security services in late 2020, and increased maintenance and repairs of computer systems.

- Debt Principle and Interest payments occur twice per year; in the first and third quarter.
- Contributions to the Reserve Funds occur at the end of the fiscal year as part of the year-end audit preparation process, where the actual contributions are the total remaining revenue in excess of expenditures. Accordingly, the amount of the anticipated contribution is currently adjusted to reflect the additional revenue and expenses incurred and may be subject to further adjustment as a result of the completion of the year-end financial statements and audit.

**Prepared by:** Archana Gagnier  
Budget and Finance Analyst

**Submitted by:** Andrew Henry, P. Eng.,  
Director, Regional Water Supply

**Recommended by:** Kelly Scherr, P.Eng., MBA, FEC  
Chief Administrative Officer

**Attachments:** Operating Financial Status Summary – 2<sup>nd</sup> Quarter 20201

## Quarterly Financial Summary Report

Lake Huron Water Supply System  
2nd Quarter 2021 (April 1 to June 30)

(\$,000's)

	Approved 2021 Budget	Q2-2021	2021 Year to Date	% Year to Date	Variance Year To Date	2020 Year To Date
<b>Total Revenue</b>	<b>23,300</b>	5,359	9,290	39.9%	14,010	8,846
<u>Expenditures:</u>						
Contracted Operating Services	6,947	2,169	3,360	48.4%	3,587	3,266
Contracted Administrative Services	318	79	159	50.0%	159	130
Electricity	3,500	739	1,252	35.8%	2,248	1,172
Salaries, Wages, Benefits	741	121	294	39.7%	447	158
Administration and Other Expenditures	383	71	189	49.3%	194	248
Vehicles and Equipment	46	4	35	76.1%	11	18
Purchased Services & Professional Fees	1,210	232	560	46.3%	650	288
Debt Principle Payments	1,269	0	911	71.8%	358	898
Interest on Long-Term Debt	144	7	70	48.6%	74	81
Contributions to Reserve Funds	8,741	0	0	0.0%	8,741	0
<b>Total Expenditures</b>	<b>23,300</b>	<b>3,422</b>	<b>6,828</b>	<b>29.3%</b>	<b>16,467</b>	<b>6,258</b>



**To:** Chair and Members, Board of Management  
Lake Huron Primary Water Supply System

**From:** Kelly Scherr, P.Eng., MBA, FEC  
Chief Administrative Officer

**Subject:** Capital Status Report

## RECOMMENDATION

That, on the recommendation of the Chief Administrative Officer, the following actions be taken with regard to Lake Huron Primary Water Supply System capital projects:

- a) That this report regarding the status of capital projects **BE RECEIVED** for information;
- b) That project LH1275 Sewage Ejector Replacement be **CLOSED** with surplus funding in the approximate amount of \$1,345 be released to the Reserve Fund; and,
- c) That project LH1316-20 Annual Maintenance (2020) and LH1369 Filter Media Rebuild be **CLOSED** with additional funding in the approximate amount of \$17,660 be drawn from the Reserve Fund.

## DISCUSSION

The Capital Project Status Report, attached to this report as Appendix A for the Board's information, provides a brief overview of the status of current capital projects for the Lake Huron Primary Water Supply System. This report is provided for the general information of the Board.

The status report is divided into four categories of projects, namely:

1. **Ongoing Projects:** This section provides a summary list of all projects which are funded by the Board through the Capital Budget and which are currently in-progress. Board funded projects are typically for the replacement or upgrade of existing assets, the construction of new assets, or engineering studies and assessments, as approved by the Board.

Under the terms of the Service Agreement with the contracted operating authority, the Board is also required to pay for some maintenance/repair activities. The benchmark used in the operating contract is that if the value of the material and any contracted labour is over \$30,000 (indexed annually to inflation), the project is considered Capital Maintenance and the contracted operating authority would fund the first \$30,000 (indexed), with the balance funded by the Board. Accordingly, the Board maintains an annual "fund" within the Board's capital budget to pay for these projects as they arise.



*Lake Huron*

Primary Water Supply System

**Report No.:** LH-2021-03-04

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- 2. Completed Projects - Release Surplus to Reserve Funds:** This section provides a summary list of all projects which are presently completed and do not require additional funds from that budgeted. Should the Board approve the closure of the listed projects, it is the recommendation of staff to release the surplus funds, if any, to the appropriate Reserve Fund.

**Completed Projects – Reduce Authorized Debt:** In the case where the project is funded through the issuance of a debenture, should the Board approve the closure of the listed project it is the recommendation of staff to reduce the previously authorized but unissued debt for the project(s).

- 3. Completed Projects - Additional Funding Required:** This section provides a summary list of all projects which are presently completed but require additional funds from that originally approved by the Board. Should the Board approve the closure of the listed projects, it is the recommendation of staff to provide the required additional funding from the Board's Reserve Fund.

**Prepared by:** Archana Gagnier, Budget and Finance Analyst

**Submitted by:** Andrew Henry, P. Eng., Director, Regional Water Supply

**Recommended by:** Kelly Scherr, P.Eng., MBA, FEC, Chief Administrative Officer

**Attachments:** Capital Project Status Summary

**APPENDIX A: CAPITAL PROJECT STATUS SUMMARY**

**A.1 Ongoing Capital Projects**

PROJECT NO.	PROJECT	APPROVED BUDGET	EXPENDED TO DATE *	STATUS
LH1016	Huron Safety Railing Replacement	\$300,000	\$216,825	Project ongoing
LH1020	2021 Financial Plan	\$50,000	\$1,437	Project ongoing
LH1021	Huron Low Lift Pump 6 Refurbishment	\$40,000	\$32,324	Project ongoing
LH1025	Bluewater Hwy Property Purchase	\$600,000	\$675,902	Property purchased. Building demolition spring 2021, ongoing
LH1026	RW Office Expansion & Renovation	\$200,000	\$0	Project ongoing
LH1105	Computerized Maintenance Management System	\$180,000	\$179,930	Project ongoing
LH1106	Ilderton Meter Chamber	\$100,000	\$0	Project to be initiated
LH1107	SCADA/PLC Software Review & Upgrade	\$500,000	\$4,579	Project ongoing
LH1207	Concrete Crack Injection	\$120,000	\$91,218	Ongoing multi-year project
LH1216	Closed Loop Chlorine Control	\$100,000	\$14,863	Project on hold pending LH1230 completion
LH1219	Filter Backwash Turbidity Meters	\$250,000	\$135,440	Project ongoing
LH1229	Security Upgrades	\$700,000	\$430,649	Project ongoing
LH1230	High Lift Pump Replacement	\$13,557,000	\$3,451,636	Project ongoing
LH1232	Arva Victaulic Repair	\$175,000	\$45,565	Project ongoing
LH1239	Sluice Gate Repairs	\$150,000	\$113,453	Project ongoing



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PROJECT NO.	PROJECT	APPROVED BUDGET	EXPENDED TO DATE *	STATUS
LH1242	Hydraulic/Transient Model Update and Monitoring	\$330,000	\$178,987	Project ongoing
LH1243	McGillivray Electrical Upgrades	\$685,000	\$0	Project initiated
LH1255	Crop Yield Monitoring – 2012 Rupture	\$110,000	\$73,964	Project ongoing
LH1256	Crop Yield Monitoring – 2014 Pipeline Twinning	\$1,500,000	\$1,119	Project ongoing
LH1257	Chamber 63 Access Culvert	\$75,000	\$51,546	Project ongoing
LH1258	McGillivray Control Panel Replacement	\$150,000	\$22,564	Project ongoing
LH1260	Flash Mixer Upgrade	\$1,437,000	\$807,595	Project ongoing
LH1261	PLC Replacements	\$40,000	\$0	Project to be initiated
LH1263	LLP Motor Replacement	\$475,000	\$385,758	Project completed. Awaiting final invoice
LH1264	Vehicle Door Replacements	\$150,000	\$143,168	Project ongoing
LH1265	RMF Settling Tank Repairs	\$85,000	\$35,380	Project ongoing
LH1266	Huron Plant UV Disinfection	\$1,200,000	\$0	Project on hold pending LH1426 outcome
LH1267	Plant Interior Door Replacement	\$40,000	\$18,198	Project ongoing
LH1268	Obsolete Equipment Removal	\$100,000	\$69,828	Project ongoing
LH1269	Settled Water TSS Analyzer	\$75,000	\$19,608	Project ongoing
LH1270	Interior LED Lighting Upgrades	\$100,000	\$87,957	Project ongoing



PROJECT NO.	PROJECT	APPROVED BUDGET	EXPENDED TO DATE *	STATUS
LH1271	Non-Revenue Meter Replacement	\$75,000	\$55,528	Project ongoing
LH1272	Service Water Pipe Replacement	\$50,000	\$74,001	Annual program
LH1273	(PS3) Exeter-Hensall Pump Control Upgrades	\$50,000	\$7,441	Project ongoing
LH1274	SCADA Control Modifications	\$100,000	\$2,160	Project ongoing
LH1277	IT Asset Replacement Program	\$425,000	\$202,434	Project ongoing
LH1278	Safety Showers Upgrade	\$60,000	\$25,556	Project ongoing
LH1279	Cyber Intrusion Detection System	\$10,000	\$0	Project initiated
LH1284	Huron Flocc Gear Drive	\$150,000	\$90,625	Project ongoing
LH1303	Easement Maintenance	\$185,000	\$148,103	Project ongoing
LH1316-21	Annual Maintenance (2021)	\$125,000	\$40,855	Annual program
LH1317	Distressed Pipe Replacement	\$1,400,000	\$592,424	Project ongoing
LH1327	Strathroy Transmission Main	\$22,000,000	\$14,838,658	Project complete. Final Invoice to be issued.
LH1338	Huron WTP Instrumentation	\$835,000	\$810,237	Annual program
LH1347	Pipeline Chamber Upgrades	\$500,000	\$481,858	Project ongoing
LH1353	WTP Modifications	\$350,000	\$139,736	Multi-year project
LH1373	IT Upgrades	\$750,000	\$808,311	Project ongoing





PROJECT NO.	PROJECT	APPROVED BUDGET	EXPENDED TO DATE *	STATUS
LH1380	Clarifier Upgrades	\$120,000	\$5,031	Project ongoing
LH1385	1996 Crop Yield Monitoring	\$450,000	\$330,141	Project ongoing
LH1388	Coagulation Optimization Study	\$50,000	\$0	Project on hold
LH1425	Huron Erosion Control	\$1,250,000	\$1,186,765	Project ongoing
LH1426	Microbial Inactivation and Storage EA	\$500,000	\$121,150	Project ongoing
LH1429	South Water Conduit Emergency Repairs	\$560,000	\$306,723	Project ongoing
LH1433	Asset Management Plan 2021	\$150,000	\$22,689	Project ongoing
LH1900	Record Drawings & Documents	\$491,000	\$404,207	Ongoing multi-year project
<b>TOTAL</b>		<b>\$54,210,000</b>	<b>\$27,984,126</b>	

**A.2(a) Completed Projects – Release Surplus to Reserve Funds (\$1,345)**

PROJECT NO.	PROJECT	APPROVED BUDGET	EXPENDED TO DATE *	STATUS
LH1275	Sewage Ejector Replacement	\$100,000	\$98,655	Project completed
<b>TOTAL</b>		<b>\$100,000</b>	<b>\$98,655</b>	

**A.2(b) Completed Projects – Reduce Authorized Debt**

PROJECT NO.	PROJECT	APPROVED BUDGET	EXPENDED TO DATE *	STATUS
<b>TOTAL</b>		<b>\$ 0</b>	<b>\$ 0</b>	



*Lake Huron*  
Primary Water Supply System

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**A.3 Completed Projects – Additional Funding Required (\$17,660)**

PROJECT NO.	PROJECT	APPROVED BUDGET	EXPENDED TO DATE *	STATUS
LH1316-20	Annual Maintenance (2020)	\$85,000	\$93,277	Project completed
LH1369	Filter Media Rebuild	\$2,105,000	\$2,114,383	Project completed
<b>TOTAL</b>		<b>\$2,190,000</b>	<b>\$2,207,660</b>	

Notes:

\* Expended as of August 31, 2021



**To:** Chair and Members, Board of Management  
Lake Huron Primary Water Supply System

**From:** Kelly Scherr, P.Eng., MBA, FEC  
Chief Administrative Officer

**Subject:** Electric Vehicle Charging Stations

### RECOMMENDATION

That the Board of Management for the Lake Huron Water Supply System **RECEIVE** this report for information related to the implementation and use of electric vehicle charging stations.

### PREVIOUS AND RELATED REPORTS

None

### DISCUSSION

Board staff were approached by the Board's contracted operating authority, the Ontario Clean Water Agency (OCWA), with an employee suggestion for implementing electric vehicle charging stations (EV Stations) at the water treatment plant for possible use by staff and the operating authority. The suggestion was forwarded as part of our collective staff engagement to reduce the overall environmental impacts in the operation of the water utility, become resource efficient, and seek opportunities to improve cost-effective performance of the water system.

With the increasing acceptance and reliance of electric vehicles in the broader community and nationally, either hybrid or fully electric, and the rate of progress being made with improvements in the technology in general, it may be worthwhile for the Board to consider the possible future utilization of the technology in the operation of the regional water system.

Many of the benefitting municipalities, including the City of London, have made strides to embrace the technology and incorporate it into the long-term planning for their needs in the area of fleet services. Similarly, OCWA has begun to include electric and hybrid-electric vehicles as part of their deployed fleet.

Natural Resources Canada (NRCan) has recently announced the launch of the Capacity Building stream of the Smart Renewables and Electrification Pathways Program. The Capacity Building stream will enable communities and individuals to participate in the Canadian electricity and energy sector's transition to low-carbon technologies and support equity, diversion and inclusion activities.

While the regional water system will miss the initial application window of this program, it is anticipated that additional applications will be open in early 2022.

The program by NRCan allows applicants to partner, if desired, with municipalities to provide a broader and collaborative application for electric vehicle charging stations. Initial discussions with the City of London have indicated that they may be open to such an application, potentially including the Board's charging stations (if desired) in a future application package submitted by the city under NRCan's Zero Emission Vehicle Funding program.

Board staff have not approached any of the other benefiting municipalities of the regional water system, but not that there may be a broader interest in a partnership among the other municipalities as staff further investigate and develop a business case.

### **Considerations**

While Board staff nor OCWA have fully investigated the options available under NRCan's program related to electric vehicle charging stations, a preliminary discussion has identified two likely scenarios for their implementation, if approved by the Board:

1. **Utility Use Only** – an EV Station could be constructed within the secure compound of the water treatment plant or other facility owned by the regional water system. The EV Station would be used to charge fleet vehicles owned and operated by either OCWA or the Board's administrative staff. The operation of the charging station would be restricted through the use of authorized swipe cards or RFID tags on the vehicles. Personal vehicles, whether public or staff-owned, would not have access to the station.
2. **Utility and Public Use** – an EV Station could be constructed at a convenient location on the water treatment plant property, but outside of the secure compound, and/or at another facility owned and operated by the regional water system. The EV Station would be used to charge fleet vehicles owned and operated by either OCWA or the Board's administrative staff as well as personal vehicles used by the public, including OCWA staff Board staff. The operation of the charging station would be restricted through the use of authorized swipe cards or RFID tags on the OCWA-owned or Board-owned vehicles, or a charge-per-use for personal vehicles including personal vehicles of OCWA staff or Board staff.

Possible EV Station locations for this option may include the visitor parking area off of Bluewater Highway (Highway 21), an area at or near the main entrance to the plant from Bluewater Highway and occupying a portion of the southeast corner of the Port Blake Park area of the plant property, or at the future entrance to the Port Blake Park area in the southwest corner of the plant property.

Site security and convenient access to the EV Station are significant issues that will be considered in the development of a business case for this initiative. In addition, there may also be an opportunity to include the EV Stations on the emergency backup generation capacity of the plant, providing the availability of charging electric vehicles during an extended region-wide electrical outage. It is also noted that while the use of EV Stations are generally increasing across the province, the relatively isolated or inconvenient location of the water treatment plant and other facilities may be a limiting factor in its utilization in the short-term.

### **Anticipated Operating and Service Impacts**

At this stage, there is insufficient information available to fully quantify anticipated operating and service impacts as a result of a possible implementation of an EV Station by the regional water system. Regardless, a qualitative assessment indicates the following possible impacts:

- Support local and regional initiatives related to electric vehicles and related charging stations
- Implement infrastructure which enables the future use of electric vehicles by the Board's operating authority, their staff, and the vehicles used by Board staff
- Cost-effective operation of fleet vehicles used by the Board's operating authority and the fleet vehicles used by Board staff.
- Improved environmental performance in support of the goals and objectives set under the Board's Environmental Management System registered to the ISO 14001:2015 international standard.

Board staff continue to investigate the details of NRCan's programs related to EV Stations, and will develop a business case for this initiative and provide a report to the Board at a future meeting.

### **CONCLUSION**

Board staff are investigating possible opportunities for electric vehicle charging stations and potential partnerships with the water system's benefiting municipalities, including the development of a business case, and a future report will be provided to the Board on options available, timelines and financial implications.

**Submitted by:** Andrew Henry, P. Eng.,  
Director, Regional Water Supply

**Recommended by:** Kelly Scherr, P.Eng., MBA, FEC  
Chief Administrative Officer

**To:** Chair and Members, Board of Management  
Lake Huron Primary Water Supply System

**From:** Kelly Scherr, P.Eng., MBA, FEC  
Chief Administrative Officer

**Subject:** 2022 Operating and Capital Budgets

## RECOMMENDATION

That the following actions be taken by the Board of Management for the Lake Huron Water Supply System with regard to the 2022 Operating and Capital Budgets:

- a) The Board **APPROVE** the 2022 Operating Budget in the total amount of \$24,254,000 as presented.
- b) The Board **APPROVE** the 2022 Capital Budget in the total amount of \$11,417,000 as presented.
- c) The Board **RECEIVE** the 2023 to 2031 Capital Forecast for information.
- d) The Board **APPROVE** the 2022 rate for water of \$0.5118 per cubic meter: and,
- e) The Board **RECEIVE** the 2020 to 2026 Flow and Financial Analysis for information

## EXECUTIVE SUMMARY

The proposed operating and capital budgets present a balanced cost and revenue projection for 2022 but deviates from the water system's Financial Plan approved in 2016. The proposed water rate for 2022 of 51.18 cents per cubic meter (\$0.5118/m<sup>3</sup>) of water will adequately address capital, operating and administrative requirements as currently projected. The proposed rate represents an increase of only 1.5% over the 2021 rate, rather than the 3% previously projected in the 2016 Financial Plan.

The Financial Plan is a key element in the long-term strategic approach that addresses both infrastructure and operating needs for the utility while ensuring fiscal responsibility to maintain a reliable and sustainable water supply to the benefiting municipalities and consumers. The Financial Plan for the regional water system is currently being updated and anticipated to be completed in early 2022 coincident with the completion of the revised Asset Management Plan.

Cost projections presented in the 2022 budget include the anticipated operating costs for the water utility beyond the current term with the contracted operating authority, the Ontario Clean Water Agency, which end December 31, 2022.



*Lake Huron*  
Primary Water Supply System

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The 2022 Capital Budget builds on the water system's Asset Management Plan approved in 2016 and utilizes the Customer Level of Service framework and Risk Mitigation strategy previously approved by the Board. This includes the utilization of the business case process to better quantify anticipated costs, savings, and service impacts to the water supply system for options considered.

The projects and initiatives in the 2022 Capital Budget are presented in this report within two primary groupings; Maintain Level of Service (Maintain LOS) projects that serve to ensure that services are provided at the current level of service, and Improved Level of Service (Improved LOS) which address enhancements to levels of service, support growth of the system and increasing water demands, address regulatory changes, or increase efficiency. A proposed capital project may touch, in part, on all these aspects, however they are presented within this report according to their respective primary driver.

The projected future capital expenditures include allocations for anticipated scheduled asset investments outlined in the Asset Management Plan (listed as "*AMP Investments*"). These are listed for projection purposes and are not associated with specific projects at this time. As the business cases are completed in each category, the AMP Investments will be eliminated in the projections in favour of specific asset improvements and refurbishments.

## PROPOSED 2022 OPERATING BUDGET

### **2022 Water Rate**

It is proposed in this budget that the water rate for the wholesale of water to the benefiting municipalities be set at \$0.5118 per cubic meter (51.18¢ per cubic meter). In responding to regulatory, operational, and inflationary pressures, this proposed 2022 rate represents a 1.5% increase from the current rate.

The rate proposed for the 2022 budget is LESS than the projected rate increase of 3.0% previously reported to the Board in the Financial Plan approved in 2016, largely due to the increased volume of water projected to be supplied to the benefiting municipalities in 2021 and 2022, as well as efficiency and cost-effectiveness efforts implemented within the operation and management of the utility.



## 2022 Budget Volume

Allowing for the current rate of population and water demand growth within the benefiting municipalities, as well as anticipated impacts of continued water conservation, the proposed 2022 treated water volume included in the budget of 47,344,500 cubic meters represents a 2.6% increase compared with the 2021 approved budgeted volume, and approximately 0.3% higher than the anticipated 2021 actual supplied volumes.

Approved 2021 budget volume	46,159,550 m <sup>3</sup>
Anticipated 2021 year-end volume	47,201,521 m <sup>3</sup>
Proposed 2022 volume	47,344,500 m <sup>3</sup>

The long-term volume projections for the regional water systems have been re-evaluated in preparation for the 2022 budget and revised to incorporate increasing consumption trends within the City of London. Supplied volumes to the other benefiting municipalities continue to remain stable, with low to moderate long-term annual growth in consumption rates.

The anticipated 2021 year-end volume is reflective of the higher-than-normal temperatures being experienced in recent years during summer months, tempered by the onset of the COVID-19 pandemic in the spring of 2020. Staff expect that the short-term consumption will increase from the projections previously provided to the Board, largely due to the higher anticipated consumption by London, however a more conservative approach has been used for the 2022 budget and longer-term volume projections.

Water demand projections and anticipated capital works are reviewed annually as part of the budget development process to ensure capital investments are appropriately coordinated and timed. The long-term volume projections will be reviewed again during future revisions to the Master Water Plan and Asset Management Plan and compared to the long-term growth projections for each municipality. Further, the recently adopted business case process as part of the Asset Management Plan promotes a risk mitigation and level of service strategy which further addresses the appropriate timing of necessary projects.

## Operating Costs

The two single largest operating costs for the water supply system are the contract costs for the operation and maintenance of the water supply system, and the purchase of electricity for the system. The 2022 budgeted operating costs are approximately \$10.658 million, reflecting a net 2.0 % projected increase compared to the 2021 budget. Previous energy saving initiatives implemented at the facility are translating decreased energy costs, offsetting increases in other contracted services for 2021. Of the \$10.658 million, energy comprises approximately 32.8% of operating expenditures (down from 34% in 2021).



The Service Fee currently paid to the Board's contracted operating authority, the Ontario Clean Water Agency (OCWA), is solely comprised of general operating costs (labour, material, and chemical costs, etc.) paid by the Board. As electricity can be highly variable on a year-over-year basis, the risk of market volatility has summarily been assumed by the Board and mitigated through the Board's energy procurement strategy, as well as conservation and efficiency programs.

The Board previously received and accepted an energy, conservation and pump optimization study report which reviewed possible cost saving and efficiency measures related to the procurement and usage of electrical energy and the associated pump strategy for the system. A few efficiency recommendations were received and incorporated into the previous 2016 Asset Management Plan and 2016 Financial Plan, which require the development of a business case to better quantify anticipated costs, savings, and service impacts. The proposed 2022 Capital Budget and forecasted capital plan has begun to incorporate some of the impacts of energy efficiency projects which have been implemented or in progress, with further energy efficiency projects to be considered in future.

### **Administration and Other Expenses**

The Administration and Other Expenditures projected for the 2022 budget of approximately \$3.303 Million represents a \$570,000 net increase over the 2021 budget amount. This net increase is due to numerous changes to the water supply system, including:

- Overhead and service costs: the administration charges paid to the City of London for such services as accounts payable/receivable, clerical support, and budget administration was increased to reflect current actual costs to the city. The amount charged by the Administering municipality is approximately proportionate to total expenses and has been adjusted to reflect the costs associated between this water system and the Elgin Area water system.
- Management & Administrative Personnel: projections for personnel costs have been adjusted as a result of increases reflective of Collective Agreements and cost of living increases and approved staff complement.
- Significant increases to the Board's property, cyber insurance, Directors & Officers insurance, property insurance, and general liability insurance.
- Leased office space rate increases
- The increased costs to Information Technology due to cyber security measures, implemented technology, and IT/OT asset replacements.

### **Process Optimization**

Over the next five to ten years, there will be a significant focus on process optimization in order to improve treatment and transmission system performance, efficiency, and effectiveness. This has the added potential to increase treatment capacity without the corresponding construction of new treatment processes (i.e., expanding the treatment plant).

While staff have undertaken several of the preliminary studies and investigations outlined in the Water Quality Facility Plan completed in 2012, greater efforts are now required to address subsequent findings as well as the optimization strategies outlined in the original 2012 Plan. An update to the Water Quality Facility Plan is proposed in the 2022 Capital Budget, which will incorporate recent assessments related to treatment capacity, impacts of Climate Change and adaptive capacity, and unit process treatment efficacy.

## **PROPOSED 2022 CAPITAL BUDGET**

The proposed 2022 Capital Budget reflects a number of projects to address capital improvements and critical reinvestment in the water supply system's assets, as well as regulatory requirements, ongoing and proposed Board initiatives. Project specific summaries are provided in Appendix A of this report for the Board's information.

### **Financial Plan and Asset Management Plan**

The previous Asset Management Plan and Financial Plan approved by the Board in 2016 provided an assessment of anticipated capital projects, based on condition assessments, operational assessments provided by our contracted operating authority, and previously undertaken studies which were available at that time. In the development of the 2022 Capital Budget, a business case is created for each project which outlines the scope of the issue that needs to be addressed, options, cost estimates, and project dependencies. The business case process is linked with our Customer Level of Service framework and Risk Mitigation strategy in order to better prioritize and direct funds in a more strategic fashion and in consideration of financial constraints which may be experienced.

Within this framework, a capital project may be "lifecycle" in nature and required to maintain an existing level of service, and/or "service improvement" in nature which may address:

- Enhancement to the level of service (including safety and security, system resiliency, and working conditions).
- Support of system growth or growth in water demands.
- Address regulatory changes; and/or,
- Increase efficiency.

The level of capital investment will vary from year-to-year, most especially for projects related to system growth or water demand growth. The Asset Replacement Reserve is used for lifecycle projects (maintain LOS), while the Capital Reserve is used for system improvements. A given project, in principle, may address multiple elements within the Customer Level of Service framework (energy efficiency, health & safety, regulatory, performance, etc.), and therefore may require the utilization of both the Asset Replacement Reserve (lifecycle) and the Capital Reserve (service improvement and growth).



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It is important to note that the anticipated projects outlined in the Asset Management Plan tend to be based on risk mitigation in the first five-year planning period, and systemic or age-related in nature for the remaining 25+ year planning period. In addition, the financial information presented in the Asset Management Plan is considered an “unconstrained” financial projection; meaning without consideration of such things as other operational needs and financial constraints (e.g., borrowing capacity) experienced by the water supply system.

The Financial Plan is utilized to incorporate the needs identified in not only the Asset Management Plan, but also the Master Water Plan (growth study) and other planning studies undertaken by the system, as well as the evolving operational and administrative needs of the system to better constrain the financial requirements and implications to the system. During the development of the annual budget the projections in the Financial Plan are measured and adjusted according to actual conditions, which will consequently affect the capital plan in each fiscal year.

The projected capital plan (2023 to 2031) includes an allocation for anticipated systemic but unspecified asset investments starting in 2023 (identified as “*AMP Investments*”). This reflects the age-related projections included in the previously approved Asset Management Plan. As condition assessments and risk assessments are completed, business cases will be undertaken to identify and prioritize the expenditures and replace these *AMP Investments* allocations in the long-term plan.

## **2022 Capital Plan**

The Financial Plan approved by the Board recommends an average year-end balance for the Asset Replacement Reserve in the order of \$4.747 million. Although the actual investment and rate of commitment may vary year to year, the current capital plan maintains the long-term average investment rate as outlined in the Asset Management Plan and Financial Plan.

In contrast, the Capital Reserve is intended to grow significantly over time to provide a sufficient base for funding large growth-related projects in future. The balance of generational investment equity (utilization of reserves established by current users versus debt incurred and paid by future users) has yet to be fully quantified and will be addressed in future Master Water Plan and Financial Plan studies. While there are no significant growth-related expenditures within the current planning period (e.g., plant expansion or pipeline twinning), the results of the Asset Management Plan and Financial Plan currently being undertaken, as well as future iterations of the Master Water Plan, are likely to have an impact on the long-term financial requirements to address growth-related projects. Staff continue to be satisfied that the issue of generational equity can be addressed within a reasonable timeframe.

**Lifecycle Projects** (Maintain Level of Service)

Proposed projects in the 2022 Capital Budget which primarily address maintaining the system's level of service are:

- Low Lift Pump Rebuild
- Concrete Crack Injections
- Walking Beam Flocculator Rehabilitation
- Hydraulic/Transient Model Update
- Overhead Truck Door Replacements
- Obsolete Equipment Removal
- Flocc Gear Drive Replacement
- Plant Instrumentation
- Roof Drain Replacement
- Arva 600v MCC Replacement
- Pipeline-A Double Isolation Valve
- McGillivray HVAC Replacement
- McGillivray Electrical Upgrades
- Low Lift Clearstory Window Replacement
- PAC Feed/Transfer System Replacement
- Interior Door Replacements
- Service Water Pipe Replacement
- Distressed Pipe Replacement
- Clarifier Upgrades
- Hydrant Replacement
- Plant Roof Replacement

In addition to the above-noted capital projects, the 2022 Capital Budget includes LH1316 Annual Maintenance which funds, in part, maintenance and repair projects undertaken by the contracted operating authority, the Ontario Clean Water Agency. All maintenance and repairs of the system's assets are the obligation of the contracted operating authority to undertake in accordance with the Service Agreement. For activities of maintenance and repair where the value of the material and any contracted specialty service exceed \$30,000 (adjusted annually by CPI), the Board is responsible for the value of the work in excess of the \$30,000 (as adjusted). To facilitate this work, the Capital Budget includes an Annual Maintenance project which is utilized to fund this contractual obligation of the Board.

**Service Improvement Projects** (Enhanced Level of Service, Regulatory Changes, Efficiency)

Proposed projects in the 2022 Capital Budget for which the primary driver is service improvement are:

- Huron Safety Rail Replacement
- Chamber 63 Access Culvert
- Exeter-Hensall Pump Control Upgrades
- Chamber Flood Prevention
- Remote Site Generator Connections
- Security Upgrades
- Interior LED Lighting Upgrades
- Water Quality Facility Plan
- Construction Site Trailer Pad & Electrical Pedestal

A summary of the capital projects is provided in Appendix A of this report.

## **Plant UV Disinfection and Water Storage**

While the water treatment system currently meets the disinfection requirements (Contact Time, or “CT”) for drinking water supplied to the benefiting municipalities, a previous study related to disinfection practices and related risks had recommended UV disinfection at the water treatment facility to address the long-term disinfection requirements of the system.

Accordingly, the 2020 budget proposed in October 2019 included project LH1266 (Huron Plant UV Disinfection) in the amount of \$1.2 million to undertake the detailed assessment and design of the system and projected \$8.25 million in 2023 for construction.

At the June 4, 2020, meeting, the Board received the updated Master Water Plan which, among other items, recommended the construction of water storage at the water treatment plant to improve treatment efficacy and pump efficiency. The Master Water Plan suggested a minimum 10 million litre reservoir to meet the immediate needs of the facility, and as much as 40 million litres for the long-term needs. The 40 ML storage would also address the long-term contact time disinfection requirements of the facility, potentially negating the need for the UV disinfection system previously proposed.

At that time, the Board authorized staff to proceed with a Municipal Class Environmental Assessment (project LH1426) process to determine the optimal solution for plant storage and disinfection requirements. This Environmental Assessment would determine if either the UV disinfection system would proceed, as previously planned, or the water storage reservoir as identified in the Master Water Plan.

While both the UV Disinfection and Water Storage projects are shown in the current budget, only one will proceed to construction between 2023 and 2024, but not both. Accordingly, there is a \$15 million debenture requirement projected for 2024, which would be reduced or eliminated depending on whether the UV Disinfection project or the Water Storage project proceeds after the Environmental Assessment is completed.

### **CAPITAL FORECAST**

A number of capital projects are projected beyond the 2022 Capital Budget year, which will have an impact on the financial forecast and future water rates for the water system. Some of these capital projects were anticipated in previous budget forecasts and are now inclusive of approved Asset Management Plan and Financial Plan. As previously noted, staff undertake a business case assessment for each project to confirm the costs, timing, and priority of the project, consistent with our Customer Level of Service framework and Risk Mitigation strategy.

### **FLOW AND FINANCIAL ANALYSIS**

Included in the budget package is a projection of annual volumes and finances beyond 2022 and provides a summary analysis of one option for rate increases and the use of debt (if any). This projection has incorporated the principles and recommendations from the previous Financial Plan but has been adjusted to reflect the higher than previously anticipated volume projections and corresponding revenues. These projections will be further revised when the



Financial Plan, which currently being developed, is finalized and approved by the Board early in 2022.

The projected operating expense in 2023 and beyond assumes that the future cost of operating the system is consistent with the amended operating agreement with the Ontario Clean Water Agency that ends on December 31, 2022. In addition, energy expenditures projected beyond 2022 have assumed a reasonable escalation of costs, tied to the anticipated annual volumes projected and consequential savings from various efficiency-related investments.

As a direct result of the anticipated higher annual volumes, staff are currently projecting a 1.5% annual increase in the rate beyond the 2022 budget: roughly equivalent to three-quarters of the average rate of general inflation. This water rate projection, however, may be subject to change and revision as the update to the Financial Plan is completed in early 2022 which incorporates the updated Master Water Plan, undertaken in 2019, as well as the Asset Management Plan being completed this year.

### **Reserve Funds**

Conceptually, the Asset Replacement Reserve is required to provide a stable funding source for capital programs designed to replace, maintain, and extend the life of existing assets to their full potential. Accordingly, the contribution to the Asset Replacement Reserve fund year-over-year should be relatively consistent, on average over the long-term, with minor variations accounted for as the Asset Management Plan is implemented.

Conversely, the Capital Reserve Fund is intended for growth-related capital programs and various system and performance improvement initiatives. As these programs tend to be periodic in nature, the reserve fund balance in the Capital Reserve may significantly increase or significantly decrease in any given year depending on the programs undertaken.

The Emergency Reserve Fund is intended to fund unplanned and unanticipated emergency-related projects such as pipeline failures, tank ruptures and treatment process failures. In accordance with the Board's direction, the target balance of the Emergency Reserve Fund is established at \$5 million, wherein contributions will be discontinued when the Emergency Reserve Fund balance reaches the target value.



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### ***Acknowledgement***

The preparation of the 2022 Operating and Capital budgets were undertaken by the Regional Water Supply Division staff, with the assistance of Zeina Nsair and City of London Financial Services.

**Submitted by:** Andrew Henry, P. Eng.,  
Director, Regional Water Supply

**Recommended by:** Kelly Scherr, P.Eng., MBA, FEC  
Chief Administrative Officer

**Attachments:** Appendix A – 2022 Capital Project Summary  
2022 Operating & Capital Budgets, and Nine-year Capital Forecast

## APPENDIX A: 2022 CAPITAL PROJECT SUMMARY

### **Lifecycle Projects (Maintain LOS)**

LH1021 – Huron Low Lift Pump Rebuild (multi-year program): Intended for long service lives, the low lift pumps require periodic rebuilding of the pump impellers, seals, bearings, and other high-wear components. This program continues to rebuild one low lift pump per year over a six-year period.

LH1204 – McGillivray HVAC Replacement: The Heating Ventilation and Air Conditioning system at the McGillivray pump station is original to its construction and well past its expected service life. The existing HVAC system requires replacement in order to ensure an appropriate operating environment of the pumping and electrical systems within the facility.

LH1207 – Concrete Crack Injection (multi-year program): A significant amount of the infrastructure deployed for the water supply system is comprised of concrete for water-retaining structures. This program continues to systemically refurbish the concrete throughout the water treatment facility to ensure its intended long life.

LH1242 – Hydraulic/Transient Model Update and Transient Monitoring (multi-year program): The last hydraulic model for the transmission system was completed in 2009. In addition, transient pressures within the transmission system have the potential to cause catastrophic failures to the various pumping systems and pipelines that supply the benefiting municipalities. This project continues the update to the hydraulic and transient model for the system and incorporate the new high lift pumps proposed for the water treatment plant.

LH1243 – McGillivray Electrical Upgrades: The high and medium voltage electrical systems at this pump station are fifty years old and original to construction, showing signs of significant deterioration despite ongoing maintenance, and is past-due for replacement. The electrical system at this facility was identified as having a high priority under the water system's Incident Management System as well as the risk prioritization used for the business case development. This project proposes to replace the existing 4160 volt and 600-volt equipment, including the 60kw backup generator. Given the nature and scope of the upgrades, this project will be coordinated with the proposed HVAC upgrades for this facility (LH1204).

LH1245 – Walking Beam Flocculator Rehabilitation: The existing Walking Beam style flocculators used in the coagulation process are original to plant construction and use an older style bearing system which is subject to frequent failures which risk damaging the flocculator structure. This project proposes to rehabilitate the flocculators, including upgrades to the bearing system.





LH1246 – Low Lift Building Curtain Wall and Clearstory Window Replacement: A significant portion of the low lift building and the high lift pump bay utilizes full-storied windows for passive lighting and visual aesthetic. The window systems are original to plant construction and no longer seal properly. The project proposes to replace the curtain wall/clearstory windows with a more energy-efficient window system.

LH1251 – PAC Feed/Transfer System Replacement: The built transfer and dosing system used for Powder Activated Carbon (PAC) is in poor condition and reached the end of its useful service life and requires replacement. The project proposes to preplace the transfer and dosing pumps with more energy efficient components and make treatment efficacy improvements in the dosing system for a more consistent application of PAC to the raw water.

LH1264 – Overhead Truck Door Replacement (multi-year program): The existing vehicle garage doors at the Lake Huron water treatment plant and McGillivray Pumping Station are well past their normal service life. These doors are maintenance intensive with high heat loss during winter months. This project is the final year of a multi-year program and continues the replacement of the existing doors with a more energy efficient door systems.

LH1267 – Plant Interior Person Door Replacement (multi-year program): Due to the damp environment within the water treatment plant, many of the existing metal doors have failed or are showing signs of significant corrosion and deterioration. This project continues the replacement of interior industrial doors over a five-year period starting in 2020.

LH1268 – Obsolete Equipment Removal (multi-year program): Since the original construction of the water treatment plant, numerous projects have been undertaken which rendered some minor equipment obsolete or were otherwise abandoned without removal. Often the existence of abandoned equipment complicates future projects, including legacy wiring and code which can cause additional expense and time to rectify. This project proposes to remove legacy equipment throughout the facility.

LH1272 – Service Water Pipe Replacement (multi-year program): The existing cast iron service water piping is original to the plant construction. Sections of the service water piping are showing significant deterioration including advanced corrosion, leaking, and constrictions from tuberculation. The 2022 program proposes to replace sections of the service water piping within the water treatment plant as opportunities arise.

LH1284 Huron Flocc Gear Drive Replacement (multi-year program): The existing gear drives for the flocculation system are original to the plant construction and requires frequent and significant maintenance to continue its operation. The internal gears have excessively worn and rather than replacing the whole drive assembly, it has been determined that the best and most cost-effective solution is to replace the internal gears with made-to-specification replacements. This project proposes to repair one gear drive per year over a four-year period starting in 2020.



LH1317 – Distressed Pipe Replacement (multi-year program): As a result of the condition assessment, subsequent data from the Acoustic Fibre Optic Monitoring System within the 1200mm high pressure transmission pipeline, and the initial results of the predictive model for the deterioration of the transmission pipeline, this program proposes to replace high-risk pipe segments on a systemic basis. Future pipe replacements are projected based on current deterioration rates and information provided from our acoustic fibre optic monitoring system.

LH1338 – Plant Instrumentation (annual program): Much of the plant's online analyzers are beyond their useful life. This program funds a systematic replacement of the water system's online analyzers that are critically necessary to ensure ongoing compliance with regulations and the system's Municipal Drinking Water Licence.

LH1380 – Clarifier Upgrades (multi-year program): The existing Lamella Plate Clarifier tanks employ a scraper system to collect settled sludge at the bottom of the tank which is driven by a gear-drive. Given the age of the existing drives, they are subject to overheating and shear failures resulting in frequent maintenance and repairs. This project proposes to replace one gear drive over a three-year period including the installation of variable frequency drives for energy efficiency and overheating and shear protection devices.

Roof Drain Replacement (multi-year program): The cast iron drains throughout the facility are original to plant construction and are starting to show signs of blockage and leakage due to the extent of corrosion. This project proposes to replace drains throughout the facility over a five-year period starting in 2022.

Hydrant Replacement: The hydrants at the facility are original to plant construction and experiencing periodic failures. In addition to emergency fire fighting, these hydrants within the plant property are largely used for maintenance. The project proposes to replace the three onsite hydrants with newer models, complying with the hydrant standards required by the municipality of South Huron.

Arva 600v MCC: The Motor Control Centre (MCC) in the valve house at the Arva Terminal Reservoir is in poor condition and past its useful service life, requiring replacement. The 600v MCC is used to control the automated valves and power monitoring and instrumentation equipment at the facility.

Plant Roof Replacement: The roof for the chlorine building and PAC building are in poor condition, showing signs of leakage and deterioration, and requires replacement.



Pipeline-A Double Isolation Valve: The interconnection chamber at the beginning of the (twinning) 1200mm transmission pipeline includes isolation valves for each of the original 1967 (Pipeline-A) and the twinned 1996 (Pipeline-B) high-pressure transmission mains. The valve used to isolate Pipeline-A is original to construction and often leaks and does not fully isolate causing a risk to workers undertaking repairs within the first eight kilometers of the twinned pipeline and requiring the plant to be shutdown to facilitate repairs to the transmission system. The isolation valve requires replacement, and to ensure the proper isolation of the high-pressure transmission pipeline a double-isolation valve is proposed which should reduce the number and duration of plant shutdowns and increase worker safety.

### **System Improvement Projects**

(Enhance LOS, Growth, Regulatory Changes, Efficiency, etc.)

LH1016 – Huron Safety Rail Replacement (multi-year program): During a Ministry of Labour inspection in 2018, the inspector found that safety railings throughout the water treatment plant were no longer compliant with Health & Safety Regulations and standards. As a result, staff developed a program to replace safety rails throughout the water system over a five-year period starting in 2020 on a risk/priority basis.

LH1229 – Security Upgrades (multi-year program): The previously completed Security Audit and Threat Risk Vulnerability Assessment provided policy, resource, and site-specific recommendations to mitigate security and safety risks at all facilities. The project proposed is a multi-year allowance to undertake security-related modifications to all facilities, based on the criticality assessment and recommendations of the security specialist.

LH1257 – Chamber 63 Access Culvert: Periodic access to this critical chamber currently requires access over three properties; a distance of about 850m through agricultural lands and along waterways. The proposed project will install a manufactured culvert bridge near Chamber 63 which will reduce the access requirements to only 300m across one property largely using an existing laneway and significantly reduce the annual impacts to landowners.

LH1270 – Interior LED Lighting Upgrades (multi-year program): Much of the interior lighting in the water treatment plants continue to be energy intensive incandescent and metal halide fixtures. This produces dim work areas and consumes significantly more energy than modern fixtures. This project replaces the existing interior fixtures with LED equipped lighting and motion sensors (where warranted) over a three-year period starting in 2020.

LH1273 - Exeter-Hensall (PS3) Pump Control Upgrades: The current pump control strategy at the Exeter-Hensall Pump Station (Pump Station #3) was designed on the premise that an ethanol plant was to be constructed in Hensall, which ultimately was never built. Consequently, the pumps at this station continue to operate inefficiently and changes to the controls and control strategy are required.



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LH1901 – Water Quality Facility Plan: The previous Water Quality Facility Plan reviewed the efficiency and efficacy of the various treatment processes and made recommendations for system modifications and additional detailed studies. While a number of high-priority projects were undertaken over the intervening period, an update to the Plan is required in order to further assess the effectiveness of the previous changes and make further recommendations for process optimization and treatment efficiency.

Chamber Flood Prevention/Rehabilitation: Some of the pipeline chambers have been mandated by the Ministry of Environment, Conservation and Parks to be visited several times per year due to the criticality of the air/vacuum relief valves and the risk of groundwater entering into the valve relief ports and contaminating the water supply. While the chamber does contain solar-powered sump pumps, installing flood proof piping between the valves and the chamber vents will prevent water from entering the air valves and decreasing the possibility of contamination.

Remote Site Generator Connections: Most remote sites and remote panels do not have backup power systems and a power outage will result in the analyzers to run off a battery-powered Uninterruptable Power Supply (UPS) system. After about one hour, the UPS will run out and the monitoring station will not have power for the instruments. At critical monitoring stations, staff recommend installing a receptacle connection for a portable generator to be connected to recharge the UPS during extended periods of power failures.

Construction Site Trailer Pad & Electrical Pedestal: For each major capital project, contractors will bring site trailers for their use as a construction office and storage of equipment and materials. This often requires staff to coordinate a location and allow the contractor to install temporary electrical connections for their trailer. This project proposes the construction of two permanent trailer pads and one permanent electrical pedestal to facilitate ongoing and future construction projects without repetitive temporary work being installed and removed.



*Lake Huron*

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**2022 Operating and Capital Budgets  
and Nine Year Capital Forecast**

**October 7, 2021**

# Lake Huron Primary Water Supply System 2022 Budget

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**Lake Huron Primary Water Supply System  
2022 Budget  
Revenue and Expenditure Summary  
(\$000's)**

	2021 Approved Budget	2022 Proposed Budget	Incr (Decr) Over 2021	% Budget Incr (Decr)	2021 Year End Projection
<b>Revenue</b>					
Volume Revenues <sup>(1)</sup>	23,275	24,229	954	4.1%	23,798
Other Revenues	25	25	0	0.0%	5
<b>Total Revenue</b>	<b>\$ 23,300</b>	<b>\$ 24,254</b>	<b>\$ 954</b>	<b>4.1%</b>	<b>\$ 23,803</b>
<b>Expenditures</b>					
Operating Costs <sup>(2)</sup>	10,448	10,658	210	2.0%	10,024
Administration & Other Expenditures	2,733	3,303	570	20.8%	2,620
Debt Principal Repayments <sup>(3)</sup>	1,261	1,283	22	1.7%	1,261
Interest on Long Term Debt <sup>(3)</sup>	117	89	(28)	(23.5)%	117
Contribution to Reserve Funds	8,741	8,921	180	2.1%	9,781
<b>Total Expenditures</b>	<b>\$ 23,300</b>	<b>\$ 24,254</b>	<b>\$ 954</b>	<b>4.1%</b>	<b>\$ 23,803</b>

\* subject to rounding

**Notes:**

(1) A budget volume increase is anticipated in 2022 (from 46,159,550 m3 in 2021 to 47,344,500 m3 in 2022). Rates per m3 are proposed to increase by 1.5%.

(2) Part of the operating costs are direct to the Lake Huron system (i.e. electricity, AFO Monitoring, etc.), while all other costs are fixed to the annual operating costs included in the Service Fee paid to the Ontario Clean Water Agency.

(3) Refer to page 9 for more information on debt.

**Lake Huron Primary Water Supply System  
2022 Budget  
Administration & Other Expenditures  
(\$000's)**

Administration & Other Expenditures	2021 Approved Budget	2022 Proposed Budget	Incr (Decr) Over 2021	% Budget Incr (Decr)	2021 Year End Projection
Management & Administrative Personnel	741	962	221	29.8%	745
Support and Overhead Costs <sup>(1)</sup>	317	322	5	1.5%	318
Payment in Lieu of Taxes	320	330	10	3.1%	317
Insurance (Property, Director & Officers, General Liability)	460	626	166	36.1%	519
Financial/Office Expenses <sup>(2)</sup>	383	492	109	28.6%	337
Information Technology Maintenance	51	150	99	195.3%	63
Purchased Services (Legal, Consulting, Locates etc.)	461	421	-40	(8.7)%	321
<b>Total Administration &amp; Other Expenditures</b>	<b>\$ 2,733</b>	<b>\$ 3,303</b>	<b>\$ 570</b>	<b>20.8%</b>	<b>\$ 2,620</b>

\* subject to rounding

**Notes:**

- (1) Support and Overhead Costs reflect the costs charged by the Administering Municipality for various administrative functions (e.g. Finance, Purchasing, Human Resources, Risk Management, etc.).
- (2) Financial/Office Expenses include other administrative expenses such as leased space, training/seminars/conventions, computer leasing, and sampling and process optimization initiatives.



**Lake Huron Primary Water Supply System  
2022 Budget  
2022 Capital Plan with Forecast for 2023 to 2031  
(\$000's)**

		Project Total	Prior Years Budget	2021 Approved Budget	2022 Proposed Budget	Forecast				
#	Description					2023	2024	2025	2026	2027 to 2031
LH1016	Huron Safety Rail Replacement	600	175	125	100	100	100			
LH1020	Financial Plan Update 2021	150		50					50	50
LH1021	Huron Low Lift Pump Rebuild	540	40		125	125	125	125		
LH1026	RW Office Expansion & Renovation	200		200						
LH1106	Ilderton Meter Chamber	100		100						
LH1107	SCADA/PLC - Software Review/Upgrade	500		500						
LH1204	McGillivray HVAC Replacement	1,750			1,750					
LH1207	Concrete Crack Injection	270	120		50	50	50			
LH1229	Security Upgrades	800	600	100	100					
LH1242	Hydraulic/Transient Model Update & Transient Monitoring	690	220	110	110	250				
LH1243	McGillivray Electrical Upgrades	5,885		685	5,200					
LH1245	Walking Beam Flocculator Rehabilitation	400			200	200				
LH1246	LL Building - Curtain Wall/Clearstory Window Replacement	375			375					
LH1250	McGillivray Pumps & Valves Refurbishment	3,842						3,842		
LH1251	PAC Feed/Transfer Pump System Replacement	950			100	850				
LH1256	Crop Yield Monitoring - 2014 Pipeline Twinning	1,500		1,500						
LH1257	Chamber 63 Access Culvert	330			330					
LH1260	Coagulant System Upgrade	1,437	1,040	397						
LH1263	Low Lift Pump Motor Replacement (Pumps 1,2,5 & 6)	450	300	150						
LH1264	Overhead Truck Door Replacement	225	75	75	75					
LH1266	Huron Plant UV Disinfection <sup>(2)</sup>	9,450	1,200			8,250				
LH1267	Plant Interior Person Door Replacement	100	20	20	20	20	20			
LH1268	Obsolete Equipment Removal	150	50	50	50					
LH1270	Interior LED Lighting Upgrades	150	50	50	50					
LH1272	Service Water Pipe Replacement	125	25	25	25	25	25			
LH1273	(PS3) Exeter-Hensall Pump Control Upgrades	100	50		50					
LH1277	IT Asset Replacement Program	1,100	425			25	50	250	175	175
LH1278	Safety Showers Upgrade	60	25	35						
LH1280	Arva Reservoir Expansion	35,000								35,000
LH1284	Huron FLOCC Gear Drive Repair	300	75	75	75	75				

**Lake Huron Primary Water Supply System  
2022 Budget  
2022 Capital Plan with Forecast for 2023 to 2031  
(\$000's)**

#	Description	Project Total	Prior Years Budget	2021 Approved Budget	2022 Proposed Budget	Forecast				
						2023	2024	2025	2026	2027 to 2031
LH1316xx	Annual Maintenance <sup>(1)</sup>	1,835	460	125	125	125	125	125	125	625
LH1317	Distressed Pipe Replacement	5,000	1,050	350	350	400	350	350	350	1,800
LH1338	Plant Instrumentation	1,460	760	75	50	25	25	75	75	375
LH1352	Arva Reservoir Structural Repairs	2,000					2,000			
LH1380	Clarifier Upgrades	465	120		115	115	115			
LH1425	Huron Erosion Control	1,250	1,000	250						
LH1426	WTP Storage Schedule B EA <sup>(2)</sup>	33,500	500			3,000	30,000			
LH1433	Asset Management Plan 2021	450		150					150	150
LH1900	Record Drawings and Documents	511	491				5		5	10
LH1901	Water Quality Facility Plan	590			290					300
LH2019xx	Lake Huron Master Plan Update	435	135				150			150
New	Roof Drain Replacement	150			50	25	25	25	25	
New	Hydrant Replacement	50			50					
New	Chamber Flood Prevention/Rehab	475			100	75	75	75	75	75
New	Arva 600V MCC	50			50					
New	Remote Site Generator Connections	20			20					
New	Plant Roof Replacement	110			110					
New	Pipeline-A Double Isolation Valve	1,247			1,247					
New	Construction Site Trailer Pad & Electrical Pedestal	75			75					
	AMP Investments - Plant <i>(allowance for planning)</i>	22,122							2,296	19,826
	AMP Investments - Transmission <i>(allowance for planning)</i>	3,553							937	2,616
		<b>\$ 142,877</b>	<b>\$ 9,006</b>	<b>\$ 5,197</b>	<b>\$ 11,417</b>	<b>\$ 13,735</b>	<b>\$ 33,240</b>	<b>\$ 4,867</b>	<b>\$ 4,263</b>	<b>\$ 61,152</b>

\* subject to rounding

**Notes:**

(1) Capital account for Board contributions to maintenance projects undertaken by the operating authority.

(2) Environmental Assessment for plant storage (LH1426) will determine if UV Disinfection (LH1266) will proceed in 2023 or storage will proceed in 2024.

**Lake Huron Primary Water Supply System  
2022 Budget  
Capital Plan Sources of Financing  
(\$000's)**

Funding Source	2021 Approved Budget	2022 Proposed Budget	2023	2024	2025	2026
Asset Replacement Reserve Fund	2,040	9,072	2,379	2,971	4,742	4,011
Capital Reserve Fund	2,907	2,345	11,356	15,269	125	253
Emergency Reserve Fund	250	-	-	-	-	-
Debenture	-	-	-	15,000	-	-
Other Funding Sources	-	-	-	-	-	-
<b>Total Capital Funding</b>	<b>\$ 5,197</b>	<b>\$ 11,417</b>	<b>\$ 13,735</b>	<b>\$ 33,240</b>	<b>\$ 4,867</b>	<b>\$ 4,263</b>

\* subject to rounding

**Lake Huron Primary Water Supply System  
2022 Budget  
Asset Replacement Reserve Fund Analysis and Continuity Schedule  
(\$000's)**

Asset Replacement Reserve Fund (1)	Actual	Projected					
	2020	2021	2022	2023	2024	2025	2026
Reserve Fund Opening Balance	15,034	16,352	12,433	8,465	8,269	7,982	8,003
<b>Sources:</b>							
Current Year Operating Contributions	3,000	4,500	5,000	2,100	2,603	4,683	4,132
Proceeds from Sale of Assets							
Transfer from Capital Reserve Fund							
Net Interest Earnings - 1% <sup>(2)</sup>	345	143	104	83	81	80	81
<b>Total Sources</b>	<b>\$ 18,379</b>	<b>\$ 20,995</b>	<b>\$ 17,537</b>	<b>\$ 10,648</b>	<b>\$ 10,953</b>	<b>\$ 12,745</b>	<b>\$ 12,216</b>
<b>Uses:</b>							
Total Lifecycle Capital Projects	2,027	2,040	9,072	2,379	2,971	4,742	4,011
Less: Other Funding Sources			-	-	-	-	-
Less: Debenture Requirement							
Net Current Year Fund Draws <sup>(3)</sup>	2,027	2,040	9,072	2,379	2,971	4,742	4,011
Prior Years Capital Expenditures		6,522					
<b>Total Uses</b>	<b>\$ 2,027</b>	<b>\$ 8,562</b>	<b>\$ 9,072</b>	<b>\$ 2,379</b>	<b>\$ 2,971</b>	<b>\$ 4,742</b>	<b>\$ 4,011</b>
<b>Reserve Fund Ending Balance</b>	<b>\$ 16,352</b>	<b>\$ 12,433</b>	<b>\$ 8,465</b>	<b>\$ 8,269</b>	<b>\$ 7,982</b>	<b>\$ 8,003</b>	<b>\$ 8,206</b>

\* subject to rounding

**Notes:**

- (1) The Asset Replacement Reserve Fund was established in 2008 to fund projects of a lifecycle nature to maintain existing levels of service and has an average annual target ending balance of \$7.5M.
- (2) Projected net interest earnings based on an average rate of anticipated sources and uses of funds.
- (3) Drawdowns are based on full/committed capital needs and not intended to project the actual cash flow of funds being utilized in a particular year.

**Lake Huron Primary Water Supply System  
2022 Budget  
Capital Reserve Fund Analysis and Continuity Schedule  
(\$000's)**

Capital Reserve Fund (1)	Actual	Projected					
	2020	2021	2022	2023	2024	2025	2026
Reserve Fund Opening Balance	19,729	24,748	14,365	15,992	11,899	3,561	8,477
<b>Sources:</b>							
Current Year Operating Contributions	6,080	5,281	3,821	7,124	6,854	4,981	6,658
Net Interest Earnings - 1% <sup>(2)</sup>	455	195	151	139	77	60	117
<b>Total Sources</b>	<b>\$ 26,264</b>	<b>\$ 30,224</b>	<b>\$ 18,337</b>	<b>\$ 23,255</b>	<b>\$ 18,830</b>	<b>\$ 8,602</b>	<b>\$ 15,252</b>
<b>Uses:</b>							
Total System Improvement & Growth Projects	1,516	2,907	2,345	11,356	30,269	125	253
Less: Other Funding Sources				-	-	-	0
Less: Debenture Requirement <sup>(4)</sup>					-15,000		
Net Current Year Fund Draws <sup>(3)</sup>	1,516	2,907	2,345	11,356	15,269	125	253
Prior Years Capital Expenditures <sup>(3)</sup>		12,952					
Transfer to Asset Replacement Reserve Fund							
<b>Total Uses</b>	<b>\$ 1,516</b>	<b>\$ 15,859</b>	<b>\$ 2,345</b>	<b>\$ 11,356</b>	<b>\$ 15,269</b>	<b>\$ 125</b>	<b>\$ 253</b>
<b>Reserve Fund Ending Balance</b>	<b>\$ 24,748</b>	<b>\$ 14,365</b>	<b>\$ 15,992</b>	<b>\$ 11,899</b>	<b>\$ 3,561</b>	<b>\$ 8,477</b>	<b>\$ 15,000</b>

\* subject to rounding

**Notes:**

(1) The Capital Reserve Fund was established to fund projects of a growth nature, enhancing levels of service, or address issues which are regulatory or safety in nature.

(2) Projected net interest earnings based on an average rate of anticipated sources and uses of funds.

(3) Drawdowns are based on full capital needs and not intended to project the actual cash flow of funds in a particular year.

(4) Environmental Assessment for plant storage (LH1426) will determine if UV Disinfection (LH1266) will proceed in 2022 or storage will proceed in 2024. If the storage project does not proceed, this anticipated debenture will not be required. If the storage project does proceed, the UV project will be eliminated likely reducing the projected debenture requirement.

**Lake Huron Primary Water Supply System  
2022 Budget  
Emergency Reserve Fund Analysis and Continuity Schedule  
(\$000's)**

Emergency Reserve Fund (1)	Actual	Projected					
	2020	2021	2022	2023	2024	2025	2026
Reserve Fund Opening Balance	4,846	6,000	4,493	4,638	4,684	4,731	4,778
<b>Sources:</b>							
Current Year Operating Contributions	1,300	-	100	-	-	-	-
Net Interest Earnings - 1% <sup>(2)</sup>	114	52	45	46	47	47	48
<b>Total Sources</b>	<b>\$ 6,260</b>	<b>\$ 6,052</b>	<b>\$ 4,638</b>	<b>\$ 4,684</b>	<b>\$ 4,731</b>	<b>\$ 4,778</b>	<b>\$ 4,826</b>
<b>Uses:</b>							
Current Year Capital Expenditures <sup>(3)</sup>	260	250					
Prior Years Capital Expenditures <sup>(3)</sup>		1,309					
<b>Total Uses</b>	<b>\$ 260</b>	<b>\$ 1,559</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Reserve Fund Ending Balance</b>	<b>\$ 6,000</b>	<b>\$ 4,493</b>	<b>\$ 4,638</b>	<b>\$ 4,684</b>	<b>\$ 4,731</b>	<b>\$ 4,778</b>	<b>\$ 4,826</b>

\* subject to rounding

**Notes:**

- (1) The Emergency Reserve Fund was established in 2011 to fund projects that arise on an emergency basis. This funding is to be in place outside of the Capital and Asset Replacement Reserve Funds and their defining guidelines. Contributions will be capped once the reserve fund balance reaches \$5.0 million.
- (2) Projected net interest earnings based on an average rate of anticipated sources and uses of funds.
- (3) Drawdowns are based on full capital needs and not intended to project the actual cash flow of funds in a particular year.

**Lake Huron Primary Water Supply System  
Flow and Financial Analysis Summary  
(\$000's)**

Factors	Actual	Approved	Projected					
	2020	2021 Budget	2021 (Projected)	2022	2023	2024	2025	2026
Rate Increase <sup>(1)</sup>	2.0%	1.0%	1.0%	1.5%	1.5%	1.5%	1.5%	1.5%
Total Flow m <sup>3</sup>	47,477,166	46,159,550	47,201,521	47,344,500	48,100,936	48,839,105	49,464,665	50,097,957
Total Water Rate \$/m <sup>3</sup>	0.4992	0.5042	0.5042	0.5118	0.5194	0.5272	0.5351	0.5432
Flow Volume Revenues	23,699	23,275	23,798	24,229	24,985	25,749	26,470	27,211
Other Revenue	20	25	5	25	25	25	25	25
<b>Total Revenue</b>	<b>\$ 23,719</b>	<b>\$ 23,300</b>	<b>\$ 23,803</b>	<b>\$ 24,254</b>	<b>\$ 25,010</b>	<b>\$ 25,774</b>	<b>\$ 26,495</b>	<b>\$ 27,236</b>
Operating Expenses <sup>(2)</sup>	9,658	10,448	10,024	10,658	11,175	11,783	12,198	12,629
Administrative Expenses	2,301	2,733	2,620	3,303	3,445	3,548	3,657	3,772
Debt Servicing Costs <sup>(3)</sup>	1,381	1,378	1,378	1,372	1,166	986	976	45
<b>Total Operating &amp; Administrative Expenses</b>	<b>\$ 13,340</b>	<b>\$ 14,559</b>	<b>\$ 14,022</b>	<b>\$ 15,333</b>	<b>\$ 15,786</b>	<b>\$ 16,317</b>	<b>\$ 16,831</b>	<b>\$ 16,446</b>
Asset Replacement Reserve Fund Contributions	3,000	4,000	4,500	5,000	2,100	2,603	4,683	4,132
Capital Reserve Fund Contributions	6,080	4,741	5,281	3,821	7,124	6,854	4,981	6,658
Emergency Reserve Fund Contributions	1,299	-	-	100	-	-	-	-
<b>Total Expenses</b>	<b>\$ 23,719</b>	<b>\$ 23,300</b>	<b>\$ 23,803</b>	<b>\$ 24,254</b>	<b>\$ 25,010</b>	<b>\$ 25,774</b>	<b>\$ 26,495</b>	<b>\$ 27,236</b>

\* subject to rounding

**Notes:**

- (1) Rate increases recommended are consistent with the approved Financial Plan which provide for prudent financial planning to accommodate inflation, new capital requirements and adequate reserve fund balances.
- (2) Operating expense projections reflect annual inflationary increases and anticipated adjustments, in accordance with the service agreement with the contracted operating authority.
- (3) Debenture Requirements:
- Debt authorized (2007) for the PLC & SCADA Systems Upgrade (LH1330) in the amount of \$1.75M was issued in 2012 with payments beginning in 2013 (all-in interest rate of 2.8% for a 10 year term).
  - Debt authorized (2006) for the Backup Generator (LH1326) in the amount of \$1.5M was issued in 2013 with payments beginning in 2014 (all-in interest rate of 3.3% for a 10 year term).
  - Debt authorized (2011) for the Residue Management Plant (LH1902) in the amount of \$16M was partially issued in 2015 (\$7M) with payments beginning in 2016 (all-in interest rate of 1.9% for a 10 year term). It is not expected that any further debt will be required for this project.
  - Debt authorized (2012) for the Huron Transmission Main Twinning (LH1305) in the amount of \$4M was partially issued in 2015 (\$1.665M) with payments beginning in 2016 (all-in rate of 1.9% for a 10 year term). Further debt issuance in 2017 in the amount of \$0.4M and payments beginning in Sept/17 (all-in rate of 2.48% for a 10 year for a 10 year term). It is not expected that any further debt will be required for this project.
  - Rates noted above could change depending upon market conditions at the time of debt issuance.

**To:** Chair and Members, Board of Management  
Lake Huron Primary Water Supply System

**From:** Kelly Scherr, P.Eng., MBA, FEC  
Chief Administrative Officer

**Subject:** Operations and Maintenance Services Agreement – Negotiation of Term Extension

## RECOMMENDATION

That the Board of Management for the Lake Huron Water Supply System **APPROVE** the Amended and Restated Operations and Maintenance Services Agreement, substantially in the form attached to this report, and **AUTHORIZE** the Board Chair and the Chief Administrative Officer to execute the agreement with the Ontario Clean Water Agency.

## PREVIOUS AND RELATED REPORTS

January 19, 2012	Water System Operation – Contract Award (Concurrent Meeting)
March 3, 2016	Operations and Maintenance Services Agreement – Contract Term
December 1, 2016	Operations and Maintenance Services Agreement – Negotiation of Term Extension
June 8, 2017	Operations and Maintenance Services Agreement – Negotiation of Term Extension
March 4, 2021	Operations and Maintenance Services Agreement – Negotiation of Term Extension

## BACKGROUND

On January 19, 2012, the Board of Management for the Lake Huron Primary Water Supply System (LHPWSS), concurrently and jointly with the Board of Management for the Elgin Area Primary Water Supply System (EAPWSS), awarded the contract for the management, operation and maintenance of both the Lake Huron and Elgin Area Water Supply Systems to the Ontario Clean Water Agency. The Ontario Clean Water Agency began operating the regional water system on July 1, 2012 for an initial five-year term, with an allowable five-year term extension at the option of the Board.

At the June 8, 2017 meeting of the Board of Management for the Lake Huron Primary Water Supply System, the Board authorized the execution of the Operation and Maintenance Services Amending Agreement No.1 with the Ontario Clean water Agency for a five-year period, ending December 31, 2022. Pursuant to Section 2.1 of the amended agreement, the



Operations and Maintenance Services Agreement with the Ontario Clean Water Agency may be extended for an additional five-year period at the discretion of the Board.

At the March 4, 2021, meeting of the Board of Management for the Lake Huron Primary Water Supply system, the Board authorized staff to enter into discussions with the Ontario Clean Water Agency to negotiate the terms of an amending agreement to extend the Operations and Maintenance Services Agreement for the additional five-year period allowable within the existing agreement.

## **DISCUSSION**

Board staff began to meet with the Ontario Clean Water Agency (OCWA) starting on April 2, 2021, to discuss the terms and conditions of an amending agreement which would extend the existing Operations and Maintenance Services Agreement for an additional five-year period. The proposed term extension would begin January 1, 2023, and end on December 31, 2027.

While the primary intent of the amending agreement is to extend the operating term for the additional five-year period, it will also offer an opportunity to provide further clarity the existing terms and conditions as well as make specific corrections and account for minor changes in the contract during the previous ten-year period, the amending agreement will also provide the fee schedule for the term extension period. It is not the intention of the amending agreement to make material or significant changes to the terms and conditions of the original Service Agreement.

### **Amending and Restating Agreement**

Rather than a simplified Amending Agreement, which specifically references the original 2012 agreement and the 2017 amendments, it is recommended to enter into an Amending and Restating Agreement. This form of agreement restates the previous original agreement while consolidating the subsequent amendments into one formal document. This approach both clarifies the terms and conditions for the services provided by the Ontario Clean Water Agency as well as identifies the amendments agreed upon with the extension of the term.

Following the substantial completion of discussions with the Ontario Clean Water Agency, the Board's solicitor drafted an Amending and Restating Agreement, attached to this report as Appendix A for the Board's information and reference. For brevity of this report to the Board, Schedule C (Operator's Submission of Qualifications and Proposal) has been omitted as it remains unchanged from the original submission in 2012.

If approved, the Amended and Restated Operations and Maintenance Services Agreement would be effective January 1, 2023, for a five-year period ending December 31, 2027.

### **Summary of Amendments**

The following is a brief and simplified summary of the modifications incorporated into the proposed Amended and Restated Operations and Maintenance Services Agreement with the Ontario Clean Water Agency (OCWA):



**Asset Coordinator** – To support the implementation and advanced utilization of the new Computerized Maintenance Management System, OCWA has added an additional resource to be shared between the Lake Huron Water Supply System and the Elgin Area Water Supply System. Board staff has reviewed this position, largely in relation to the Water Systems' implementation of Asset Management Planning and long-term efficiency initiatives, and agree that this additional resource is appropriate.

**Uncontrollable Circumstance** – The definition of an Uncontrollable Circumstance, within the context of the Services Agreement, has been amended to include an event which impacts the manufacture and/or supply of materials, attractables and consumables including significant changes the commodity cost of materials, attractables and consumables of more than 20% in one year. This amendment is intended to address events of global or extra-national significance which fundamentally affects the market conditions upon which the Service Agreement is premised.

**Term** – The term of the agreement is amended for an additional five-year period, beginning January 1, 2023 and ending on December 31, 2027.

**Maintenance and Repairs** – the agreement further clarifies that maintenance and repair services provided by OCWA include, but are not limited to, proactive repairs to the primary transmission pipeline and related repairs which are identified as being necessary, or which are being recommended, based upon the data available from the Acoustic Fibre Optic system.

Further to these clarifications, the original agreement provided for some relief of financial risk to OCWA as it relates to the obligation of maintenance and repairs. If an incident of maintenance and repair exceeded \$30,000, OCWA would be responsible for paying the first \$30,000 and the Board would pay the remaining. The threshold value of \$30,000 was indexed to the Consumer Price Index and escalated annually after the first year of the agreement (2012). The threshold value in 2021 is currently \$34,613.47. The proposed Amended and Restated Operations and Maintenance Services Agreement readjusts the threshold value to \$30,000 starting on January 1, 2023 and applies CPI annually thereafter.

**Computers, networks and SCADA** – the agreement further clarifies the responsibilities of OCWA and that of the Board as it relates to computers, computer and communications networks, and the Supervisory Control and Data Acquisition (SCADA) system. Generally speaking, OCWA is responsible for their business-related computers and any connected network used for OCWA's business purposes, as well as field devices connected to SCADA. The Board is responsible for all other computers, computer and communications networks, security systems, and SCADA hardware and software.

**Reports** – Reporting requirements, particularly those related to monthly operations, asset condition, and business planning has been updated to reflect current requirements in support of the Board's programs and plans.

**Security** – the agreement further clarifies the roles of OCWA and the Board in supporting site security, cyber security and security-related programs, as well as the maintenance and repair of security-related assets.

**Final Condition Survey** – The existing Operations and Maintenance Services Agreement required OCWA to undertake a full and comprehensive Final Condition Survey of all assets. Under the existing term, the Final Condition Survey is to be initiated by the end of 2021 and completed in 2022, allowing the Board to review current conditions and determine if the assets are being returned in as good or better condition than originally provided, normal wear and tear accommodated. The proposed agreement amends the requirement for the Final Condition Survey to begin in 2026 and completed in 2027. The cost of the Final Condition Survey, charged by OCWA and undertaken by a third-party, has been adjusted accordingly.

**Capital Improvements** – Where the Board requests OCWA to undertake Capital Improvements which are outside of the Operations and Maintenance Services, OCWA is entitled to charge a mark-up of 15% on the first \$10,000, 10% on the amounts between \$10,000 and \$50,000, and 5% on amounts in excess of \$50,000.

Typically OCWA has historically been requested to undertake minor Capital Improvements, such as the end-of-life replacements of instrumentation (for example) which is often operationally intensive.

**Process Optimization** – the agreement clarifies that OCWA provides reasonable operational support to the Board's process optimization programs, including studies undertaken by Board staff.

**Compensation to Landowners** – the agreement clarifies that the Board is responsible for any payments to landowners pursuant to the Pipeline Operations and Maintenance Agreements, executed between the Board and landowners along the primary transmission pipeline, which OCWA is not a party to.

**Schedules of the Agreement** – Schedule A (Description of the Lake Huron Water Supply System), Schedule B (Potable Water Performance Criteria), and Schedule C (Sampling and Testing Requirements) have been updated to reflect the current conditions and changes to the water supply System. Schedule E (Operations Fee and Initial and Final Condition Survey Cost) has been provided by the Ontario Clean Water Agency. The proposed fee structure was thoroughly reviewed by Board staff and was found to be consistent with expected cost escalations over the previous 10-year period as well as changes to market conditions and supplier costs.



*Lake Huron*  
Primary Water Supply System

**Report No.:** LH-2021-03-08  
**Report Page:** 5 of 120  
**Meeting Date:** October 7, 2021  
**File No.:**

## CONCLUSION

The Amended and Restated Operations and Maintenance Services Agreement, attached to this report in draft for the information and reference of the Board of Management for the Elgin Area Water Supply System, provides a five-year extension of the operations and maintenance services by the Ontario Clean Water Agency while providing amendments which further clarify terms and condition of the services provided and the obligations of both the Board and the Ontario Clean Water Agency.

The draft Amended and Restated Operations and Maintenance Agreement is recommended by Board staff for approval by the Board, noting that the agreement will be subject to review by the Ministry of Environment, Conservation and Parks and the Treasury Board of Ontario.

**Submitted by:** Andrew Henry, P. Eng.,  
Director, Regional Water Supply

**Recommended by:** Kelly Scherr, P.Eng., MBA, FEC  
Chief Administrative Officer

**Attachments:** Appendix A – Proposed Amended and Restated Operations and Maintenance Services Agreement

**THE LAKE HURON PRIMARY WATER SUPPLY SYSTEM BOARD OF  
MANAGEMENT**

– and –

**ONTARIO CLEAN WATER AGENCY**

**(the “Operator”)**

**AMENDED AND RESTATED OPERATION AND MAINTENANCE SERVICES  
AGREEMENT**

For the delivery of Operation and Maintenance Services related to  
The Lake Huron Primary Water Supply System

Dated \_\_\_\_\_, 2023

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## **AMENDED AND RESTATED OPERATION AND MAINTENANCE SERVICES AGREEMENT**

**THIS AMENDED AGREEMENT** made as of the \_\_\_\_\_ of \_\_\_\_\_, 2023.

**BETWEEN:**

**THE LAKE HURON PRIMARY WATER SUPPLY SYSTEM  
BOARD OF MANAGEMENT**

(hereinafter called "**Huron**")

- and -

**ONTARIO CLEAN WATER AGENCY,**

a corporation established under the Capital Investment Plan Act,  
1993, c. 23 Statutes of Ontario

(hereinafter called the "**Operator**")

**WHEREAS:**

1. The Lake Huron Primary Water Supply System is owned by the Lake Huron Primary Water Supply System Board of Management ("Huron") pursuant to the Transfer Order dated September 15, 2000 issued by the Ontario Minister of the Environment.
2. Huron issued a Request for Qualifications with respect to the operations and maintenance of the Facilities on August 2, 2011.
3. In response to the Request for Qualifications, the Operator submitted a Statement of Qualifications to Huron on September 16, 2011.
4. Huron issued a Request for Proposals with respect to the operation and maintenance of the Facilities on October 18, 2011.
5. In response to the Request for Proposals, the Operator submitted a Proposal (as defined herein) to Huron for the operation and maintenance of the Facilities including a computerized maintenance management program and other services. Huron, at a regular meeting of the Huron Board on January 19, 2012 by resolution adopted the recommendation that the Proposal of the Operator be accepted.
6. The Operator had represented in its Proposal that it is a capable and experienced corporation, partnership or joint venture, in the business of providing operation and maintenance services for water and wastewater treatment systems.
7. The Operator represented that it has the corporate capacity and authority to enter into the Agreement and that the Operator has obtained all necessary permits, approvals and licences and has met all regulatory and legal requirements necessary to meet its obligations under the Agreement.

8. The Operator understood and hereby expressly agreed that its Proposal, including any representations contained in its Proposal, form part of the Agreement and are binding on the Operator.
9. Huron and the Operator entered into an Operations and Maintenance Services Agreement (the “**Agreement**”) on April 27, 2012 for the delivery of operation and maintenance services related to the Lake Huron Primary Water Supply System for the Term of July 1, 2012 until 11:59 p.m. on June 30, 2017.
10. Huron and the Operator entered into an Operations and Maintenance Services Amending Agreement No.1 (“**Amending Agreement No.1**”) effective June 30, 2017 for the delivery of operation and maintenance services related to the Lake Huron Primary Water Supply System for the Term of July 1, 2017 until 11:59 p.m. on December 31, 2022.
11. Pursuant to Article 1.5 of the Amending Agreement No.1 and Article 2.1 of this Amended Agreement, Huron and the Operator have agreed to renew the Term of the Agreement for a further five (5) years, subject to the amendments to the Agreement as set out in this Amended and Restated Operations and Maintenance Services (the “**Amended Agreement**”).

The foregoing recitals shall form part of this Amended Agreement and shall be binding on the Parties.

**NOW THEREFORE THIS AMENDED AGREEMENT WITNESSES** that in consideration of the mutual covenants and agreements hereinafter contained, Huron and the Operator agree as follows:

## **ARTICLE 1** **INTERPRETATION**

### **1.1 Definitions.**

In this Amended Agreement, including the recitals thereto, the following terms have the following meanings unless the context otherwise requires:

- (a) “**Abnormal Raw Water**” means where the Raw Water contains levels of substances which are present in the Raw Water in sufficiently high concentrations so as to interfere with the processes necessary for the Potable Water to meet Compliance Criteria. The Operator shall demonstrate to Huron that the substances are in a concentration sufficient so as to cause such interference with the treatment process. Abnormal Raw Water also means where the quantity of Raw Water available from surface water is materially less than the quantity historically available, as determined by a review of the available documentation, provided that reduction in quantity does not result directly or indirectly from the actions or omissions of the Operator;
- (b) “**Adjustment to the Service Fee**” has the meaning assigned in Section 8.4 of this Amended Agreement;

- (c) **"Affiliated Company"** means, with respect to the Operator, any other Person who directly or indirectly controls, is controlled by, or is under direct or indirect common control with, the Operator, and includes any Person in like relation to an Affiliated Company. A Person shall be deemed to control a Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by contract or otherwise; and the term "controlled" shall have a similar meaning;
- (d) **"Amended Agreement"** means this agreement and all schedules attached to it as they may be amended, modified, supplemented, restated, or replaced from time to time by mutual agreement of the Parties;
- (e) **"Annual"** means occurring once per calendar year from January 1 to December 31, inclusive;
- (f) **"Annual Asset Report"** has the meaning assigned in subsection 3.7(7) of this Amended Agreement;
- (g) **"Applicable Laws"** is to be broadly interpreted and means, with respect to any Person, property, transaction, event or other matter dealt with or adverted to in this Agreement, any and all statutes, by-laws, regulations, enactments, ordinances, rules, permits, consents, approvals, licences, judgments, orders, judicial decisions, common-law rules, decrees, injunctions, agreements, authorizations, regulations, policies, guidelines, objectives, whether federal, provincial or municipal including, but not limited to all laws relating to occupational health and safety matters, fire prevention and protection, land use planning, environment, Building Code or Workers' Compensation matters, in each case which have the force of law and which relate to the operation and maintenance of water treatment facilities and distribution systems;
- (h) **"Arbitrator"** means the individual or individuals appointed in accordance with the procedure described in Article 17 of this Amended Agreement to determine a matter referred to arbitration hereunder;
- (i) **"Assets"** means the buildings and other permanent fixed assets of the Facilities, and includes all mechanical, electrical and instrumentation equipment that forms part of the Facilities;
- (j) **"Asset Coordinator"** means the person responsible for implementation and operational support of the Computerized Maintenance Management System and the related activities and the coordination between the Operator and Huron as required for the implementation and operational support of the Computerized Maintenance Management System and the related activities;
- (k) **"Asset Management Program"** has the meaning as described in Section 5.10;
- (l) **"Attractables"** means all pieces of mobile plant, equipment and furniture which are not physically attached to the Facilities and which are required in the current day-to-day operations and maintenance of the Facilities;

- (m) “**Best Efforts**” means, in relation to the performance of an obligation under this Agreement, timely efforts that are sensible and practical in a commercial context and involve the exercise of sound judgment, having regard to relevant circumstances;
- (n) “**Best Practices**” means best Operations and Maintenance and management practices as established in accordance with applicable Canadian water utility or industry standards which a commercially reasonable and prudent operator of the Facilities would follow in similar circumstances, having regard to the objectives and terms of this Agreement;
- (o) “**Board**” means the Board of Management for the Lake Huron Primary Water Supply System comprised of members appointed by the municipalities served by the Lake Huron Primary Water Supply System;
- (p) “**Business Day**” means a day which is not a Saturday, Sunday, legal holiday, or day when the administrative offices of Huron are closed;
- (q) “**Business Plan**” has the meaning as described in Section 8.5 of this Agreement;
- (r) “**Capital Improvements**” means expenditures, repairs or replacements which are permitted to be capitalized in accordance with generally accepted accounting principles, (including, but not limited to, the roofing, structural elements, exterior wall systems, plumbing and drainage systems, foundations, floors, electrical systems, SCADA and related computer systems, pipes, tanks, valves, pumps and other equipment, and all material and labour related hereto, but excluding office furniture and office equipment, and excluding expenditures made for Routine Maintenance and Repairs and Replacement;
- (s) “**Change of Laws**” means the enactment, adoption, promulgation, modification, repeal or change of any Applicable Laws by any Governmental Authority, including Huron, which comes into effect after the Start Date and which requires the Operator to provide additional or different services relating to operation or maintenance of the Facilities, or materially affects the costs of operation or maintenance of the Facilities pursuant to this Amended Agreement;
- (t) “**Civil Maintenance Program**” has the meaning assigned in subsection 5.3(1) of this Amended Agreement;
- (u) “**Civil, Structural and Site-Related Assets**” means the permanent fixed assets of the Facilities but shall not include the Mechanical and Electrical Equipment;
- (v) “**Claim**” includes claims, actions, proceedings, causes of action, suits, debts, dues, accounts, bonds, warranties, claims over, indemnities, covenants, contracts, losses (but excluding consequential losses), damages, costs, grievances, executions, judgments, obligations, liabilities (and excluding those relating to or arising out of loss of opportunity or loss of anticipated profit), rights and demands whatsoever, whether actual, pending, contingent or potential, whether in law or in equity, whether express or implied, whether present or future and whether known or unknown;

- (w) **“CMMS”** or **“Computerized Maintenance Management System”** means the computerized maintenance management system described in Section 5.9, with online access available to Huron for monitoring purposes only, used to schedule and record all Maintenance and Repairs performed on the Facilities and the Equipment and shall include but not be limited to Asset Inventory and Management;
- (x) **“Compliance Criteria”** means all terms, conditions, instructions, concentration limits and maximum permissible values listed or specified in Applicable Laws, including the Municipal Drinking Water Licence. In the event of a conflict or difference between Compliance Criteria, the more stringent and restrictive of the criteria shall apply;
- (y) **“Compliance Failure”** means when the Potable Water exceeds the maximum permissible limits for any Compliance Criteria and shall be determined pursuant to Section 4.4 of this Amended Agreement;
- (z) **“Compliance Report”** has the meaning assigned in subsection 3.7(3) of this Amended Agreement;
- (aa) **“Condition Survey”** means an inspection and review of the Assets;
- (bb) **“Consumables”** means all exhaustible materials used in the day-to-day operation of the Facilities and includes, but is not limited to, chemicals, lubricants, and fuel;
- (cc) **“Consumer Price Index”** or **“CPI”** means the Statistics Canada Consumer Price Index, Not Seasonally Adjusted, All Items (Ontario) as determined by Statistics Canada from time to time during the Term;
- (dd) **“Contract Year”** means the First Contract Year and the Final Contract Year and the period commencing at 12:00 a.m. on January 1 and ending at 11:59 p.m. on the next following December 31<sup>st</sup> for the other years of the Term;
- (ee) **“Control”** shall have the meaning assigned in the definition of ‘Affiliated Company’ of this Amended Agreement;
- (ff) **“Corrective Maintenance”** means the repair and correction of deficiencies, failures and malfunctions of the Facilities and the components therein to maximize the service life of the Facilities and its components but does not include repair and correction of deficiencies, failures and malfunctions of the Facilities that are a result of the Operator’s inadequate performance or non-performance of the Preventative Maintenance to the Facilities as required in this Amended Agreement;
- (gg) **“Deficiency”** or **“Deficiencies”** means those Assets which have deteriorated, are non-operational, or are unable to substantially perform their design function in respect of the Facilities, or which are reasonably likely to fail and require replacement or which create an immediate material risk to human health and safety or the environment;
- (hh) **“Direct Claim”** has the meaning assigned in subsection 16.4(1)(a) of this Amended Agreement;

- (ii) **“Efficiency Improvement”** has the meaning assigned in Section 7.1 of this Amended Agreement;
- (jj) **“Electricity Cost”** means the cost of electricity used by the Facilities;
- (kk) **“Emergency Situation”** means an occurrence of an incident that results in an interruption of Potable Water supply or impairment of the quality of Potable Water;
- (ll) **“Equipment PM Program”** has the meaning assigned in Section 5.5 of this Amended Agreement;
- (mm) **“Equipment Renewal Program”** means the replacement program which provides for the replacement of specified equipment and systems at the Facilities for the purpose of maintaining a high level of serviceability, reliability and availability of the Facilities, all in accordance with Section 5.10;
- (nn) **“Event of Default”** means the occurrence of any of the following:
  - (i) if Huron fails to pay any fee, charge or other monetary payment, other than the Service Fee, to the Operator within ninety (90) days of the date upon which such payment is due as provided in this Amended Agreement;
  - (ii) if the Operator fails to operate and maintain the Facilities in accordance with the terms of this Amended Agreement;
  - (iii) if either Party breaches any other representation, warranty, or covenant to this Amended Agreement, where such breach is not cured by the defaulting Party within ninety (90) days of the delivery of notice specifying the breach, or, where such breach is not capable of cure within such ninety (90) day period, the defaulting Party has in good faith commenced and exerted its Best Efforts to remedy such default within such ninety (90) day period;
  - (iv) if the Operator is determined by a court of competent jurisdiction to be in non-compliance with Applicable Laws;
  - (v) if the Operator fails to file a Compliance Report or files a deficient Compliance Report with the MOE and/or Huron within the time specified in the Municipal Drinking Water Licence, or within any extension period granted by the MOE;
  - (vi) if, at any time during the Term, the total of all occurrences of the events described in subsection 3.7(10)(c) of this Amended Agreement exceeds a total of five (5);
  - (vii) failure to supply Huron with updated contingency and emergency plans as required by subsection 3.11(a) of this Amended Agreement;
  - (viii) if the Operator has caused, contributed to, or is responsible for a Safety Deficiency at the Facilities and/or has failed to correct that Safety Deficiency to the extent caused or contributed to by the Operator, as required hereunder;



- (ix) if Huron has caused, contributed to, or is responsible for a Safety Deficiency at the Facilities and has failed to correct that Safety Deficiency to the extent caused or contributed to by Huron;
- (x) a Compliance Failure;
- (xi) failure by the Operator to comply with the Potable Water Performance Criteria as described in subsection 4.3(d) of this Amended Agreement;
- (xii) failure by the Operator to pay the required deductible or self-insured retention under any insurance required by Article 14 in the event of a Claim;
- (xiii) if contrary to Section 3.21 of this Amended Agreement, the Operator employs or hires the service of a subcontractor to assist the Operator in the performance of its obligations under this Amended Agreement without having obtained prior approval from Huron;
- (xiv) if contrary to Section 5.5 of this Amended Agreement, the Operator fails to first complete the repair in a timely fashion where the Operator disagrees with or disputes Huron's determination of an Incident of Repairs and Replacement or Corrective Maintenance or whether the Operator's expenditures for an Incident of Repairs and Replacement or Corrective Maintenance have been reasonably incurred; and
- (xv) any other Events of Default as otherwise identified in this Amended Agreement;

but for greater certainty shall not include any of the foregoing events caused by Uncontrollable Circumstances, which include Abnormal Raw Water, or Huron Fault;

- (oo) "**Extraordinary Event of Default**" has the meaning assigned in Section 10.5 of this Amended Agreement;
- (pp) "**Facilities**" means Huron's Water Treatment Plant ("**WTP**") including the associated reservoirs, Pumping Stations and Feeder mains, all as described in Schedule "A" to this Amended Agreement and all buildings and related infrastructure or other physical assets located thereon;
- (qq) "**Feeder mains**" means water mains used to transfer Potable Water from the WTP to, and between, reservoirs and booster pumping stations;
- (rr) "**Final Condition Survey**" has the meaning assigned in subsection 5.2(2) of this Amended Agreement;
- (ss) "**Final Contract Year**" means the period commencing at 12:00 a.m. on January 1, 2027 and ending at 11:59 p.m. on December 31, 2027;
- (tt) "**Final Inventory and Survey**" has the meaning assigned in subsection 5.4(4) of this Amended Agreement;

- (uu) **“First Contract Year”** means the period commencing 12:00 a.m. on July 1, 2012 and ending at 11:59 p.m. on December 31, 2012;
- (vv) **“Governmental Authority”** means a federal, provincial or municipal, ministry, agency, department or body having jurisdiction over the Facilities, Huron, the Operator, their agents, servants, and/or employees in respect of Applicable Laws. The term “Governmental Authority” shall not include Huron unless otherwise specified herein;
- (ww) **“Human Rights Code”** is described in Section 3.22 of this Amended Agreement;
- (xx) **“Huron”** means the Lake Huron Primary Water Supply System;
- (yy) **“Huron Fault”** means any breach of any Huron representation or warranty herein set forth, failure, non-performance, non-compliance or any negligent or wilful misconduct by Huron (whether or not attributable to any officer, member, agent, employee, or contractor, of Huron) with respect to its obligations under this Amended Agreement, to the extent not attributable to any Uncontrollable Circumstance or negligence or wilful misconduct of the Operator, and which materially and adversely affects the Operator’s rights and obligations or ability to perform under this Amended Agreement;
- (zz) **“Huron’s Attractables”** has the meaning assigned in subsection 9.4(2) of this Amended Agreement;
- (aaa) **“Huron’s Equipment Replacement”** has the meaning assigned in Section 5.7 of this Amended Agreement;
- (bbb) **“Huron’s Inventory”** has the meaning assigned in Section 9.4 of this Amended Agreement;
- (ccc) **“Huron’s Manager”** means the person designated by Huron pursuant to subsection 3.7(1)(a) of this Amended Agreement;
- (ddd) **“Incentive Payment”** has the meaning assigned in Section 7.2 of this Amended Agreement;
- (eee) **“Incident of Repairs and Replacement”** has the meaning assigned in subsection 5.6(c) of this Amended Agreement;
- (fff) **“Incident of Repairs and Replacement or Corrective Maintenance”** has the meaning assigned in subsection 5.3(c) of this Amended Agreement;
- (ggg) **“Indemnified Party”** means the Party who is entitled to be indemnified pursuant to Article 16 of this Amended Agreement;
- (hhh) **“Indemnifying Party”** means, in relation to an Indemnified Party, the Party to this Amended Agreement that has agreed to indemnify that Indemnified Party pursuant to Article 16 of this Amended Agreement;
- (iii) **“Initial Condition Survey”** has the meaning assigned in Section 5.2 of this Amended Agreement;

- (jjj) **“Initiating Party”** has the meaning assigned in Section 17.9 of this Amended Agreement;
- (kkk) **“Inventory and Baseline Survey”** has the meaning assigned in subsection 5.4(1)(c) of this Amended Agreement;
- (lll) **“Manager”** means the Huron’s Manager and the Operator’s Manager appointed from time to time during the term of this Amended Agreement pursuant to subsection 3.7(1) of this Amended Agreement or that individual’s official designate and **“Managers”** means both Huron’s Manager and the Operator’s Manager;
- (mmm) **“Mechanical and Electrical Equipment”** means all mechanical, electrical and instrumentation equipment that forms part of the Facilities;
- (nnn) **“MOE”** and **“MOECC”** means the Ministry of Environment and Climate Change for the Province of Ontario, or Ministry of Environment, Conservation and Parks or succeeding regulatory body;
- (ooo) **“Monthly Operations and Maintenance Report”** has the meaning assigned in subsection 3.7(4) of this Amended Agreement;
- (ppp) **“Municipal Drinking Water Licence”** means the municipal drinking water licences and all amendments thereto, issued by the MOE for the Facilities and all applicable Permits and Licences;
- (qqq) **“Notice of Arbitration”** has the meaning assigned in Section 17.9 of this Amended Agreement;
- (rrr) **“Occupational Health and Safety Act”** is described in Section 3.15 of this Amended Agreement;
- (sss) **“Operating and Maintenance Costs”** means all costs and expenses of managing, operating and maintaining the Facilities incurred by the Operator pursuant to the provisions of this Amended Agreement;
- (ttt) **“Operating Period”** means the period from the Start Date to the earlier of the expiry or termination of this Amended Agreement;
- (uuu) **“Operations Fee”** means the annual price payable as shown in Schedule “E-2” to this Amended Agreement;
- (vvv) **“Operations and Maintenance”** or **“O&M”** means the operations and maintenance services provided pursuant to this Amended Agreement;
- (www) **“Operations and Maintenance Manual”** means the Operations and Maintenance manual described in Section 3.19 of this Amended Agreement;
- (xxx) **“Operational Change”** means an adjustment in routine operating procedures, which does not require prior notification of, or approval from, the MOE or any other Governmental Authority responsible for administration of Applicable Laws;

- (yyy) “**Operator’s Actual Results**” means the actual results of the quality of water for any parameters set out in the Potable Water Performance Criteria;
- (zzz) “**Operator’s Cumulative Monthly Results**” has the meaning assigned in Section 4.3 of this Amended Agreement as it relates to Potable Water;
- (aaaa) “**Operator’s Manager**” means the person employed and designated by the Operator pursuant to subsection 3.7(1)(a) of this Amended Agreement;
- (bbbb) “**Party**” means Huron or the Operator, as the case may be; and “**Parties**” means both of them;
- (cccc) “**Peak**” means the period of time during any day which is identified from time to time during the Term by the Ontario Energy Board as not being off-Peak;
- (dddd) “**Performance Letter of Credit**” is described in subsection 14.2(1) of this Amended Agreement;
- (eeee) “**Permits and Licences**” means all permits, approvals, registrations and licences required by Applicable Laws in connection with the Operation and Maintenance of the Facilities including but not limited to those which were issued prior to the Start Date;
- (ffff) “**Person**” is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, the government of a country or any political subdivision thereof, or any Governmental Authority, agency or department of any such government, and the executors, administrators or other legal representatives of an individual in such capacity;
- (gggg) “**Potable Water**” means water meeting the Ontario Drinking Water Standards;
- (hhhh) “**Potable Water Performance Criteria**” means the Potable Water criteria as set out in 0 to this Amended Agreement;
- (iiii) “**Preventative Maintenance**” means routine and repetitive maintenance of the Facilities to maximize the service life of the Facilities as recommended or required by an equipment supplier or manufacturer, the Facilities’ construction contractor, the design consultants or Huron;
- (jjjj) “**Previous Operator**” means the Operator who was responsible for the management, operation, and maintenance of the Facilities immediately prior to the Start Date;
- (kkkk) “**Prime Rate**” means the annual rate of interest announced from time to time by the Bank of Canada, as being its reference rate then in effect for determining interest rates on Canadian Dollar denominated commercial loans made by a bank in Canada;
- (llll) “**Process Change**” means an adjustment or improvement (including, without limitation, a Capital Improvement) to the major components of the Facilities or an adjustment in routine operating procedures any of which requires prior approval from

Huron and/or MOE or any other Governmental Authority, and does not include an Operational Change;

- (mmmm) **“Project Integration Coordinator”** means the person responsible for operational support and the coordination between the Operator and Huron, Consultant and General Contractors of capital construction and research and development projects and the related activities;
- (nnnn) **“Proposal”** means the final form of the technical and financial proposal submitted by the Operator to Huron in response to Huron’s Request for Proposals dated October 18, 2011, including all Addendums issued by Huron, to manage, operate and maintain the Facilities and incorporated into this Amended Agreement as set out in Schedule "D" to this Amended Agreement;
- (oooo) **“Pumping Stations”** means the pumping stations which are part of or associated with the Facilities;
- (pppp) **“Quarterly Contract Report”** has the meaning assigned in subsection 3.7(5) of this Amended Agreement;
- (qqqq) **“Quarterly Water Quality Report”** has the meaning assigned in subsection 3.7(6) of this Amended Agreement;
- (rrrr) **“Raw Water”** means the water taken from Lake Huron at the WTP, prior to any treatment process;
- (ssss) **“Repairs and Replacement”** means all non-routine, non-repetitive activities repair or replacement of structures, machinery, equipment or rolling stock required for continuity of operations, safety, and operating performance that are necessary to prevent or correct a failure of any component of the Civil, Structural and Site-Related Assets and the Mechanical and Electrical Equipment and which is not included as part of Preventative Maintenance;
- (tttt) **“Reports”** means the Monthly Operations and Maintenance Report, the Quarterly Contract Report, the Quarterly Water Quality Report, the Annual Asset Report, and the financial reports contemplated by subsection 3.7(8);
- (uuuu) **“Responding Party”** has the meaning assigned in Section 17.9 of this Amended Agreement;
- (vvvv) **“Routine Maintenance”** means Corrective Maintenance or Preventative Maintenance or both;
- (wwww) **“Safety Deficiency”** has the meaning assigned in subsection 3.15(4) of this Amended Agreement;
- (xxxx) **“SCADA”** means the Supervisory Control and Data Acquisition software and hardware and is described in Section 3.12 of this Amended Agreement;

- (yyyy) “**Semi-Annual**” means occurring twice per calendar year from January 1 to December 31, inclusive;
- (zzzz) “**Service Area**” means the geographical area located serviced by Huron as at January 1, 2023;
- (aaaaa) “**Service Fee**” has the meaning assigned in Section 8.1 of this Amended Agreement and is as set out in Schedule “E-2”;
- (bbbbb) “**Spare Parts**” means all replaceable parts and supplies required for the purpose of maintaining the functionality of plant and equipment at the Facilities. Spare Parts are typically items that are subject to wear and replacement, are maintained in an inventory and are used in Routine Maintenance procedures;
- (ccccc) “**Spare Parts Inventory**” has the meaning assigned in subsection 9.4(4) of this Amended Agreement;
- (dddd) “**Start Date**” means the date on which the Operator was required to assume the day-to-day operation and maintenance of the Facilities, which date was 12:00 a.m., July 1, 2012;
- (eeee) “**Term**” has the meaning assigned in Section 2.1 of this Amended Agreement;
- (ffff) “**Third Party Claim**” has the meaning assigned in subsection 16.4(1) of this Amended Agreement;
- (ggggg) “**Uncontrollable Circumstance**” means any act, event or condition which is beyond the reasonable control of or could not reasonably be anticipated by the Party relying thereon as justification for a delay in, non-compliance with, or non-performance of any obligation of such Party pursuant to this Amended Agreement and shall include but not be limited to the following:
- (i) an act of God, landslide, lightning, earthquake, hurricane, flood, tornado, fire, explosion, pandemics, acts of public enemy, act of terrorism, war, blockade, sabotage, insurrection, riot or public disturbance, or an event which impacts the manufacture and/or supply of materials, attractables and consumables including significant changes the commodity cost of materials attractables and consumables of more than 20% in one year;
  - (ii) an order of any court, administrative or governmental agency of competent jurisdiction which has not been made as a result directly or indirectly of the actions or inaction of the Party against whom such an order is issued. This specific provision shall be construed strictly against the Party seeking to so rely to excuse non-performance or delay;
  - (iii) a Change of Laws. This specific provision be construed strictly against the Party seeking to so rely to excuse non-performance or delay;

- (iv) the suspension or termination of any Municipal Drinking Water Licence relating to the Facilities or the operation and maintenance thereof, or the imposition of a term, condition or requirement for the operation and maintenance of the Facilities which is more stringent or burdensome than the terms, conditions or requirements in effect as of the Start Date, to the extent that such occurrence is not the result of wilful or negligent action, error or omission or a lack of reasonable diligence of the Operator or Huron, whichever is asserting the occurrence, provided however that the contesting in good faith or the failure in good faith to contest any such occurrence shall not be construed as such a wilful or negligent action or lack of reasonable diligence;
- (v) loss or inability to obtain service from a utility other than as a result of the action or inaction of the Party;
- (vi) Abnormal Raw Water,
- (vii) Insufficient supply of Raw Water to meet Water Supply System Potable Water demand;
- (viii) The Water Supply System Potable Water Demand exceeds the design capacity of the Water Supply System or capacity of the Water Supply System as approved by the Municipal Drinking Water Licence; or
- (ix) Vandalism which could not otherwise have been prevented by the proper and necessary security systems required by Section 3.20 of this Amended Agreement.

provided, however, that a failure by a Party to perform its obligations under this Amended Agreement arising from or related to such Party's insufficient cash flow or its economic or financial condition generally, shall not constitute an Uncontrollable Circumstance;

and "**Uncontrollable Circumstances**" means the plural of the foregoing;

- (hhhhh) "**Water Supply System**" means the entire water supply system, and all related infrastructure for the Lake Huron Primary Water Supply System; and
- (iiiiii) "**Water Treatment Plant**" ("**WTP**") means the water treatment plants and the buildings and all related infrastructure located therein as described in Schedule "A".

## 1.2 Schedules.

The following schedules which are attached to this Amended Agreement are incorporated by reference into this Amended Agreement and are deemed to be a part of it:

Schedule "A-2"	—	Lake Huron Primary Water Supply System
Schedule "B-2"	—	Potable Water Performance Criteria
Schedule "C-2"	—	Sampling and Testing Requirements
Schedule "D"	---	Operator's Submission of Qualifications and Proposal
Schedule "E-2"	---	Operations Fee and Initial and Final Condition Survey Cost

### **1.3 Entire Agreement.**

This Amended Agreement constitutes the entire agreement between the Parties pertaining to the subject matter of this Amended Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written. There are no conditions, warranties, representations or other agreements between the Parties in connection with the subject matter of this Amended Agreement (whether oral or written, express or implied, statutory or otherwise) except as specifically set out in this Amended Agreement.

### **1.4 Priority of Documents.**

In the case of any conflict between any of the documents which form part of this Amended Agreement, the provisions of this Amended Agreement will take precedence over the Proposal attached as Schedule "D" to this Amended Agreement.

### **1.5 Headings.**

The provision of a table of contents, the division of this Amended Agreement into articles, sections and subsections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Amended Agreement. The table of contents does not form part of this Amended Agreement.

### **1.6 Amendments.**

No amendment to this Amended Agreement shall be effective unless in writing and signed by all Parties to this Amended Agreement.

### **1.7 Number of Days.**

Except as expressly stated to the contrary elsewhere herein, in computing the number of days, for the purposes of this Amended Agreement, all days shall be counted including Saturdays, Sundays and legal holidays, provided, however, that if the final day of any period shall fall on a Saturday, Sunday or legal holiday, then the: final day shall be deemed to be the next day which is not a Saturday, Sunday or legal holiday.

### **1.8 Statute and Regulation References.**

Any references in this Amended Agreement to any statute, regulation or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute, regulation or section as amended, restated or re-enacted from time to time.

### **1.9 References to the Operator.**

For the purpose of this Amended Agreement, all references to the Operator shall, unless the context required otherwise, include its directors, officers, employees, agents and contractors.



### **1.10 References to Currency.**

For the purpose of this Amended Agreement, all references to currency or money shall mean Canadian dollars.

### **1.11 Express Terms.**

The express terms herein control and supersede any course of performance or usage of the trade inconsistent with any of the terms herein.

## **ARTICLE 2 TERM AND COMMENCEMENT DATE**

### **2.1 Term.**

The term of this Amended Agreement, as amended, shall commence on January 1, 2023, and shall continue until 11:59 p.m. on December 31, 2027. If Huron wishes to renew this Amended Agreement it shall provide Operator a minimum of twelve (12) months written notice of its wish to renew this Amended Agreement, and subject to the Parties mutually agreeing to renew this Amended Agreement, this Amended Agreement shall be renewed for a further five (5) year term, unless extended or terminated pursuant to the express provisions of this Amended Agreement ("**Term**"). Whenever there is a reference to the Term in this Amended Agreement, it means the initial Term and also the extended Term where renewed by the Parties unless otherwise terminated in accordance with this Amended Agreement.

## **ARTICLE 3 OPERATION AND MAINTENANCE OF THE FACILITIES – GENERAL**

### **3.1 Facilities in General.**

#### **(1) Description of the Facilities.**

- (a) The scope of this Amended Agreement, except where expressly provided, is confined to the operation and maintenance of the Facilities as they are described in Schedule "A" to this Amended Agreement.
- (b) If Huron determines to extend Potable Water service to new communities not currently connected to the Water Supply System and/or outside the Service Area, or if Huron determines to construct additional Facilities for the Water Supply System, the Operator shall provide a cost estimate within six (6) months prior to the commencement of operations. Upon receipt of the quote, Huron shall decide whether to accept the cost estimate at its sole discretion.

#### **(2) Use and Possession of the Facilities**

All grounds, facilities, equipment, vehicles and documents relating to the Facilities and owned by Huron or acquired by Huron shall remain the property of Huron, except as may otherwise be provided for herein.

- (a) The Operator shall act as an independent contractor or operator to Huron for the safe, professional and efficient operation and maintenance of the Facilities. The Operator shall use all the Facilities exclusively for the operation and maintenance of the Facilities and will not carry out any other business from the Facilities, without the express written permission of Huron.
- (b) Huron may utilize an office at the Huron WTP Office Building for the exclusive use by Huron's Manager or other representative. The Operator shall provide all necessary office furniture and telephone, acceptable to Huron, acting reasonably, for sole use by Huron's Manager or Huron's Manager's delegate. The office and equipment shall be provided by the Operator at no cost to Huron.
- (c) Huron may maintain a documents room at the Huron WTP Office Building that will contain all the documentation, drawings, specifications, operations manuals, equipment manuals, plant data, historical data, etc. that is in the possession of Huron. The Operator will have access to this information by suitable arrangements negotiated by Huron and the Operator.

**(3) Huron Access to Facilities.**

Huron shall have twenty-four (24) hour per day access to the Facilities. The Operator shall allow unrestricted access to the Facilities to Huron's Manager or Huron's Manager's delegate without notice and without restriction. Huron's Manager or his/her delegate shall not have the right to direct or control the activities of the Operator or its employees. Huron's Manager and his/her delegate shall comply with all reasonable health and safety procedures of the Operator.

**3.2 Operation and Maintenance of the Facilities.**

- (a) The Operator shall perform all activities and services for the proper and effective management, operation and maintenance of the Facilities in a cost effective and professional manner as set forth in this Amended Agreement and in accordance with generally accepted principles and practices for water treatment in Ontario, the Municipal Drinking Water Licence, the requirements of the MOE, Huron policies applicable to the Facilities, and all Applicable Laws.
- (b) Except as otherwise provided in this Amended Agreement, the Operator shall provide or obtain all personnel, materials, services and supplies necessary to manage, operate and maintain the Facilities in the manner required by this Amended Agreement, and in any event to a standard that meets industry standards, including but not limited to:
  - (i) all necessary personnel, materials and services necessary to support the operation and maintenance of the Facilities to the service and performance levels required by this Amended Agreement including but not limited to, the following functions:
    - (A) operations,
    - (B) laboratory testing,

- (C) obtain and pay for all software required for operation and maintenance of the Facilities excluding the PLC and HMI (SCADA) software, Huron's laboratory information management system (currently WaterTrax) and Huron's own CMMS licence,
- (D) administration,
- (E) human resources,
- (F) training,
- (G) purchasing,
- (H) regulatory compliance and reporting,
- (I) janitorial in accordance with municipal standards and practices including but not limited to the security office and Huron's office per Section 3.1(2)(b),
- (J) snow removal, grass cutting and maintenance of access roads and laneways to all Facilities,
- (K) annual (at a minimum) exercising and maintenance of all watermains at the Facilities and all transmission watermains;
- (L) flushing of all hydrants twice per year and annual pressure/flow testing and painting of hydrants once every three years,
- (M) maintenance and calibration of meters and instruments,
- (N) inspection and maintenance of backflow preventers,
- (O) inspection and maintenance on lifting devices,
- (P) maintain, registration of Huron's ISO 14001 Environmental Management System,
- (Q) maintenance of all on-line and bench-scale analyzers,
- (R) inspection and maintenance of generators, including back-up generators located at the WTP,
- (S) inspection and maintenance of radio antennas and fibre optic cables in accordance with the stricter of manufacturer's specifications or industry standards,
- (T) security and security-related programs in accordance with Section 3.10(c) and Section 3.20,
- (U) pipeline corrosion protection monitoring, performed once every five (5) years at dedicated cathodic corrosion monitoring stations, and

- (V) proactive repairs to the transmission pipelines. For the purposes of this subsection, "proactive repairs" shall include, but not be limited to those repairs which are identified as being necessary, or which are being recommended, based upon the data available from the Acoustic Fibre Optic system;
- (ii) all administrative and management personnel and services including Facilities management, human resources, training, accounting and legal services, payroll, purchasing, technical support and information systems;
- (iii) all technical assistance and support related to the operation and maintenance of the Facilities to the performance levels specified and that may be required by Huron with respect to Municipal Drinking Water Licence applications or disputes;
- (iv) contingency and emergency response plans acceptable to Huron and a workplace safety program that meets or exceeds provincial standards;
- (v) development of a preventive maintenance and capital improvement program;
- (vi) delivery of frequent and detailed reports to Huron, in accordance with the terms of this Amended Agreement, that demonstrate compliance and support all future planning;
- (vii) shipping and receiving (and purchasing where applicable) of all materials and supplies related to the operation of the Facilities;
- (viii) payment for all maintenance claims including pipes, transmission breaks, sandblasting and recoating of structures, structural upgrades in accordance with the terms of this Amended Agreement;
- (ix) pay for natural gas at the Facilities;
- (x) testing each generator for a minimum of one (1) hour per month, with the exception of the four 2.5MW generators at the water treatment plant which will be tested for three (3) hours every three (3) months. The Operator shall supply and pay for the fuel for all diesel engines and pumps based on twelve (12) hours of maintenance run time per year per engine and eight (8) hours of emergency run time per year per engine. Additional fuel used for the emergency run time of each generator, and for any run time associated with capital projects undertaken by Huron will be calculated by the Operator for each generator, and subject to the approval by Huron acting reasonably, shall be paid by Huron. Any fuel used for any additional run-time used for generator testing and maintenance is at the cost of the Operator;
- (xi) all materials and supplies including but not limited to, chemicals and fuel, vehicle accessories and supplies, computer hardware and software (including wireless access points, switches, routers, firewalls and related network management for connectivity to the Operator's head office and the internet necessary for the Operator's management and business systems, and not including those relating to the SCADA system and the Owner's computer hardware and software) and all

related supplies, office supplies, building and grounds maintenance supplies, replacement parts, equipment maintenance supplies and spare parts which are required in the day-to-day management, operation and maintenance of the Facilities;

- (xii) all Attractables in excess of Huron's Attractables which are required in the day-to-day operation and maintenance of the Facilities;
  - (xiii) perform all laboratory sampling, testing and analyses, quality control and quality assurance required by this Amended Agreement, the Municipal Drinking Water Licence and Applicable Laws and shall do so at a frequency and performance level defined therein, and shall include any operational parameter testing required for the management and operation of the WTP;
  - (xiv) all necessary insurance required pursuant to Article 14 of this Amended Agreement;
  - (xv) all required permits, approvals and licences;
  - (xvi) waste handling, transportation and disposal of all chemicals, grit, screenings, scum, oil, and other wastes and residues in licensed solid waste disposal facilities approved by Huron, including residue transportation and disposal; and
  - (xvii) maintain the Facilities, including the lands upon which the Facilities are located and landscaping to a standard mutually agreed upon by the parties, acting reasonably.
- (c) The Operator shall staff and operate all the Facilities on a continuous twenty-four (24) hours per day, seven (7) days per week throughout the entire Term of this Amended Agreement. The Operator shall provide all necessary staff to operate and maintain the Facilities during all hours of operation. Under no circumstances shall the Operator engage operators working or otherwise employed in connection with the Elgin Area Water Supply System without the express written consent of Huron.
- (d) Commencing on the Start Date, the Operator shall be responsible for and shall pay all Operating and Maintenance Costs, except as may be otherwise specifically provided herein.

### **3.3 Testing and Sampling**

#### **(1) Procedures.**

- (a) The Operator shall, at its own cost, conduct all testing and analyses required by this Amended Agreement, the Municipal Drinking Water Licence, the Ontario Drinking Water Quality Standards and Operational Guidelines as amended from time to time, and Applicable Laws. All testing shall be carried out by an accredited laboratory and the Operator shall provide Huron with evidence of such accreditation.

- (b) The Operator shall ensure that all sampling and testing programs required to be conducted by the Operator pursuant to this Amended Agreement shall be conducted in accordance with the testing requirements of the Municipal Drinking Water Licence, Huron policies applicable to the Facilities, and Applicable Laws.
- (c) The Operator shall deliver in a timely manner and submit such samples for testing to the laboratory to permit the tests required under subsection 3.3(1)(a) above. Huron may, from time to time, change the types and frequency of samples to be taken. The Operator or Huron may require an Adjustment to the Service Fee pursuant to Section 8.4 of this Amended Agreement if such change in the sampling results in an increase or decrease in the actual Operating and Maintenance costs.
- (d) Huron reserves the right to review and approve any testing protocol proposed to be used by the Operator to satisfy the Operators obligations under this Amended Agreement.
- (e) The Operator shall ensure that all test results received from the sampling required to be conducted by the Operator pursuant to this Amended Agreement are provided to Huron on a timely basis, consistent with current industry standards. If the MOE's testing requirements change during the Term of this Amended Agreement, the Parties shall ensure that all sampling and testing required to be conducted by the Parties pursuant to this Amended Agreement comply with all new MOE requirements.
- (f) The Operator shall conduct all additional testing for process and operational control at its own cost as may be required by Applicable Laws or as reasonably determined by the Operator to perform its obligations under this Amended Agreement at its own cost and shall provide such test results to Huron forthwith upon receipt of a written request by Huron's Manager.
- (g) Any testing to be conducted by Huron in addition to the testing required to be conducted pursuant to the terms of this Amended Agreement shall be the sole responsibility and shall be conducted at the sole expense of Huron. Huron shall conduct all sampling and testing in accordance with the same requirements indicated in subsection 3.3(1)(b) above. The Operator shall provide all further sampling necessary to allow Huron to conduct the additional testing at no further cost to Huron.

**(2) Verification of the Operator's Testing Procedures.**

- (a) Huron shall be permitted to, on an annual basis, at its own expense, conduct a review of the Operator's laboratory and testing procedures and confirm the test results produced by the Operator's laboratory. If Huron's review demonstrates that the results produced by the Operator's laboratory are materially inaccurate, Huron shall be entitled to require an Adjustment to the Service Fee pursuant to Section 8.4 of this Amended Agreement for those costs of its review referable to the inaccuracy of the laboratory's results. The Operator shall, upon receipt of notice from Huron of material inaccuracy of laboratory results, correct the quality problem at its laboratory immediately.
- (b) In addition to sampling and testing by the Operator, Huron may at any time elect to take independent samples or obtain split samples from the Operator and to perform tests and analyses in order to assess the Operators sampling and testing procedures and to assess

the Operator's compliance with the Municipal Drinking Water Licence. The Operator shall cooperate fully with any such effort by Huron and will provide samples and test results promptly at no further cost to Huron.

### **3.4 Compliance with Applicable Laws or Change of Laws.**

#### **(1) General.**

- (a) The Operator shall be knowledgeable of and comply with Applicable Laws.
- (b) Should any procedures or standards set forth in this Amended Agreement conflict with procedures or standards contained in any Applicable Laws, the more stringent procedures or standards shall apply.
- (c) The Operator shall not be in breach of its obligations hereunder if it is prevented from complying with Applicable Laws due to Uncontrollable Circumstances, Huron Fault, the limits of the capacity of the Facilities, a variation in Raw Water quality or quantity inconsistent with historical seasonal variations or where the Operator has obtained the written consent of Huron for non-compliance (provided however that such consent of Huron shall only apply to the specific breach or non-compliance and shall not apply to subsequent breaches by the Operator), and in each case only to the extent the obligations of the Operator are affected by such circumstances as described herein.
- (d) If the Operator is determined by a court of competent jurisdiction, to be in non-compliance with Applicable Laws, then, except when such non-compliance is caused by Uncontrollable Circumstances, any variation in Raw Water quality or quantity inconsistent with historical seasonal variations or Huron Fault, Huron may deduct fifty thousand dollars (\$50,000.00) from the Incentive Payment, and such non-compliance shall be an Event of Default.

#### **(2) Process or Operational Changes to Achieve Compliance.**

- (a) If at any time during the Term of this Amended Agreement, Process Changes are required to comply with Applicable Laws or either Process Changes or Operational Changes are required to comply with a Change of Laws, then the Operator shall promptly provide Huron with its recommendations for achieving compliance and an estimate of the impact on Operating and Maintenance Costs for achieving compliance with such Applicable Laws or a Change of Laws. Huron shall evaluate the Operator's recommendations and shall, within a reasonable period of time, either approve the Operator's recommendations or determine appropriate and necessary Process or Operational Changes to be made and direct the Operator on the appropriate approach to achieving compliance. The Operator shall not claim any Adjustment to the Service Fee for the cost of preparation of its recommendations for achieving compliance.
- (b) Where either Process Changes or Operational Changes are required to achieve compliance with a Change of Laws or, where Huron directs the Operator to carry out alternative Process Changes to achieve compliance with Applicable Laws, and any of the aforementioned activities causes an increase or decrease in the actual Operating and

Maintenance Costs, either Huron or the Operator may require an Adjustment to the Service Fee in accordance with Section 8.4 of this Amended Agreement.

- (c) The Operator shall make any Operational Changes or Process Changes required to achieve compliance with Applicable Laws at its own expense unless such Operational Changes or Process Changes are required in connection with a Change of Laws.
- (d) If the Operator disputes Huron's decision to disapprove Operator's recommendation pursuant to subsection 3.4(2)(a), or either the Operator or Huron disputes a required Adjustment to the Service Fee pursuant to subsection 3.4(2)(a), then the Operator or Huron, as the case may be, may refer the matter in dispute to dispute resolution pursuant to Article 17 of this Amended Agreement.

**(3) Capital Improvements to Achieve Compliance.**

- (a) If the Operator considers that Capital Improvements are required to achieve compliance with Applicable Laws or a Change of Laws, then the Operator shall provide to Huron recommendations on the required Capital Improvements for Huron's review. A decision whether or not to proceed with such a Capital Improvement shall be in the absolute discretion of Huron. The Operator is not responsible for paying for any Capital Improvements unless otherwise agreed to in writing by the Operator and Huron.
- (b) Huron shall evaluate the Operator's recommendations and shall either approve the Operator's recommendations for Capital Improvements or determine modified or different appropriate and necessary Capital Improvements to achieve compliance.
- (c) A decision on whether or not to proceed with a Capital Improvement, or a Process or Operational Change to achieve Compliance shall be at the sole discretion of Huron. The Operator shall implement the decision of Huron following the receipt of express direction from Huron to do so.
- (d) If, as a result of the implementation of a Capital Improvement or an alternative method to achieve compliance with Applicable Laws or a Change of Laws, there is an increase or decrease in the actual Operating and Maintenance Costs, either Huron or the Operator may require an Adjustment to the Service Fee in accordance with Section 8.4 of this Amended Agreement.

**3.5 Process or Operational Changes Initiated by Operator.**

- (a) Process Changes and Operational Changes may be made by the Operator during the course of this Amended Agreement. No Process Change will be made without the prior written consent of Huron. Operational Changes will be made as a matter of routine practice by the Operator and will not require prior approval by Huron. However, the Operator shall inform Huron of any material Operational Changes in its monthly reports to Huron.
- (b) The Operator shall be responsible for all risks associated with any Process Change proposed and implemented by it, and/or any Operational Changes proposed and implemented by it as part of the operation and maintenance of the Facilities, including, without limitation, the risk of obtaining and complying with all applicable amendments to



the Municipal Drinking Water Licence and all Applicable Laws, but excluding all risks associated with Change of Laws or other Uncontrollable Circumstance.

### **3.6 Operating and Management Policies and Procedures.**

#### **(1) Operating and Management Policies.**

- (a) The Operator shall prepare operating and management policies and procedures with respect to the day-to-day operations of the Facilities, including quality control and quality assurance procedures. The Operator shall consult with Huron in the preparation of such operating and management policies and procedures and shall permit Huron to review and provide comments on them. The operating and management policies and procedures prepared by the Operator pursuant to this subsection shall comply with Huron policies, where applicable.

### **3.7 Communications between Huron and the Operator.**

#### **(1) Managers.**

- (a) Huron shall designate one person, Huron's Manager, to act as their primary liaison and coordinator. The Operator shall at all times employ a person designated as the Operator's Manager, who shall, among his or her other duties, serve as the Operators liaison with Huron and who shall be the Operator representative primarily responsible for dealing with Huron. The Operator shall submit the name of its designated Operator's Manager for the Facilities to Huron for approval, which approval shall not be unreasonably withheld. Huron reserve the right to veto any of the Operator's designated Operator's Managers submitted for approval at the sole discretion of Huron. The Operator shall, where practicable provide Huron with at least sixty (60) days prior written notice of any change in the Operator's Manager.
- (b) Huron and the Operator shall also appoint designees to Huron Manager's position and the Operator's Manager's position to act on behalf of the respective Manager in the respective Manager's absence. Huron shall also review and approve the Operators designee for the Operator's Manager, which approval shall not be unreasonably withheld. The Operator shall provide Huron with at least sixty (60) days prior written notice of any change in the Operator's Manager's designee.
- (c) Huron reserve to themselves the right to request in writing, upon reasonable notice to the Operator, that the Operator replace the Operator's Manager or designee, or Manager of any individual Facility, and the Operator shall, subject to Applicable Laws, make best efforts comply with such a request from Huron. Huron or the Operator may refer any dispute with respect to this subsection to dispute resolution pursuant to Article 17.
- (d) The Managers, or their designees, shall meet and communicate on a regular basis. In particular, the Operator's Manager shall, as timely as reasonably possible, inform Huron's Manager of all emergencies and the occurrence of all Uncontrollable Circumstances relating to the operation of the Facilities which an independent Operator would be expected to report to an owner under customary and prudent business practices. The Operator, through the Operator's Manager, shall advise Huron of any and all conditions,

events, issues, suggestions, recommendations, and the like relating to the operation and maintenance of the Facilities and which relate to this Amended Agreement, or which materially affect the safe, professional, and cost efficient operation and maintenance of the Facilities.

- (e) The Operator, through the Operator's Manager, shall advise Huron of any and all conditions, events, issues, suggestions, recommendations, and the like relating to the operation and maintenance of the Facilities and which relate to this Amended Agreement, or which materially affect the safe, professional, and cost efficient operation and maintenance of the Facilities.
- (f) Huron's Manager has the authority to ensure that the provisions of this Amended Agreement are faithfully adhered to. The authority of Huron's Manager shall be limited to providing direction, approval or consent in respect of any matter falling within the provisions of this Amended Agreement, and shall be binding upon Huron. Huron's Manager shall not have the authority to provide direction, approval or consent or enter into any agreement for any matter that falls outside of the provisions of this Amended Agreement and any such direction, approval, consent provided or agreement entered into shall not be binding upon Huron.

**(2) Meetings with Huron.**

- (a) The Managers or their delegates shall meet not less than once per month, to discuss and review the management, operation and maintenance of the Facilities, including the Monthly Operations and Maintenance Report. Huron, in their discretion, may alter the frequency of the meetings to reflect whether or not there is a need to meet. The date and time of the meetings shall be scheduled as agreed upon from time to time by the Managers.
- (b) The Managers or their respective delegates shall meet, at least quarterly, to discuss and review the Quarterly Contract Report, any significant events during the previous quarter, or issues of mutual concern.

**(3) Compliance Reports.**

- (a) The Operator shall prepare and file with the applicable Governmental Authority all environmental and monitoring reports, except for energy consumption reporting, required by the Municipal Drinking Water Licence, Permits and Licences and Applicable Laws and shall file such reports with Huron's Manager at least ten (10) Business Days prior to the date such reports are required to be filed by the Municipal Drinking Water Licence, Permits and Licences and Applicable Laws. All Compliance Reports shall be provided to Huron in electronic format.
- (b) The Operator shall implement a sampling and testing program (for testing that is the Operator's responsibility hereunder) in accordance with the requirements of the Municipal Drinking Water Licence and Applicable Laws and in compliance with subsection 3.3(1) and shall familiarize itself with the testing requirements stipulated by the MOE.

**(4) Monthly Operations and Maintenance Report.**

The Operator shall compile, maintain and provide to Huron, within ten (10) Business Days of the end of each calendar month in each Contract Year and no later than three (3) days prior to each monthly meeting with Huron, a comprehensive monthly operations and maintenance report ("**Monthly Operations and Maintenance Report**"). These reports shall be in a form developed jointly by the Managers, and shall include, but not be limited to, the following information as it applies to the Facilities for the preceding month:

- (a) Raw Water flow including average daily flow, maximum daily flow, and total monthly volume;
- (b) Potable Water flow including average daily flow, maximum daily flow, and total monthly volume;
- (c) Raw Water average turbidity, pH, colour, temperature;
- (d) Potable Water minimum, maximum and average free chlorine residual and total chlorine residual;
- (e) Potable Water maximum and average turbidity;
- (f) Potable Water average pH;
- (g) Potable Water average concentration of Aluminum;
- (h) Total number of safe and adverse microbiological test results;
- (i) Significant events or failures including any and all events of noncompliance with Applicable Laws or this Amended Agreement;
- (j) Any actions required from Huron;
- (k) Details of the safety programme and any incidents resulting from an unsafe work practice or accidental mishap;
- (l) Equipment operability including a list of equipment out of service, as well as a detailed list of assets added or removed during the reporting period, including at a minimum the asset ID, description, location, status (new/ operational/decommissioned), and, in the case of a change in status, the date on which the status of the equipment changed;
- (m) Details of any adverse Laboratory analysis relating to Facilities operation;
- (n) Potable water, natural gas, and chemicals usage;
- (o) Staffing utilization, including staffing levels indicating terminations and new hires, hours of support for Capital Improvements by the Operator per Section 6.5(1)(c), and activities of the Operator's Asset Coordinator;

- (p) List of complaints received, action plans and remedies; and where complaints received were determined not to be valid in accordance with Section 3.9, an explanation for such determination;
- (q) Description and status of Facilities operations including a summary of calibrations and compliance items completed;
- (r) Employee training which has been carried out by the Operator;
- (s) a detailed and comprehensive report of all maintenance work performed;
- (t) a summary of the following:
  - (i) work orders scheduled for the period;
  - (ii) unscheduled work orders required during the period;
  - (iii) completed work orders for the period;
  - (iv) incomplete work orders for the period; and
  - (v) a summary of items (i) – (iv) for the year-to-date;
- (u) A summary of information and activities related to the Acoustic Fibre Optic monitoring system, including highlights of areas of concern;
- (v) Deviations from normal operating practices;
- (w) A summary of activities related to the cathodic protection system;
- (x) The private property accessed by the Operator for the purposes of the operation and maintenance of the water system, including a summary of activities performed on such private property as well as such other information necessary to ensure an appropriate accounting by Huron to the respective landowner;
- (y) A compliance summary for the Residuals Management Facility;
- (z) A summary of hours where the Water Treatment Plant was online and pumping, versus offline and not pumping. The summary of offline hours shall include scheduled/planned versus unplanned outages;
- (aa) A summary of generator runtime hours;
- (bb) The quantity of dewatered solids from the Residuals Management Facility disposed of and the name and location of the waste disposal facility; and
- (cc) Such other reports as Huron deems fit to ensure that it has sufficient information to assess the management and operation of the Facilities.

**(5) Quarterly Contract Report**

The Operator shall compile, maintain and provide to Huron, within thirty (30) days of the end of September and December of the First Contract Year, within thirty (30) days of the end of each March, June, September and December of each Contract Year that is not the First Contract Year or Final Contract Year, and within thirty (30) days of the end of March and June of the Final Contract Year, comprehensive quarterly contract reports ("**Quarterly Contract Report**"). The Quarterly Contract Report should not be a mere consolidation of the Monthly Operations and Maintenance Reports. The Quarterly Contract Report shall outline and discuss the following:

- (a) Deliverables under this Amended Agreement;
- (b) Financial position;
- (c) Adjustments to Service Fees;
- (d) Proposed adjustments to Service Fees;
- (e) Amendment to the scope of the services to be provided by the Operator;
- (f) Changes to business continuity plans;
- (g) Regulatory and contractual compliance issues including status of any action plans required to correct Compliance Failures;
- (h) Health and safety issues; and
- (i) Any other issues of mutual concern related to this Amended Agreement.

**(6) Quarterly Water Quality Report.**

The Operator shall compile, maintain and provide to Huron, within thirty (30) days of the end of September and December of the First Contract Year, within thirty (30) days of the end of each March, June, September and December of each Contract Year which is not the First Contract Year of the Final Contract Year, and within thirty (30) days of the end of March and June of the Final Contract Year, comprehensive quarterly water quality reports ("**Quarterly Water Quality Report**"). The Quarterly Water Quality Report shall only provide the data on treated water quality.

**(7) Annual Asset Report.**

The Operator shall provide Huron with a detailed report summarizing the condition of the Civil, Structural and Site-Related Assets and Mechanical and Electrical Equipment, using the Initial Condition Survey as a guide, by April 30 in each Contract Year (the "**Annual Asset Report**"). The Annual Asset Report shall be in a format to be agreed upon by Huron and shall include, but not be limited to, the following information:

- (i) A general statement and overview of Facility, the equipment condition and performance, including deviations from expected depreciation rates or significant failures of assets. The report should be divided by facility and major process groups;

- (ii) A detailed list of assets in tabular form noting, at a minimum, each asset's initial condition, current condition, age, remaining useful life, efforts by the Operator to extend the useful life, and source of information for the condition assessment. The list of assets shall include a summary of detailed condition surveys and specialized electrical and mechanical equipment condition assessments undertaken, notable changes in assessed conditions of civil, structural and site related asset conditions, and a summary of changes in observed conditions; and
- (iii) Recommendations for capital programs to be undertaken by Huron, including business cases for each recommendation in a format acceptable by Huron.

**(8) Financial Reports.**

- (a) For each quarter of each Contract Year, the Operator shall provide Huron with a verifiable summary of the Operator's costs for the immediately preceding quarter, in a form and containing the content as mutually agreed upon by the Parties acting reasonably with respect to its management, operation, and maintenance of the Facilities within thirty (30) days of the end of each quarter of the Contract Year. These verifiable summaries shall be provided to Huron together with the Quarterly Contract Reports; and
- (b) At the end of each Contract Year, the Operator shall provide Huron with a verifiable summary of the Operator's costs for that Contract Year, in a form and containing the content as mutually agreed upon by the Parties acting reasonably, related to the management, operation and maintenance of each individual WTP and all other Facilities within one hundred and fifty (150) days of the end of each Contract Year.

**(9) Deficient or Late Compliance Reports.**

- (a) Except when caused by an Uncontrollable Circumstance, if the Operator fails to file a Compliance Report or files a deficient Compliance Report with the MOE and/or Huron within the time specified in the Municipal Drinking Water Licence, or within any extension period granted by the MOE, the Operator shall pay any fine assessed against either Party by the MOE, provided however the Operator shall have the right to contest any such fine in its name or the name of Huron upon agreement by Huron acting reasonably. If Operator's failure to file a Compliance Report resulted from the negligence or non-performance of the Operator's obligations to file said report, Huron may deduct fifty thousand dollars (\$50,000.00) from the Incentive Payment and, such a failure by the Operator, shall be an Event of Default.

**(10) Deficient or Late Reports.**

- (a) Except when caused by an Uncontrollable Circumstance, if, during any one Contract Year, the Operator fails to deliver one (1) or more Reports other than a Compliance Report within the prescribed time period, or delivers one or more Reports that, in the opinion of Huron, are materially deficient or have omitted material information, Huron may withhold five thousand dollars (\$5,000.00) per month of the monthly payment of the Service Fee payable by Huron and Huron shall not pay the amount withheld unless and until the Operator delivers the Report, or corrects the deficiencies identified by Huron, as the case may be.

- (b) Except when caused by an Uncontrollable Circumstance, if, at any time during the Term, the Operator fails to deliver three (3) or more Reports within the prescribed time period, or delivers three (3) or more Reports that, in the opinion of Huron, are materially deficient or have omitted material information, Huron may deduct from the Incentive Payment an amount of fifteen thousand dollars (\$15,000.00).
- (c) If, at any time during the Term, the total of all occurrences of the events described in subsections 3.7(10)(a) and 3.7(10)(b) herein equals to or exceeds a total of five (5) in any Contract Year, then such occurrences shall be an Event of Default.
- (d) The Parties agree that a failure to file a report other than a Compliance Report due to late receipt of sampling, testing or analytical results from a third party where the Operator can reasonably demonstrate to Huron's Manager that the third party was in default of its contractual obligations to deliver sampling or test results in a timely fashion, and that the Operator used its Best Efforts to obtain such results in a timely fashion, shall not be considered an occurrence under any of the paragraphs in subsection 3.7(10).
- (e) Huron shall notify the Operator in writing within thirty (30) days after receipt of a Report of any deficiencies in such Report. If written notice is not provided within the time within thirty (30) days after receipt of a Report, such Report shall be considered acceptable and Huron shall not withhold any amount in respect of such Report.

**(11) Inspections and Review of Records and Reports.**

The Operator shall permit Huron and its authorized representatives, during the Term of this Amended Agreement and without unreasonable disruption to the Operator, to:

- (i) examine and electronically monitor and retrieve any and all operating and maintenance records and Reports of the Operator, and make copies of and take extracts from such records and Reports as may be reasonably necessary to ensure compliance by the Operator with the terms of this Amended Agreement; and
- (ii) review any of the records and Reports described in subsection 3.7(11)(i) above.

**3.8 Dealings with the MOE.**

**(1) Communications with the MOE.**

- (a) Huron shall be the primary liaison with the Governmental Authorities and will invite the Operator to attend or participate in such meetings relevant to the Operator's management, operation and maintenance of the Facilities or the Operator's obligations pursuant to this Amended Agreement. Huron will also keep the Operator informed of such discussions with the MOE relevant to the Operator's obligations.
- (b) The Operator shall not communicate directly with the MOE with the exception of being under a legal obligation to report directly to the MOE or where the Operator has obtained the prior written approval of Huron's Manager. The Operator shall report forthwith to Huron regarding any such discussions.

**(2) Municipal Drinking Water Licence.**

Huron, as owner of the Facilities, shall continue to be the holder of all the Municipal Drinking Water Licence for all the Facilities and shall be responsible for preparing and filing applications for any new Municipal Drinking Water Licence and/or amendments to existing Municipal Drinking Water Licence. It is the responsibility of both Parties to notify the other Party of any changes or amendments required to the Municipal Drinking Water Licence immediately upon the notifying Party becoming aware of the necessity for such changes or amendments. The Operator shall, upon Huron's request, provide to Huron any technical expertise or assistance related to the operation of the facilities in any matters relating to the Municipal Drinking Water Licence for Huron's Facilities and shall be compensated by Huron for its reasonable expenses, excluding Operator labour costs and other applicable services, in providing such technical expertise or advice. Any claim by the Operator for compensation pursuant to this subsection may be referred to dispute resolution pursuant to Article 17 by either Party.

**(3) Permits and Licences.**

The Operator shall prepare and file on a timely basis with the appropriate authorities all applications for Permits and Licences and renewals of Permits and Licences which are required in connection with the management, operation and maintenance of the Facilities, except Municipal Drinking Water Licence and all permits to take water, and provide copies of such applications to Huron within thirty (30) days of the time the application is filed with the appropriate authority. The Operator shall provide all technical expertise and advice that may be required for an application for a Permit and Licence with respect to the Facilities and shall be compensated by Huron for its reasonable expenses, excluding Operator labour costs, in providing such technical expertise or advice. Any claim by the Operator for compensation pursuant to this subsection may be referred to dispute resolution pursuant to Article 17 by either Party.

**(4) Operator's Ability to Provide Services.**

The Operator shall ensure that at all times it maintains the appropriate Permits and Licences to fulfill its obligations pursuant to this Amended Agreement. Such Permits and Licences shall include, but not be limited to, any requirement of a Government Authority imposed on the Operator as a precondition to carrying on business in Ontario or in Canada.

**3.9 Complaints.**

- (a) The Operator, in addition to meeting the Potable Water Performance Criteria and the Compliance Criteria, shall use its Best Efforts to contain and control the taste and odour of the water and noise emitted from the Facilities and shall take an active role in the community to improve the local residents' understanding of the operation of the Facilities.
- (b) If the Operator or Huron receives any complaints from Huron's direct customers in relation to taste and odours or noise generated by the Facilities, or any other matter related to the Facilities, the Party receiving the complaint shall notify the other Party immediately. The Operator shall immediately investigate the complaint for validity. Within three (3) days of the time of the notification of a verifiable and valid complaint the Operator shall prepare and provide to Huron for approval, its proposed action plan to prevent a re-occurrence of the situation which gave rise to the complaint unless such complaint results from an



Uncontrollable Circumstance or a variation in Raw Water quality or quantity materially inconsistent with historical seasonal variations, in which case subsection 3.9(e) below shall govern. Upon Huron's approval, acting reasonably, of the Operator's action plan, as may be modified by Huron, the Operator shall implement the action plan within a time period to be determined by Huron acting reasonably.

- (c) If the Operator fails to comply with its obligations pursuant to subsection 3.9(b) above, Huron may, in its discretion, withhold twenty-five thousand dollars (\$25,000.00) of the monthly payment of the Service Fee for the month in which the Operator failed to comply with such obligations which amount shall be paid to the Operator by Huron upon the Operator, commencing implementation of the action plan as approved by Huron all as described in subsection 3.9(b) above.
- (d) If the Operator continues its failure to comply with its obligations in subsection 3.9(b) above, such failure shall be considered an Event of Default and Huron may, deduct twenty-five thousand dollars (\$25,000.00) from the Incentive Payment. The remedy as set out herein is in addition to the rights and remedies of Huron pursuant to Article 10.
- (e) For complaints resulting from an Uncontrollable Circumstance or a variation in Raw Water quality or quantity materially inconsistent with historical seasonal variations, the Operator shall immediately take all reasonable steps to mitigate the source of the complaint. Within a time period agreed to by the Parties, the Operator shall submit to Huron, its recommended action plan to rectify the source of the complaint. Upon receiving the Operator's recommended action plan, Huron shall, as it deems necessary, implement said action plan or a modified or different appropriate action plan, at Huron's cost, or have the Operator implement such plans as approved by Huron, with an Adjustment to the Service Fee as necessary and reasonable.

### **3.10 Interface with Public.**

- (a) The Operator shall provide assistance to Huron in carrying out a program of open houses, school visits, informational pamphlets and promotional material in respect of the Facilities. The Operator shall be required to manage and conduct public education tours of the Facilities as requested or authorized by Huron. Huron may, in its discretion, manage and conduct public education tours of the Facilities.
- (b) All other visitors not designated by Huron shall require Huron's approval and shall be required to make an appointment with the Operator prior to visiting the Facilities. All public tours must be conducted in accordance with Huron's Public Tour Policy.
- (c) The Operator shall ensure that access to the Facilities is provided in a safe and responsible manner, including abiding by the security policies and programs of Huron, and shall provide appropriate training and request all persons given access to the Facilities conform to all occupational health and safety requirements, security requirements and applicable policies and procedures for the Facilities.
- (d) Huron shall be responsible for all communications with the media. The Operator must obtain Huron's consent prior to communicating with the media with respect to any aspect of the Facilities or this Amended Agreement.

- (e) The Operator shall assist Huron, when requested, in any public communications.

### **3.11 Contingency and Emergency Planning.**

- (a) The Operator shall review and update all current contingency and emergency response plans. The Operator shall ensure that any such plan meets all Applicable Laws and are consistent with the standard and policies of Huron. The contingency and emergency response plans shall be submitted to Huron for Huron's approval thirty (30) days prior to the Start Date, and such plans must be fully coordinated with the Huron's Emergency and Incident Management System. Failure to submit such plan in compliance with this subsection shall be an Event of Default.
- (b) In the event of an Emergency Situation, the Operator must respond within thirty (30) minutes and ensure appropriate staff are available at the Facilities within sixty (60) minutes from the earlier of the occurrence of the Emergency Situation or the reasonable time within which a prudent operator should have known about the Emergency Situation. Huron may deduct five thousand dollars (\$5,000.00) from the Incentive Payment for each event of non-compliance with the performance requirements of this subsection. Further, in the event of non-compliance by the Operator with the performance requirements of this subsection, Huron may, upon giving verbal notice to the Operator's Manager, take such action as is reasonably necessary to respond to the Emergency Situation, and the Operator shall pay the reasonable cost of Huron's response to the Emergency Situation plus a mark-up of five percent (5%).

### **3.12 SCADA and Computer Network Systems.**

- (a) Except as set out herein, the Operator shall operate and maintain the Supervisory Control and Data Acquisition (the "**SCADA**") systems associated with the Facilities. Without limiting the foregoing, the Operator is responsible for:
  - (i) Training of personnel, development of and compliance with service level standards, the operation and maintenance of enhancements to the SCADA systems, including backup systems, and for maintaining and repairing the PLC and HMI hardware;
  - (ii) Field devices up to and including the Input/Output block but not including a network switch, where present;
  - (iii) Maintaining and repairing the Programmable Logic Controller ("**PLC**") and local operator interface components (i.e. PLC cards), excluding the proprietary PLC for the backup generators;
  - (iv) Maintaining and repairing Building Automation Systems ("**BAS**") including sensors, regular software version updates (excluding those items listed in subsection 3.12(b) of this Amending Agreement); and
  - (v) Maintaining and repairing field devices including but not limited to flow meters, analyzers, protective relays, flow switches and sensors.

- (b) Huron shall be responsible for SCADA programming and maintaining the SCADA, PLC and HMI software and associated coding, and for maintaining the Industrial Data Centre, the virtual and physical servers, including the associated communications network. Without limiting the foregoing, Huron is responsible for:
  - (i) Managing and maintaining spare parts for PLC's and other critical hardware components related to SCADA;
  - (ii) Maintaining and repairing BAS servers, software and control modules (BAS controllers), including the end-of-life replacement of BAS servicers and controllers; and
  - (iii) End-of-life replacement of PLC hardware and PLC software version upgrades.
- (c) Once the MANTRA chlorine control system is installed, the Operator shall be responsible for the utilization, maintenance and repair of the MANTRA system.
- (d) The Operator is responsible for all computers and computer networks implemented and used for the purposes of the Operator's business systems including wireless access points, switches, routers, firewalls and related network management for connectivity to the Operator's head office and the internet.
- (e) With the exception of the computers, computer networks business systems for which the Operator is responsible pursuant to subsection 3.2(b)(xi) of this Agreement, Huron is responsible for all other computers, servers and computer networks implemented at the Facilities including wireless access points, switches, routers, firewalls, media converters, fibre optic networks, and related network management systems, including:
  - (i) Computer stations and servers used for the SCADA system, including tablets and monitors, industrial data centre servers and virtual servers, secured local area networks and wide area networks;
  - (ii) Camera and access control security systems; and
  - (iii) Programming, software and related version upgrades, virus protection, and network monitoring.

### **3.13 Signage.**

The Operator shall maintain, repair and replace the signage at the Facility, where necessary in the opinion of Huron, acting reasonably.

### **3.14 Staffing/Employee Training/Certification.**

The Operator shall, throughout the Term of this Amended Agreement:

- (a) staff the Facilities with competent, qualified and certified personnel and have at all times;

- one (1) overall responsible manager, to be shared between the Elgin Area and Lake Huron Primary Water Supply Systems, to act as a primary liaison between Huron and the Operator;
  - one (1) designated person responsible for the overall operation of the Facilities;
  - one (1) designated person responsible for the overall maintenance of the Facilities;
  - one (1) designated person responsible for the quality assurance and compliance of the Facilities; and
  - a minimum of eight (8) operators licensed operators, certified in accordance with Applicable Laws, for the WTP;
- (b) ensure that the operators specified in subsection 3.14(a) are not shared with the Elgin Area Primary Water Supply System or any other water or wastewater system without the consent of Huron;
- (c) provide such additional staffing as is necessary to comply with this Amended Agreement and Applicable Laws;
- (d) implement and review at least annually, on-site training programs for employees of the Facilities to keep current their skill and knowledge of technologies and procedures for effective water treatment; and
- (e) maintain all certification programs for employees of the Facilities in effect prior to the Start Date and implement new or revised certification programs as required to comply with Applicable Laws and standards fixed by a Governmental Authority or any other competent authority from time to time.

### **3.15 Health and Safety Procedures.**

#### **(1) Occupational Health & Safety.**

- (a) If the Operator undertakes a construction project for Huron under this Amended Agreement, the Operator, where this Amended Agreement involves construction, shall be designated as the “**constructor**” for the purposes of the *Occupational Health and Safety Act*, R.S.O. 1990, c.0-1 and shall assume all of the responsibilities of the Constructor as set out in that Act and its regulations. The foregoing shall apply notwithstanding that the Operator may have been referred to as the “**Operator**” in this and other related documents.
- (i) The Operator acknowledges that it has read and understood the *Occupational Health and Safety Act*.
- (ii) The Operator agrees to indemnify and save Huron harmless for liquidated damages or fines arising from any breach or breaches by the Operator of the said *Occupational Health and Safety Act*.
- (iii) The Operator agrees to assume full responsibility for the compliance with the said *Occupational Health and Safety Act* for activities within its control.

- (iv) The Operator further acknowledges and agrees that any material breach or breaches of the *Occupational Health and Safety Act* whether by the Operator or any of its sub-contractors may be considered an Event of Default by Huron.
  - (v) The Operator shall allow access to the work site, on demand, to representatives of Huron to inspect work sites to confirm compliance with the *Occupational Health and Safety Act*. Huron does not assume any liability or risk for non-compliance by the Operator with the *Occupational Health and Safety Act* by reason of such inspection unless such non-compliance is caused by Huron Fault.
  - (vi) The Operator agrees that any damages or fines that may be assessed against Huron by reason of a breach or breaches of the *Occupational Health and Safety Act* by the Operator or any of its subcontractors will entitle Huron to set-off the damages so assessed against any monies that Huron may from time to time owe the Operator under this Amended Agreement or any other contract whatsoever.
- (b) The Operator shall provide a list of all controlled hazardous materials or products containing hazardous materials as defined under the *Occupational Health and Safety Act*, all physical agents or devices or equipment producing or emitting physical agents and any substance, compound, product or physical agent that is deemed to be or contains a designated substance in accordance with the Workplace Hazardous Materials Information System (WHMIS) as defined under the *Occupational Health and Safety Act* and shall provide the Safety Data Sheets for these substances used for the performance of the Operator's required work hereunder, prior to the performance of the work and shall ensure that same are kept current.
- (2) Inspection After the Start Date.**
- (a) The Operator shall, immediately after the Start Date, conduct an inspection and review of the Facilities to satisfy itself that there are no outstanding deficiencies in relation to the safety of the Facilities. If, within forty-five (45) days following the Start Date, the Operator determines that there are situations at the Facilities that fail to comply with any Applicable Laws relating to the safety of persons or property, or that create unsafe or hazardous conditions at the Facilities, then the Operator shall advise Huron of each unsafe or hazardous situation immediately upon determining the existence of the unsafe or hazardous situations.
  - (b) Upon receiving the list of unsafe or hazardous situations, Huron shall (i) repair or correct any unsafe or hazardous situations, at Huron's cost, which are necessary to comply with Applicable Law; and (ii) repair or correct any other unsafe or hazardous situations, at Huron's cost, that it deems necessary.
  - (c) The Operator shall be responsible for the repair or correction of any unsafe or hazardous situations discovered or identified by the Operator after the forty-five (45) day period following the Start Date, at the Operator's cost. Any non-compliance with the *Occupational Health and Safety Act* shall be remedied as soon as reasonably possible and in any event no later than within three (3) months of the non-compliance item or event being identified.

- (d) Huron shall be responsible for the installation and/or alteration of health and safety equipment, excluding the provision of Personal Protective Equipment, as a result in a change to the *Occupational Health and Safety Act* or its Regulations.

**(3) Health and Safety Procedures.**

- (a) The Operator shall prepare and establish written health and safety procedures for the protection of its employees, Huron's employees and visitors to the Facilities consistent with the standards and policies of Huron and all Applicable Laws. The health and safety procedures shall be submitted to Huron for Huron's acceptance thirty (30) days prior to the Start Date. Upon Huron's acceptance, the Operator shall maintain and enforce the health and safety procedures.
- (b) The Operator and all of its employees shall, at all times, be required to:
  - (i) maintain a safe work-site in accordance with safe working practices; and
  - (ii) use or wear the necessary protective equipment, devices, clothing, and footwear as required by the *Occupational Health and Safety Act* and regulations, procedures and by-laws.
- (c) The Operator shall maintain a record of health and safety activities for each month of the Term, which record shall include:
  - (i) minutes of joint health and safety committee meetings;
  - (ii) details of safety inspections, and
  - (iii) details of all medical aid, lost time, and accidents or incidents.
- (d) The Operator shall provide Huron on a quarterly basis with a report of health and safety activities at the Facilities within thirty (30) days of the end of each quarter of each Contract Year. The report shall be in a form acceptable to Huron and shall be provided to Huron along with the Quarterly Contract Report.
- (e) The Operator shall ensure that any equipment supplied or used by the Operator is safe and suitable for the job. Any equipment deemed unsafe in accordance with the *Occupational Health and Safety Act* and its regulations will be removed and replaced by the Operator.
- (f) All accidents and health and safety related incidents occurring at the Facilities shall be reported in writing to Huron forthwith after the occurrence, which report shall include copies of any received notification provided to the Workplace Safety and Insurance Board with respect to such occurrence.

**(4) Safety Audits and Non-Compliance.**

- (a) Huron may, at its sole discretion and expense, conduct safety audits of the Facilities on a Semi-annual basis which may include inspections of physical conditions and reviews of the Operator's compliance with all applicable safety legislation and regulations.

- (b) If, as a result of Huron's safety audit or otherwise, Huron determines that one of the following deficiencies ("**Safety Deficiencies**") has occurred:
- (i) non-compliance with Applicable Laws relating to health and safety; or
  - (ii) the creation by the Operator of a health or safety hazard to a worker or the environment which is contrary to Applicable Laws or contrary to the procedures established under subsection 3.15(3)(a),

then the Operator shall correct the Safety Deficiency to the satisfaction of Huron within the time frame determined by Huron acting reasonably but in any event within three (3) months of the identification of the Safety Deficiency.

- (c) If the Operator fails to correct the Safety Deficiency to the satisfaction of Huron within the time frame determined by Huron such failure shall be considered an Event of Default, and, Huron may, in their discretion, withhold from the Service Fee payable to the Operator twenty-five thousand dollars (\$25,000.00) for each month in which the Operator failed to correct the Safety Deficiency within the prescribed time frame, unless the Operator is using Best Efforts to correct such Safety Deficiency. A period of three (3) months or longer, shall not constitute Best Efforts as that phrase is used in this subsection. The withholding of payment of the Service Fee as described herein is in addition to the rights and remedies of Huron pursuant to Article 10.

### **3.16 Technical Support.**

The Operator shall provide all necessary technical support to ensure the performance of the Operator's obligations under this Amended Agreement and the proper management, Operation and Maintenance of the Facilities.

### **3.17 Accounting.**

- (a) The Operator shall maintain up-to-date financial records of activities related to the Facilities prepared in accordance with the accepted accounting standards.
- (b) Huron shall have the right to review the Operator's financial statements of activities related to the Facilities as they apply to the terms of this Amended Agreement. This review shall be completed by Huron itself or by an independent auditor appointed by Huron at Huron's expense, excluding expenses incurred by the Operator.

### **3.18 Litigation Support.**

- (a) The Operator shall provide to Huron at Huron's request, technical assistance in connection with actions, claims, suits, administrative or arbitration proceedings or investigations, which do not arise from neglect, misfeasance or nonfeasance on the Operator's part or on the part of its agents, workers or persons employed by the Operator or under its control, including subcontractors, whether such proceedings are pending, threatened, or already initiated.

- (b) Huron shall pay the Operator for the costs incurred for providing the services described in this Section 3.18 at rates to be agreed upon between the Parties. Upon the agreement of the Parties, such costs may be made as an Adjustment to the Service Fee pursuant to Section 8.4 of this Amended Agreement subject to the right of indemnification of Huron pursuant to Section 16.1.
- (c) In the event that Huron and the Operator cannot agree upon an appropriate rate to be paid for the services to be provided pursuant to this Section 3.18, either Huron or the Operator may refer the matter to dispute resolution pursuant to Article 17 of this Amended Agreement.

### **3.19 Operations and Maintenance Manuals.**

- (a) Huron shall provide to the Operator at the Start Date, the available Operations and Maintenance Manuals for the Facilities.
- (b) The Operator shall within six (6) months of the Start Date prepare revised and updated Operations and Maintenance Manuals as appropriate to reflect changes to Operations and Maintenance procedures for the Operating Period. The revised and updated Operations and Maintenance Manuals shall be to the reasonable satisfaction of Huron, and shall become the property of Huron.
- (c) Any operational changes made by the Operator must result in the corresponding changes and updates being made to the Operations and Maintenance Manuals and such changes and updates to the Operations and Maintenance Manuals must be made within sixty (60) days from the implementation of the operational change. Huron may withhold from the Service Fee payable to the Operator twenty-five thousand dollars (\$25,000.00) for each month the relevant changes and updates are delayed, and may deduct an additional ten thousand dollars (\$10,000.00) from the Incentive Payment after three (3) months delay by the Operator in completing the updates and changes.

### **3.20 Security.**

The Operator and Huron shall be jointly responsible to secure the Facilities against unauthorized access and theft or damage as follows:

- (a) The Operator shall be responsible for:
  - (i) security-related property maintenance, including but not limited to tree trimming along perimeter fencing and other maintenance to maintain camera sightlines;
  - (ii) exterior and interior lighting;
  - (iii) gate operators and gates;
  - (iv) doors and door hardware, excluding the lock cylinder; and



- (v) participating in and supporting security-related policies, procedures, and programs at the Facilities implemented by Huron.
- (b) Huron shall be responsible for:
- (i) The development and implementation of security-related policies and programs at the Facilities, including but not limited to the provision of security services;
  - (ii) The maintenance and repair of camera hardware and software;
  - (iii) The maintenance and repair of the access control system implemented by Huron, including but not limited to related hardware and software;
  - (iv) The lock cylinder mechanisms which are part of the access control systems implemented by Huron;
  - (v) All security-related computer hardware and software; and
  - (vi) The master key system implemented by Huron as part of the access control system.

### **3.21 Use of Subcontractors.**

Upon receipt of written notice from Huron at any time during the Term, the Operator shall not, at the sole discretion of Huron, employ or hire the services of a specified subcontractor to assist the Operator in the performance of its obligations under this Amended Agreement without the prior written consent of Huron, and such consent shall not be unreasonably withheld.

### **3.22 Human Rights Code.**

- (a) The Operator acknowledges that it has read and understood the *Human Rights Code*, R.S.O. 1990, c.H-19.
- (b) The Operator covenants and agrees to comply with the provisions of the *Human Rights Code* and all regulations and rules promulgated thereunder.
- (c) The Operator agrees to indemnify and save Huron harmless for liquidated damages assessed by a Governmental Authority arising from any breach or breaches of the *Human Rights Code* except where such breach is due to Huron's exercise of its rights under Section 3.21, or Uncontrollable Circumstances.
- (d) Any breach or breaches of the *Human Rights Code* by the Operator or any of its subcontractors may be considered an Event of Default by Huron, except where such breach or breaches arise from Huron's exercise of its rights pursuant to Section 3.21 of this Amended Agreement, or due to Uncontrollable Circumstances.

### **3.23 Workplace Safety and Insurance Act.**

- (a) The Operator clearly understands and agrees that it is not, nor is anyone hired by it, covered by Huron under the *Workplace Safety and Insurance Act*, 1997 and the Operator shall be responsible for and shall pay all dues and assessments payable under the *Workplace Safety and Insurance Act*, 1997 or any Act, whether Provincial or Federal, in respect of itself, its employees and operations, and shall furnish Huron if requested, with such satisfactory evidence that it has complied with the provisions of any such Acts. If the Operator fails to do so, Huron shall have the right to withhold payment of such sum or sums of money due to the Operator that would be sufficient to cover its default and Huron shall have the right to pay same. Huron is not the employer of the Operator or its personnel under any circumstances whatsoever.
- (b) The Operator shall during the Term provide Huron's Manager monthly with a Letter of Standing from the Workplace Safety and Insurance Board.

### **3.24 Innovation and Improvement.**

- (a) The Parties hereby agree and Huron expects the Operator to employ initiative and ability to optimize the Facilities' Operations and Maintenance, including but not limited to all Efficiency Improvements and Capital Improvements contemplated by this Amended Agreement. The Operator shall proactively seek out and propose innovative strategies to Huron to enhance performance of the operations and maintenance and to reduce the overall Operating and Maintenance Costs. The foregoing shall in no way result in an adverse impact on health and safety nor breach any Applicable Law and must at all times be carried out by the Operator by employing Best Practices.
- (b) Huron agrees to discuss the reward the Operator's initiative and innovation by savings-sharing formulae as set out in Article 7 hereof.

### **3.25 Drawings and Figures.**

The Operator shall within three (3) months of the Start Date compile all current Facility drawings and keep same on file in a drawing room. All of the drawings shall have been reprinted on new paper (i.e., original plant mylars and paper copies shall be reprinted on new paper). These documents shall be updated at least annually. The Operator will not be responsible for any costs of updating the drawings in electronic format. The Operator's obligation to maintain drawings and figures does not include the providing of engineering services and/or professional certifications.

## **ARTICLE 4 OPERATION AND MAINTENANCE OF THE FACILITIES**

### **4.1 Quantity of Potable Water.**

- (a) The Operator shall provide and treat the Raw Water at the WTP in order to produce Potable Water to supply Huron's transmission system at a rate necessary to maintain system pressures as determined by Huron from time to time and to maintain at all times water levels in reservoirs to meet the Water Supply System demands, provided, however,

that such system pressures, water levels and water demands remain within the design capabilities and capacities of the Facilities, as changed from time to time.

- (b) The Operator shall pump water to the pumping stations and reservoirs to maintain system pressures and water levels in reservoirs to maintain emergency and fire storage volumes.
- (c) The Operator is responsible for calibrating and reading all meters of the Huron system. For the monthly meter readings to ascertain the amount of Potable Water produced and supplied to the benefitting municipalities of the Huron system, the Operator is required to calibrate the meter and Huron shall be responsible for reading the meter.

#### **4.2 Huron's Potable Water Performance Criteria and Compliance Criteria.**

- (a) The Operator shall manage and operate the Facilities so as to produce a quality of Potable Water that at a minimum meets the Compliance Criteria and meets the standards of Potable Water as described in Huron's Potable Water Performance Criteria described herein and attached to this Amended Agreement as 0.
- (b) In the event of any conflict between any Compliance Criterion and Huron's Potable Water Performance Criterion the stricter Criterion shall apply.
- (c) The Operator acknowledges that there is a seasonal and periodic variation in Raw Water characteristics over the course of the year and that there shall be no Adjustment to the Service Fee in the event of any such variations in Raw Water characteristics provided such seasonal variations are not materially inconsistent with historical seasonal variations.

#### **4.3 Potable Water Performance.**

- (a) For the purposes of this Amended Agreement, the quality of Potable Water supplied by the WTP shall be determined using the sampling tests and frequency of tests required by the Municipal Drinking Water Licence, Applicable Laws, and the sampling tests and frequency of tests identified in 0 to this Amended Agreement.
- (b) The Operator must use Huron's laboratory information management system and must input all data necessary for the operation of such product and the Facility.
- (c) Throughout the Term of this Amended Agreement the Operator shall provide and maintain the necessary facilities and personnel at the WTP required to sample and test (where testing is the Operator's responsibility hereunder) Raw Water, Potable Water and residual wastewater in accordance with the testing requirements as set out in this Amended Agreement.
- (d) The Parties acknowledge that for the purposes of this Amended Agreement, the Operator's Potable Water Performance shall be determined by assessing the quality of Potable Water from the WTP as follows:
  - (i) continuous daily compliance with the Compliance Criteria;

- (ii) the “**Operator’s Cumulative Monthly Results**” shall be determined by calculating the parameters for quality of Potable Water on a cumulative monthly basis at the end of each month within a Contract Year;
- (iii) The Parties acknowledge that the Operator may not be able to produce a quality of Potable Water that meets or improves upon the parameters provided in Huron’s Potable Water Performance Criteria or the Compliance Criteria if it is prevented from doing so by the occurrence of an Uncontrollable Circumstance, variation in Raw Water quality or quantity materially inconsistent with historical seasonal variations, or Huron Fault. The Operator shall use its Best Efforts to continue to meet or improve upon the parameters provided in Huron’ Potable Water Performance Criteria and the Compliance Criteria during the occurrence of an Uncontrollable Circumstance, variation in Raw Water quality or quantity materially inconsistent with historical seasonal variations, or Huron Fault, notwithstanding the occurrence of such an event; and
- (iv) In the event of an Uncontrollable Circumstance, variation in Raw Water quality or quantity materially inconsistent with historical seasonal variations, or Huron Fault, the Operator shall be entitled to require an Adjustment to the Service Fee in accordance with Section 8.4 of this Amended Agreement to reflect any increase in the actual Operating and Maintenance Costs that the Operator can demonstrate has occurred as a result of the Uncontrollable Circumstance, variation in Raw Water quality or quantity, or, Huron Fault.

#### **4.4 Compliance Failures.**

- (a) The Parties agree that a Compliance Failure shall be deemed to have occurred when the Operator’s Actual Results exceed the maximum permissible values for that specified criterion and for the applicable time period as provided in the Compliance Criteria or when the Operator fails to comply with any other terms, conditions, instructions contained within the Compliance Criteria. A Compliance Failure shall be deemed not to have occurred if the Operator can demonstrate, and Huron determines that, such exceedance or non-compliance is a result of the occurrence of an Uncontrollable Circumstance, variation in Raw Water quality or quantity materially inconsistent with historical seasonal variations or Huron Fault.
- (b) The Party having knowledge of a Compliance Failure shall notify the other Party of a Compliance Failure immediately upon discovering the Compliance Failure.
- (c) Where a Party is obligated by law to inform a Governmental Authority of a contravention of any term or condition of a Municipal Drinking Water Licence or any other Permits and Licences, it shall notify the other Party immediately after informing such Governmental Authority.
- (d) The Operator shall take steps to rectify the situation giving rise to the Compliance Failure immediately and shall provide to Huron, within three Business Days of a Compliance Failure, an action plan including a schedule for implementation, to prevent the Compliance Failure from reoccurring.

- (e) The Managers shall meet to review the Compliance Failure identified by the Operator, and Huron shall approve, in its sole discretion, the remedial steps to be taken by the Operator, if any.
- (f) If the Operator fails to take steps to correct the Compliance Failure immediately, such failure shall be considered an Event of Default and Huron may, in its sole discretion, exercise its rights to terminate this Agreement pursuant to Article 10 of this Agreement. In the alternative, and in its sole discretion, Huron may deduct up to one hundred thousand dollars (\$100,000.00) from the Incentive Payment and may, at its sole discretion, withhold for a period of up to one year up to one hundred thousand dollars (\$100,000.00) from the monthly payment of the Service Fee.
- (g) Where the Operator demonstrates and Huron determines that the Compliance Failure has resulted from the occurrence of an Uncontrollable Circumstance, variation in Raw Water quality or quantity materially inconsistent with historical seasonal variations or Huron Fault, then Huron shall not have the right to terminate this Amended Agreement nor make any deduction from the Service Fee pursuant to subsection 4.4(f) above.
- (h) Where the Operator disagrees with or disputes Huron's decision on whether a Compliance Failure has occurred, the cause of such Compliance Failure, the remedial steps to be taken to address the Compliance Failure or the assessment of deductions, then the Operator may refer the matters in dispute to dispute resolution pursuant to Article 17 of this Amended Agreement.

#### **4.5 Cumulative Monthly Potable Water Quality Performance Failures.**

- (a) Potable Water quality performance shall be measured at the end of each Contract Year. The Parties acknowledge that it is important that any negative trends in Potable Water quality are identified prior to the end of a Contract Year. The Parties also agree that the Operator's Potable Water Quality Performance shall be measured on a cumulative monthly basis against Huron's Potable Water Performance Criteria in 0 to this Amended Agreement.
- (b) If the Operator's Cumulative Monthly Results at the end of any month in a Contract Year exceed the monthly performance criteria a "Cumulative Monthly Potable Water Quality Performance Failure" shall be deemed to have occurred.
- (c) If Huron is of the opinion that a Cumulative Monthly Potable Water Quality Performance Failure has occurred in a given month at the WTP, then Huron shall give written notice to the Operator specifying the particulars of the Cumulative Monthly Potable Water Quality Performance Failure. If there have been two (2) or more Cumulative Monthly Potable Water Quality Performance Failures then Huron may, in its discretion, deduct fifteen thousand dollars (\$15,000.00) from the Incentive Payment. If there have been three (3) consecutive Cumulative Monthly Potable Water Quality Performance Failures for any one parameter then it shall be considered an Event of Default.
- (d) The Managers shall meet to review each Cumulative Monthly Potable Water Quality Performance Failure identified by Huron no later than seven days following delivery of the notice of the Cumulative Monthly Potable Water Quality Performance Failure. At the

meeting, the Operator shall recommend to Huron the appropriate remedial steps it proposes to take and Huron shall review the Operator's recommendations. Huron shall notify the Operator as to whether Huron accepts or rejects the Operator's recommendations and as to whether Huron requires further recommendations from the Operator.

- (e) A failure by the Operator to provide the Operator's Cumulative Monthly Results to Huron in the Monthly Operations and Maintenance Report pursuant to subsection 3.7(3)(b) will constitute a Cumulative Monthly Potable Water Quality Performance Failure.
- (f) If the Operator fails to correct the Cumulative Monthly Potable Water Quality Performance Failure within two months of Huron's acceptance of the Operator's recommendations, such failure shall be considered an Event of Default, and Huron may exercise its rights to terminate this Amended Agreement pursuant to Article 10 of this Amended Agreement.
- (g) Notwithstanding subsection 4.5(c) and 4.5(f) above, Huron shall not be entitled to withhold payment of the Service Fee pursuant to subsection 4.5(c) or to terminate this Amended Agreement pursuant to subsection 4.5(f) if the Operator demonstrates, and Huron determines that, the Cumulative Monthly Potable Water Quality Performance Failure has resulted from the occurrence of an Uncontrollable Circumstance or Huron Fault in which case the Cumulative Monthly Potable Water Quality Performance Failure shall be deemed not to have occurred.
- (h) If the Operator does not agree with Huron's determination as to whether an Cumulative Monthly Potable Water Quality Performance Failure has occurred, the cause of such Cumulative Monthly Potable Water Quality Performance Failure (including, without limitation, a determination that a Cumulative Monthly Potable Water Quality Performance Failure is caused by an Uncontrollable Circumstance) or the remedial steps to be taken to address the Cumulative Monthly Potable Water Quality Performance Failure, then either Huron or the Operator may refer the matter in dispute to dispute resolution in accordance with Article 17.

#### **4.6 Changes to Huron's Potable Water Quality Performance Criteria.**

- (a) During the Term of this Amended Agreement, Huron may change any of the criteria identified in Huron's Potable Water Quality Performance Criteria, or include parameters not previously identified in Huron's Potable Water Quality Performance Criteria. In the event Huron change a criterion in Huron's Potable Water Quality Performance Criteria, the Operator or Huron shall be entitled to require an Adjustment to the Service Fee pursuant to Section 8.4 of this Amended Agreement to reflect any increase or decrease in the actual Operating and Maintenance Costs that the Operator, or Huron with the assistance of the Operator, can demonstrate have occurred as a result of the change to Huron's Potable Water Quality Performance Criteria.
- (b) Huron and the Operator further acknowledge and agree that any changes made to Huron's Potable Water Quality Performance Criteria may be either temporary or permanent.

#### **4.7 Changes to Compliance Criteria.**

During the Term of this Amended Agreement, Huron may require changes to all or some of the criteria identified in the Compliance Criteria, or to include parameters not previously identified in the Compliance Criteria, as a result of new or amended Municipal Drinking Water Licence, Applicable Laws, or new MOE policies or guidelines which may be applicable to the Facilities. In the event that Huron changes the criteria in the Compliance Criteria, the Operator or Huron shall be entitled to require an Adjustment to the Service Fee pursuant to Section 8.4 of this Amended Agreement to reflect any increase or decrease in the actual Operating and Maintenance Costs that the Operator, or Huron with the assistance of the Operator, can demonstrate have occurred as a result of the changes in the Compliance Criteria.

### **ARTICLE 5 PROTECTION OF ASSETS AND MAINTENANCE FACILITIES**

#### **GENERAL**

##### **5.1 Background.**

- (a) The protection and maintenance of assets is of primary importance to Huron. The Operator shall have full responsibility for the maintenance of the Facilities for the Term of this Amended Agreement, except as provided otherwise herein. The Operator shall be responsible for performing Routine Maintenance, Preventative Maintenance and Corrective Maintenance of the Facilities, all in a manner that is cost effective and in accordance with generally accepted principles and practices for water treatment in Ontario, the Municipal Drinking Water Licence and all Applicable Laws.
- (b) The Parties further acknowledge that, for the purpose of this Article, the Facilities shall be divided into two general categories of assets namely: (a) Civil, Structural and Site-Related Assets; and (b) Mechanical and Electrical Equipment. Each category of assets shall be subject to its own regimen of asset protection and Routine Maintenance.
- (c) The Operator shall provide all personnel, materials and services necessary to maintain the Facilities, structures, grounds, vehicles, equipment, mechanical, electrical, HVAC, instrumentation, communication, computer and SCADA system adequately to ensure efficiency, long-term reliability and conservation of capital investment. The Operator shall implement its maintenance in accordance with industry standards, equipment manufacturers' instructions together with existing operations and maintenance manuals so that upon the Termination Date the Facilities are returned to Huron in the same or better condition than at the Start Date, normal wear and tear excepted. The Operator shall make provisions for enforcing existing equipment warranties and guarantees, and for maintaining all warranties on new equipment purchased after the Effective Date.
- (d) The Operator shall include specialized testing as part of their preventive and predictive maintenance program. The specialized testing shall include, but not be limited to, vibration testing and analysis, wear particle analysis or oil analysis, infrared thermography, ultrasonic testing, laser alignment systems, performance monitoring, non-destructive testing, image scoping systems, ultrasonic thickness gauges, structural failure detection, videography and air quality monitoring.

**CIVIL, STRUCTURAL AND SITE-RELATED ASSETS****5.2 Condition Surveys.****(1) Initial Condition Survey.**

- (a) The Operator shall within one (1) year of the Start Date together with Huron drain selected reservoirs, tanks, and vessels that cannot normally be inspected at the Facilities and undertake a comprehensive survey of these structures and Huron will identify any corrections or repairs required to correct major deficiencies within a time frame to be developed by Huron. Huron may choose, at its expense, to correct and repair the deficiencies and may undertake any of the correction or repairs within a time frame to be developed by Huron. The Operator shall cooperate with Huron in the scheduling and implementation of all such repairs, at Huron's cost and there will be no adjustment to the Service Fee for any such accommodation.
- (b) The Operator was required in its Proposal to address, in detail, all deficiencies in the Facilities which the Operator identified from its site visits prior to submission of its Proposal, including any deficiencies in Civil and Structural Assets identified by the Operator. The Operator certified in its Proposal, that it had identified in its Proposal, all deficiencies which could reasonably have been identified, by an experienced Operator, within the time allotted for the aforementioned site visits.
- (c) Prior to the Start Date the Operator shall make such further inspections of the Facilities as it deems necessary to verify the deficiencies identified in its Proposal, and then shall prepare an Initial Condition Survey of the Civil and Structural Assets within six (6) months of the Start Date. The Operator shall be required by Huron to certify that any and all deficiencies in the Civil and Structural Assets have been identified in the Initial Condition Survey.
- (d) Where there are, in the opinion of Huron, significant or material discrepancies or differences between the deficiencies identified by the Operator in its Proposal, and the deficiencies identified in the Initial Condition Survey, such discrepancies or differences shall constitute an Event of Default, except where such discrepancies could not have been reasonably detected in site visits conducted prior to the submission of the Operator's Proposal.
- (e) Huron shall review all deficiencies identified by the Operator pursuant to subsections 5.2(1)(a), 5.2(1)(b) and 5.2(1)(c) above, and will assess whether to correct or repair the deficiencies. Huron may choose, at its expense, to correct and repair such deficiencies and may undertake any of the correction or repairs within a time frame to be developed by Huron; provided, however, that Huron shall, at its expense, within a reasonable time frame to be developed by Huron, correct and repair the deficiencies to the extent necessary in order for (i) the Facilities to comply with Applicable Laws or (ii) the Civil, Structural and Site-Related Assets to which the deficiency relates to be in good working order. The Operator shall cooperate with Huron in the scheduling and implementation of all such repairs, and there will be no adjustment to the Service Fee for any such accommodation unless such accommodation would materially adversely affect the Operator's ability to faithfully perform its obligations under this Amended Agreement.



- (f) Except for the deficiencies Huron is required to correct or repair pursuant to subsection 5.2(1)(e), Huron may decide not to correct or repair the deficiencies identified by the Operator pursuant to subsections 5.2(1)(a), 5.2(1)(b) and 5.2(1)(c), in which case the Operator will not be responsible for correcting or repairing these deficiencies prior to the end of this Amended Agreement.
- (2) **Final Condition Survey.**
- (a) In the Contract Year preceding the Final Contract Year, Huron and the Operator shall conduct an inspection of all Civil, Structural and Site-related Assets and prepare a “**Final Condition Survey**” of all Facilities. The sub-consultant engaged by the Operator in connection with the Final Condition Survey and the Final Condition Survey Report must be acceptable to Huron, acting reasonably. The Operator shall submit the Final Condition Survey Report to Huron at least six (6) months before expiry of this Amended Agreement, or if the Term of this Amended Agreement is extended, then six (6) months prior to the expiry of the Term as amended.
- (b) The Operator shall, at no cost to Huron, drain all tanks, chambers or vessels that cannot normally be inspected at the Facilities and any of the Pumping Stations at least nine (9) months prior to expiry of this Amended Agreement to conduct an inspection of the aforementioned structures.
- (c) Based on the results of the Final Condition Survey, Huron shall prepare a list of deficiencies identified in the Final Condition Survey and submit it to the Operator.
- (d) Based on the list of deficiencies prepared by Huron, the Operator shall prepare a plan for remediation to correct the deficiencies and submit the plan to Huron no later than six (6) months before the expiry of this Amended Agreement.
- (e) The Operator shall correct or repair all the deficiencies identified in the Final Condition Survey no later than three (3) months prior to the expiration of this Amended Agreement; provided, however, that the Operator shall have no obligation to correct or repair any deficiency which (i) is not material, (ii) results from normal wear and tear and provided the Operator has complied with its obligations pursuant to this Amended Agreement to repair and maintain the Facilities, (iii) results from Uncontrollable Circumstances or (iv) was identified in the Proposal or the Initial Condition Survey and not corrected or repaired by Huron.
- (f) If the Operator has not corrected or repaired the above deficiencies within the three (3) months described in subsection 5.2(2)(e) above, Huron may, at its discretion, withhold the estimated cost of correcting or repairing the deficiencies plus management fees, plus five per cent (5%), as determined by Huron, from any of the last three monthly payments of the Service Fee until the Operator has performed the corrections or repairs to the satisfaction of Huron.
- (g) The Operator shall have the right to contest Huron’s determination or identification of any deficiencies hereunder, and the requirement to repair same, by submitting the matter to dispute resolution pursuant to Article 17.

- (h) Under no circumstances shall the Operator be responsible for deficiencies caused by an Uncontrollable Circumstance or Huron Fault or deficiencies identified under Section 5.2 and not corrected or repaired by Huron.

### **5.3 Routine Maintenance of Civil, Structural and Site-Related Assets.**

#### **(1) Civil Maintenance Program.**

- (a) The Operator shall prepare and submit for approval within three (3) months from the Start Date, the Operator's maintenance management program describing, in general terms, all Preventative and Corrective Maintenance which is required for the Civil, Structural and Site-Related Assets (the "**Civil Maintenance Program**").
- (b) Huron shall pay for the amount in excess of thirty thousand dollars (\$30,000.00) for an Incident of Repairs and Replacement or Corrective Maintenance where the cost of materials and contract labour is in excess of thirty thousand dollars (\$30,000.00) where such Repairs and Replacement or Corrective Maintenance:
  - (i) are caused by events outside the control of Operator;
  - (ii) are not as result of Operator's negligence or failure to perform the Corrective Maintenance and Preventative Maintenance pursuant to the Civil Maintenance Program and the Civil Maintenance Specifications; and
  - (iii) the costs for the Repairs and Replacement or Corrective Maintenance have, in the opinion of Huron, been reasonably incurred by the Operator.
- (c) For the purpose of this Section 5.3, an Incident of Repairs and Replacement or Corrective Maintenance shall mean:
  - (i) a random failure of a single item of Civil, Structural and Site-Related Assets or a part thereof, that causes an adverse impact either immediately, or in the long term, upon the integrity of the functionality of that item or part thereof, and shall include the repair of the transmission pipeline where one or, where two pipes are adjacent to each other within the same excavation, two pipes are replaced due to the detected degradation of reinforcing wires within the concrete pressure pipe; or
  - (ii) a failure of single, or multiple, items of Civil, Structural and Site-Related Assets, the failure of which can be shown to be caused by a specific event which is outside the control of the Operator, including an Uncontrollable Circumstance or Huron Fault, and is outside the normal operating conditions for the particular item or items of Civil, Structural and Site-Related Assets.
- (d) The Operator shall be required to obtain three written competitive bids for any failures or deficiencies where the value of the materials is estimated to be thirty thousand dollars (\$30,000.00) or over and submit the bids to Huron for approval, except where an emergency situation occurs.

- (e) In the case of an emergency situation and where reasonably possible, the Operator shall provide Huron with an estimate of the cost of the Repairs and Replacement or Corrective Maintenance required to correct the emergency situation and shall obtain the written consent of Huron before implementing the Repairs and Replacement or Corrective Maintenance.
- (f) The Operator shall not undertake Repairs and Replacement or Corrective Maintenance where the value of the materials for an Incident of Repairs and Replacement or Corrective Maintenance is estimated to exceed thirty thousand dollars (\$30,000.00) in total cost without the prior written consent of Huron.
- (g) Where the Operator disagrees with or disputes Huron's determination of an Incident of Repairs and Replacement or Corrective Maintenance or whether the Operator's expenditures for an Incident of Repairs and Replacement or Corrective Maintenance have been reasonably incurred, then the Operator may refer the matter to dispute resolution pursuant to Article 17 of this Amended Agreement.
- (h) The amount of thirty thousand dollars (\$30,000.00) specified in this Section 5.3 shall be adjusted as of January 1st of each Contract Year by the Consumer Price Index.
- (i) The Operator shall not apply a mark-up or administrative charge, and Huron shall not be required to pay a mark-up or administrative charge, to that portion of the cost of materials and contract labour in excess of thirty thousand dollars (\$30,000.00) where the cost of materials and contract labour for an Incident of Repairs and Replacement or Corrective Maintenance exceeds thirty thousand dollars (\$30,000.00), and where Huron is required to pay for a portion of the Incident of Repairs and Replacement or Corrective Maintenance in accordance with Subsection 5.3(1)(b).
- (j) Effective as of January 1, 2023, the amount of thirty thousand dollars (\$30,000.00) specified in this Section 5.3 which has been adjusted pursuant to subsection 5.3(1)(h) of this Agreement shall become thirty thousand dollars (\$30,000.00) and such amount shall thereafter be adjusted as of January 1st of each Contract Year by the Consumer Price Index.

## **MECHANICAL AND ELECTRICAL EQUIPMENT**

### **5.4 Inspections and Surveys.**

#### **(1) Inventory and Baseline Survey.**

- (a) Huron's Request for Proposals, required the Operator in its Proposal to address, in detail, all deficiencies in the Facilities which the Operator identified from its site visits prior to submission of its Proposal, including any deficiencies in Mechanical and Electrical Equipment. The Operator certified in its Proposal, that it had identified in its Proposal, all deficiencies which could reasonably have been identified, by an experienced Operator, within the time allotted for the aforementioned site visits.
- (b) Huron shall make available to the Operator, Equipment Operating and Maintenance Manuals, as well as drawings, calculations, maintenance manuals, operational records,

logs, reports, submittals, test records, repair records, cost records, energy consumption records, specifications which may be in Huron's possession related to the design, condition or operation of the Facilities. The Operator shall take no action which would invalidate or void such Documents.

- (c) Within six (6) months of the Start Date, the Operator shall undertake and complete a comprehensive inspection survey and inventory of all mechanical and electrical equipment (the "**Inventory and Baseline Survey**") to verify and supplement Huron's information.
  - (d) The Inventory and Baseline Survey shall include, but not be limited to, the following:
    - (i) Collect all necessary information to support the implementation and maintenance of a Computerized Maintenance Management System.
    - (ii) Set up a bar coding system that will form a numbering system for the CMMS.
    - (iii) Carry out a condition survey of all major equipment and list the deficiencies associated with all Mechanical and Electrical Equipment. The Operator shall conduct the specialized testing listed in subsection 5.1(d) as part of the Inventory and Baseline Survey.
  - (e) The lack of or poor quality of any background information or documentation for the Mechanical and Electrical Equipment shall not prevent the Operator from completing the Inventory and Baseline Survey.
  - (f) The Operator shall submit the Inventory and Baseline Survey prepared by the Operator to Huron for review within six (6) months of the Start Date.
  - (g) Huron shall pay the Operator \$292,866.00 for the preparation of the Inventory and Baseline Survey upon the acceptance by Huron, such payment being outside of the Service Fee described in Article 8 of this Amended Agreement. The fee includes the price as set out in the Proposal adjusted to include the costs associated with dechlorination/chlorination/confined space entry, rescue teams and bacteriological testing.
  - (h) Where there are, in the opinion of Huron, significant or material discrepancies or differences between the deficiencies identified by the Operator in its Proposal, and the deficiencies identified in the Inventory and Baseline Survey, and where such deficiencies were not detectable on site visits conducted prior to submission of the Proposal by a reasonably experienced operator purporting to have special expertise in the operation of the Facilities Huron may withhold all or part of the amount payable by Huron pursuant to subsection 5.4(1)(g) above.
- (2) Deficiencies Identified from Inventory and Baseline Survey.**
- (a) Huron shall review the mechanical, and electrical deficiencies listed in the Inventory and Baseline Survey and shall establish whether any of the Mechanical and Electrical Equipment should be repaired, replaced or upgraded.

- (b) Huron may decide to address any or all of the deficiencies identified at its expense. Huron makes no representations or warranties that the upgrades, repairs or replacement to the Mechanical and Electrical Equipment will be undertaken; provided, however, that Huron shall, at its expense, within a reasonable time frame to be developed by Huron repair, replace or upgrade the deficiencies to the extent necessary in order for (i) the Facilities to comply with Applicable Laws or (ii) the Mechanical and Electrical Equipment to which the deficiency relates to be in good working order.
- (c) If Huron decides not to correct or repair a deficiency identified in the Inventory and Baseline Survey, and the piece of Mechanical or Electrical Equipment which was identified as deficient fails within the first year, it shall be repaired or replaced by Huron at no cost to the Operator.

**(3) Annual Review of Mechanical and Electrical Equipment.**

The Operator shall conduct an annual review of the Mechanical and Electrical Equipment, using the Inventory and Baseline Survey as a guide, by April 30 of each Contract Year. The Operator shall report on the results of this review as part of the Annual Asset Report pursuant to subsection 3.7(7) of this Amended Agreement.

**(4) Final Inventory and Survey.**

- (a) Nine (9) months prior to expiry of this Amended Agreement Huron and the Operator shall conduct an inspection of all Mechanical and Electrical Equipment and the Operator shall prepare a Final Inventory and Survey of all the mechanical and electrical equipment. The Operator shall conduct the specialized testing listed in subsection 5.1(d) as part of the Final Inventory and Survey with such specialized testing to be sufficient to permit comparison to the Inventory and Baseline Survey for the purposes of this subsection 5.4(4).
- (b) The Operator shall prepare a plan for remediation to correct the deficiencies identified in the Final Inventory and Survey and shall submit the plan to Huron no later than six (6) months prior to the expiration of the Term of this Amended Agreement.
- (c) The Operator shall at its sole cost correct or repair all deficiencies identified in the Final Inventory and Survey no later than three (3) months prior to the expiration of this Amended Agreement; provided, however, that the Operator shall have no obligation to correct or repair any deficiency which (i) is not material, (ii) results from normal wear and tear and provided that the Operator had complied with its obligations pursuant to this Amended Agreement to repair and maintain the mechanical and electrical equipment, (iii) results from Uncontrollable Circumstances or (iv) was identified in the Proposal or the Inventory and Baseline Survey and not corrected or repaired by Huron.
- (d) If the Operator has not corrected or repaired the above deficiencies for which it is responsible under subsection 5.5(a)(c) within the three (3) month period stipulated above for correcting such deficiencies, Huron reserves the right to withhold the estimated cost of correcting or repairing the deficiencies plus management fees plus five per cent (5%) from the Operator's Service Fee for the remainder of the Term until the Operator has performed the corrections or repairs to the satisfaction of Huron.

- (e) The Operator shall have the right to contest Huron's determination or identification of any deficiencies hereunder, and the requirement to repair same, by submitting the matter to dispute resolution pursuant to Article 17.
- (f) Under no circumstances shall the Operator be responsible for deficiencies caused by an Uncontrollable Circumstance or Huron Fault.
- (g) Huron shall pay the Operator three hundred thousand dollars (\$300,000.00) for the preparation of the Final Inventory and Survey upon the acceptance by Huron, such payment being outside of the Service Fee described in Article 8 of this Amended Agreement. The fee includes the price as set out in the Proposal adjusted to include the costs associated with dechlorination/chlorination/confined space entry, rescue teams and bacteriological testing.

#### **5.5 Routine Maintenance of Mechanical and Electrical Equipment.**

- (a) Based upon the equipment's' intended use and manufacturer's performance specifications together with any available background information including operating and maintenance manuals and specifications and the Inventory and Baseline Survey referred to in subsection 5.4(1), the Operator shall update the Preventative Maintenance program for the Mechanical and Electrical Equipment (the "**Equipment PM Program**") and submit it to Huron for review and approval within three (3) months of the Start Date.
- (b) The lack or poor quality of available background information for the Mechanical and Electrical Equipment shall not prevent the Operator from completing the Equipment PM Program or from performing any Preventative Maintenance as required pursuant to the provisions of this Amended Agreement.
- (c) Throughout the Term of this Amended Agreement, the Operator shall perform all Preventative Maintenance on the Mechanical and Electrical Equipment in accordance with the Equipment PM Program.
- (d) Throughout the Term of this Amended Agreement, the Operator may request changes to the Equipment PM Program. Huron shall review the Operator's requests and determine, in its discretion, whether such changes should be made. The Operator shall also update the Equipment PM Program periodically in accordance with a protocol to be agreed upon by Huron.
- (e) The Operator shall ensure that the backlog for all Preventative Maintenance does not exceed two months for the first six (6) months after the Start Date and one (1) month for the balance of the Term of this Amended Agreement.
- (f) Unless the Operator is able to demonstrate to Huron that it has been unable to access the necessary parts, having made all reasonable best efforts to access such parts, where the backlog for Preventative Maintenance exceeds the values in subsection 5.5(e), Huron may, in its sole discretion, withhold two hundred thousand dollars (\$200,000.00) of the monthly payment of the Service Fee. The payment shall be withheld for the month in which the performance was below the required level and shall only be paid to the Operator when

the required performance standard has been achieved in any two (2) successive months, following the month in which payment was withheld.

## **5.6 Repairs and Replacement of Mechanical and Electrical Equipment.**

- (a) The Operator shall perform all Repairs and Replacement to the Mechanical and Electrical Equipment, including in the event of an emergency situation, in order to maintain the equipment in good working order.
- (b) The Operator shall be responsible for the first thirty thousand dollars (\$30,000.00) of material or Mechanical or Electrical Equipment costs and contract labour costs, excluding Operator labour costs or Operator equipment costs, related to each Incident of Repairs and Replacement to the Mechanical and Electrical Equipment.
- (c) For the purpose of this Amended Agreement, an Incident of Repairs and Replacement shall mean:
  - (i) a random failure of a single item of Mechanical and Electrical Equipment. Such item will be any piece of Mechanical and Electrical Equipment which is manufactured and sold as a self-contained functional unit. Items would include, but not be limited to, a pump, a motor, a valve, an actuator, or a measurement probe; or
  - (ii) a failure of single, or multiple, items Mechanical and Electrical Equipment, the failure of which can be shown to be caused by a specific event which is outside the control of the Operator, including an Uncontrollable Circumstance or Huron Fault, and is outside the normal operating conditions for the particular item or items of Mechanical and Electrical Equipment.
- (d) Huron shall pay that portion in excess of thirty thousand dollars (\$30,000.00) of each Incident of Repairs and Replacement where material, contract labour or Mechanical or Electrical Equipment costs and contract labour costs exceed thirty thousand dollars (\$30,000.00) providing the following conditions are met:
  - (i) the Operator has performed all Preventative Maintenance as recommended by the equipment suppliers, the Facilities designer, and approved by Huron as part of the Equipment PM Program and all Monthly Operations and Maintenance Reports have been produced by the Operator pursuant to subsection 3.7(4) of this Amended Agreement;
  - (ii) the Mechanical and Electrical Equipment has been operated within the manufacturer's limitations;
  - (iii) the claim by the Operator for material or equipment cost is in excess of thirty thousand dollars (\$30,000.00) for an occurrence on a single unit of Mechanical and Electrical Equipment;

- (iv) the Incident of Repairs and Replacement is clearly documented, outlining the work required, the parts to be purchased, the sub-contracted services necessary, proposed sub-contractor, the reason for occurrence, and cost;
  - (v) the costs of the Repairs and Replacement have, in the opinion of Huron, been reasonably incurred; and
  - (vi) the Operator shall pay the first thirty thousand dollars (\$30,000.00) of material or equipment costs of each Incident of Repairs and Replacement.
- (e) Huron may elect to have the Operator perform the work on terms to be agreed upon by the Parties or have an outside contractor perform the work or competitively bid the work.
  - (f) If the Operator fails to meet any of the conditions described in subsection 5.6(d) above, the Operator shall pay for that portion of the cost of the Incident of Repairs and Replacement in excess of \$30,000 which resulted from the failure of the Operator meet any of such conditions.
  - (g) Huron shall not pay for any Incident of Repairs and Replacements in excess of thirty thousand dollars (\$30,000.00) where the Operator has failed to maintain and provide adequate Quarterly Contract Reports pursuant to subsection 3.7(5) of this Amended Agreement to the extent that the Operator's failure to so maintain and provide adequate Quarterly Contract Reports caused the cost of any Incident of Repairs and Replacements to exceed thirty thousand dollars (\$30,000.00).
  - (h) Where the Operator disagrees with or disputes Huron's determination of an Incident of Repairs and Replacement, or whether the Operator's expenditures for an Incident of Repairs and Replacement have been reasonably incurred, then the Operator may refer the matter to dispute resolution pursuant to Article 17 of this Amended Agreement.
  - (i) The amount of thirty thousand dollars (\$30,000.00) specified in this section shall be adjusted as of January 1st of each Contract Year by the Consumer Price Index.
  - (j) The Operator shall not apply a mark-up or administrative charge, and Huron shall not be required to pay a mark-up or administrative charge, to that portion of the cost of materials and contract labour in excess of thirty thousand dollars (\$30,000.00) where the cost of materials and contract labour for an Incident of Repairs and Replacement exceeds thirty thousand dollars (\$30,000.00), and where Huron is required to pay for a portion of the Incident of Repairs and Replacement in accordance with Subsection 5.6(d) of this Agreement.
  - (k) Effective as of January 1, 2023, the amount of thirty thousand dollars (\$30,000.00) specified in this Section 5.3 which has been adjusted pursuant to subsection 5.3(1)(h) of this Agreement shall become thirty thousand dollars (\$30,000.00) and such amount shall thereafter be adjusted as of January 1st of each Contract Year by the Consumer Price Index.



### **5.7 Huron's Equipment Replacements.**

- (a) Throughout the Term of this Amended Agreement, Huron at its expense may replace existing Mechanical and Electrical Equipment to enhance the operation of the Facilities or to upgrade outdated Mechanical and Electrical Equipment ("**Huron's Equipment Replacements**").
- (b) The Operator shall accommodate Huron and any of its contractors to allow for the implementation of Huron's Equipment Replacements and shall not claim any Adjustment to the Service Fee as a result of reasonable disruption to the operation of the Facilities from Huron's Equipment Replacements, unless such disruption materially adversely affects the Operator's ability to perform its obligations under this Amended Agreement. Huron shall use Best Efforts to minimize any such disruption.
- (c) Where Huron's Equipment Replacement is undertaken by the Operator at the request of Huron, the Operator shall be entitled to apply a markup of 15% on the first ten thousand dollars (\$10,000.00) of the cost of materials and contract labour, 10% on the amounts between ten thousand dollars (\$10,000.00) and fifty thousand dollars (\$50,000.00) and 5% on the amount in excess of fifty thousand dollars (\$50,000.00) for materials and contract labour.

### **5.8 Further Testing by Huron.**

From time to time, Huron may wish to undertake specialized testing including, but not limited to vibration, thermographic and electrical analysis, instrumentation maintenance and oil and grease sampling to confirm the level of Preventative Maintenance performed by the Operator. The Operator shall provide Huron with access to the Mechanical and Electrical Equipment to undertake such activities. The Operator shall cover Huron's specialized testing costs if it is determined that the Equipment has not been maintained as per the Equipment Manufacturers Specifications or that Routine Maintenance has not been performed to the satisfaction of Huron, acting reasonably.

## **REPORTING, DOCUMENTATION AND QUALITY ASSURANCE**

### **5.9 Computerized Maintenance Management System**

- (a) The Operator will purchase licences as necessary for access to Huron's Computerized Maintenance Management System ("**CMMS**") for the Operator's use in Lake Huron Water Supply System. The Operator shall implement and install the CMMS licence and software that will allow the Operator to schedule and record all Corrective, Predictive and Preventive Maintenance to the Civil, Structural and Site-Related Assets and the Mechanical and Electrical Equipment.
- (b) The Operator shall be responsible for all costs associated with using and maintaining the CMMS.
- (c) The Operator shall develop and implement a comprehensive bar coding system for all equipment to populate the CMMS. The Operator shall maintain and update the CMMS

including data entry, troubleshooting, backup and all necessary software upgrades for the duration of this Amended Agreement.

- (d) Huron shall have direct on-line access at all times to Huron's CMMS maintained by the Operator for monitoring purposes only. Huron shall be responsible for obtaining and maintaining any licences required for its access to Huron's CMMS.
- (e) The Operator shall enter one hundred percent (100%) of all necessary data in the CMMS within three (3) months of the Start Date. All data in connection with the construction, installation, and/or implementation of new equipment must be entered within three (3) months of installation of the new equipment.
- (f) Huron may, in its discretion, withhold twenty thousand dollars (\$20,000.00) of the monthly payment of the Service Fee if the Operator does not achieve the performance levels stated in subsection 5.9(e) above. Huron shall withhold the payment for the month in which the performance was below the required level and the payment shall only be paid to the Operator in the month when the required performance standard has been achieved, following the month in which payment was withheld.
- (g) Huron shall be permitted, at its own expense, to have complete and full access to the CMMS maintained by the Operator at a location or locations specified by Huron's Manager.
- (h) The CMMS, including any database(s) and data referred to herein and all associated licences, copyrights and other intellectual property rights shall be the property of Huron and shall remain with Huron upon the termination or completion of this Amended Agreement. Upon termination of this Agreement, the Operator shall return to Huron the data and any database(s) in its electronic format.

#### **5.10 Asset Management Program.**

- (a) The Operator shall validate and update the current information in its Asset Management Program, including the rolling Equipment Renewal Program, that will provide Huron with the necessary information to meet its obligations with respect to PSAB 3150 requirements. This program must address specific work tasks for developing asset management practices, inventorying of assets and implementation of a fully integrated, secure and accessible information system.
- (b) The Operator shall, within forty-five (45) days, of the Start Date review and update Huron's Asset Management Program. The Asset Management Program should include but not be limited to the following:
  - (i) Classification of the inventory for PSAB 3150 requirements. All assets must be classified into appropriate asset groups;
  - (ii) Assist with the strategy for collecting base inventory data;

- (iii) Assist with the validation of the current inventory records. Review all of the assets and infrastructure records stored in various data bases and validate against the physical asset;
  - (iv) Assist with the development and validation that the processes are in place and being followed to collect changes to the asset inventory including the purchase of new assets, changes to assets;
  - (v) Assist with the development of the processes for regular condition assessments that can easily be used to update the inventory system; and
  - (vi) Review the current use of the CMMS to assess its ability to support both PSAB 3150 reporting requirements and advanced asset management practices.
- (c) The Operator shall, as part of the Asset Management Program assist Huron with the development of an Equipment Renewal Program. The Equipment Renewal Program shall detail the replacement program at the Facilities for such equipment and systems which are beyond their useful life, for the purpose of maintaining a high level of reliability, and availability of the Facilities during the Term.
- (d) The Equipment Renewal Program shall:
- (i) list major Assets including equipment and systems recommended to be replaced;
  - (ii) provide the schedule during the Term for replacement of those Assets;
  - (iii) the rationale for the replacement of those Assets, including priority and criticality of the replacement; and
  - (iv) the anticipated cost of replacement of those Assets.
- (e) The Operator shall update the Equipment Renewal Program on an annual basis and shall, prior to May 31 of each Contract Year following the First Contract Year, provide Huron with an updated Equipment Renewal Program. At a minimum, the Operator shall update the information required to be included in the Equipment Renewal Program for the next five (5) years of the Equipment Renewal Program. The updated Equipment Renewal Program shall identify any changes to the anticipated cost of replacement of specified Assets, and shall include a rationale by the Operator for any changes from the Equipment Renewal Program provided to Huron for the previous Contract Year.

#### **5.11 Calibration of Flow Measurement.**

The Operator shall conduct, at a minimum, annual testing and calibration of all flow measuring and sampling equipment required by the Municipal Drinking Water Licence using a qualified, independent firm and shall prepare a report outlining the status of all flow measuring and sampling equipment to be included in the Annual Operating Report. The Operator shall implement any remedial action required to ensure the proper calibration of this equipment.

### **5.12 Warranties.**

Huron and the Operator shall cooperate in enforcing all warranties and warranty rights with respect to the Civil, Structural and Site-Related Assets and all maintenance contracts with respect to the Mechanical and Electrical Equipment installed in the Facilities prior to the Start Date and during the Term of this Amended Agreement and generally in all claims to be made against third parties.

## **ARTICLE 6 CAPITAL IMPROVEMENTS**

### **6.1 General.**

- (a) The Operator acknowledges that throughout the Term of this Amended Agreement, Huron may install or implement Capital Improvements to the Facilities, whether they are part of Huron's annual capital budget or not.
- (b) Huron shall be responsible for financing all Capital Improvements unless the Parties agree that the costs of any Capital Improvement shall be paid in part or in their entirety by the Operator.
- (c) The Operator shall not rely in any way on Huron's annual capital budgets and acknowledges that the identification of a Capital Improvement in Huron's annual capital budgets in no way ensures that the Capital Improvement will be carried out by Huron.
- (d) Where Capital Improvement is undertaken by the Operator at the request of Huron, the Operator shall be entitled to apply a markup of 15% on the first ten thousand dollars (\$10,000.00) of the cost of materials and contract labour, 10% on the amounts between ten thousand dollars (\$10,000.00) and fifty thousand dollars (\$50,000.00) and 5% on the amount in excess of fifty thousand dollars (\$50,000.00) for materials and contract labour
- (e) Huron shall be responsible for the installation and/or alteration of health and safety equipment, except for Personal Protective Equipment, as a result Capital Improvements.

### **6.2 Prohibition.**

The Operator shall not make any structural changes, alterations or additions to the Facilities, save as expressly provided in this Amended Agreement, and no Capital Improvements shall be undertaken, implemented or removed by the Operator without the prior written consent of Huron which consent shall be at the sole and absolute discretion of Huron.

### **6.3 Ownership of Capital Improvements.**

All Capital Improvements shall be and remain the property of Huron.

### **6.4 Proposal for Capital Improvements.**

- (a) The Operator and Huron shall meet each year to review Huron's annual capital budgets for the upcoming Contract Year and the remaining Term of this Amended Agreement. Huron shall determine the timing of the meetings. One (1) month prior to the meeting(s)

described herein the Operator shall submit suggestions to Huron as to Capital Improvements which the Operator believes should be made in the upcoming Contract Year and in the remaining years of this Amended Agreement. Huron, in its discretion, shall decide whether or not to accept the Operator's suggestions and shall develop a schedule for the implementation and installation of Capital Improvements for the upcoming Contract Year.

- (b) Huron and the Operator shall meet at least quarterly to review the status of the Capital Improvements in progress at the Facilities, together with the schedule for implementing Capital Improvements which have been approved by Huron.
- (c) The Operator acknowledges that Huron may change any part of Huron's annual capital budget for any given Contract Year and the Operator shall not rely on Huron's annual capital budget being implemented as planned.

## **6.5 Impact of Capital Improvements.**

### **(1) Capital Improvements by Huron**

- (a) The Operator acknowledges that during the Term of this Amended Agreement, Huron may undertake and implement certain Capital Improvements to the Facilities. Huron shall review the details of the Capital Improvements with the Operator periodically.
- (b) Huron agrees to reimburse the Operator for any and all insurance costs (both one-time and ongoing) in excess of those incurred by the Operator as at the Start Date which are referable to any Capital Improvements or other alterations made to the Facilities by Huron during the Term of this Amended Agreement. Such reimbursement may be made as an Adjustment to the Service Fee pursuant to Section 8.4 of this Amended Agreement.
- (c) Huron shall use its Best Efforts to ensure that minimal disruptions to the management and operation of the Facilities occurs as a result of any Capital Improvements by Huron.
  - (i) The Operator shall provide Huron, up to 250 hours of support time by maintenance staff, certified operators, team leads, and managers for every three (3) months of the Term to assist Huron in the management and accommodation of the implementation of Capital Improvements made to the Facilities by Huron during the Term of this Amended Agreement;
  - (ii) Time provided by the Operator to assist Huron in the management and accommodation of the implementation of Capital Improvements made to the Facilities by Huron that is coincidental with operational and maintenance activities concurrently being undertaken by the Operator will not be included in the time outlined under (i) above, and is considered to be part of the Service Fee paid to the Operator; and,
  - (iii) The Operator shall provide Huron with a Project Integration Coordinator, satisfactory to Huron, acting reasonably, to provide co-ordination, where required by Huron, between major maintenance work undertaken by the Operator and Huron; coordinate operational resources, where required by Huron, in support of

projects undertaken by Huron; and coordinate from an operational perspective review of drawings, work plans, commissioning, start-up and deficiencies at a frequency determined by Huron. The time provided by the Project Integration Coordinator to assist Huron will not be included in the time outlined under subsection (i) above, and is considered to be part of the Service Fee paid to the Operator.

- (d) The Operator shall cooperate with Huron to minimize the disruption during the construction of the Capital Improvements and shall prepare a clear statement of any impact to the actual Operating and Maintenance Costs that result from the construction or implementation of the Capital Improvements themselves, including any costs associated with disruption during the construction period. The changes in costs shall be reviewed with Huron and any payments shall be made as an Adjustment to the Service Fee pursuant to Section 8.4 of this Amended Agreement.
- (e) Subsequent to the installation and completion of any Capital Improvements by Huron, the Operator or Huron shall be entitled to make a claim for an Adjustment to the Service Fee for any decrease or increase in Operating and Maintenance Costs arising from or in connection with the operation or maintenance of any Capital Improvements made by Huron during the Term of this Amended Agreement, including (without limitation) any decrease or increase in the number of Incidents of Repairs or Replacement, or Corrective Maintenance, any decrease or increase in the cost of Routine Maintenance, any decrease or increase in the number or the cost of employees or subcontractors of the Operator and any decrease or increase in the usage of electricity, Spare Parts, chemicals, fuel or other Consumables by the Facilities.

**(2) Capital Improvements by Operator**

- (a) Pursuant to subsection 6.1(b) the Parties may agree that the cost of any Capital Improvements identified in accordance with subsection 6.4(a), and for which the prior written consent of Huron has been obtained, shall be paid in part or in their entirety by the Operator.
- (b) Huron agrees to reimburse the Operator for any and all insurance costs (both one-time and ongoing) in excess of those incurred by the Operator as at the Start Date which are referable to any Capital Improvements or other alterations made to the Facilities by the Operator during the Term of this Amended Agreement. Such reimbursement shall be made as an Adjustment to the Service Fee pursuant to Section 8.4 of this Amended Agreement.
- (c) Huron shall provide continued assistance in the management and accommodation of the implementation of any Capital Improvements made to the Facilities by the Operator. The Operator shall use its Best Efforts to ensure that minimal disruptions to the management and operation of the Facilities occurs as a result of any Capital Improvements by the Operator.
- (d) The Operator shall minimize the disruption during the construction of the Capital Improvements by the Operator and shall prepare a clear statement of any impact to the actual Operating and Maintenance Costs that result from the construction or

implementation of the Capital Improvements themselves, including any costs associated with disruption during the construction period. The changes in costs shall be reviewed with Huron and any payments shall be made as an Adjustment to the Service Fee pursuant to Section 8.4 of this Amended Agreement.

- (e) Subsequent to the installation and completion of any Capital Improvements by the Operator, the Operator or Huron shall be entitled to make a claim for an Adjustment to the Service Fee for any decrease or increase in Operating and Maintenance Costs arising from or in connection with the operation or maintenance of any Capital Improvements made by the Operator during the Term of this Amended Agreement, including (without limitation) any decrease or increase in the number of Incidents of Repairs or Replacement, or Corrective Maintenance, any decrease or increase in the cost of Routine Maintenance, any decrease or increase in the number or the cost of employees or subcontractors of the Operator and any decrease or increase in the usage of electricity, Spare Parts, chemicals, fuel or other Consumables by the Facilities.
- (f) The obligations of Huron to pay for any of the costs of any Capital Improvements as identified in this subsection are only incurred by Huron where Huron has given the Operator prior written consent for the Capital Improvement.

## **6.6 Construction Liens.**

If any construction liens are registered against the Facilities as a result of work done or materials supplied to the Facilities at the request of the Operator, then the Operator agrees to obtain and register a discharge of such lien within ten days thereafter and if the Operator fails to do so, Huron may pay into court, in the name of the Operator, the amount required to obtain such a discharge and the amount so paid by Huron together with all disbursements and costs of such proceedings on a full indemnity basis shall be deducted by Huron from the next monthly payment of the Service Fee payable by Huron.

## **ARTICLE 7**

### **EFFICIENCY SAVINGS AND INCENTIVE PROGRAMS**

#### **7.1 Efficiency Savings.**

- (a) The Proposal will identify Process or Operational Changes or Capital Improvements that may result in efficiency improvements or cost savings in the management, operation, and maintenance of the Facilities (hereinafter known as an “**Efficiency Improvement**”). The Proposal will identify cost savings to Huron attributable to Efficiency Improvements, which cost savings will be shown in the Service Fee. This Article 7 applies only to those Efficiency Improvements identified after the Start Date.
- (b) The Operator shall actively pursue improvements in the effectiveness and efficiency of the Facilities and is encouraged to approach Huron with recommendations for any Efficiency Improvements.
- (c) For any Efficiency Improvement not involving a Capital Improvement, implemented by the Operator at the Facilities at the Operator’s cost, or optimization of prices and services including energy costs by the Operator, the Operator and Huron agree that the Operator

shall be entitled to any cost savings as a result of such Process or Operational Change, or optimization of prices and services, and the Operator shall receive one hundred percent (100%) of the decrease in the Service Fee attributable to that Process or Operational Change, or optimization, except where Huron has contributed to the Efficiency Improvement or optimization, in which case the Operator and Huron shall share in any cost savings and Huron shall receive a reduction to a maximum of fifty percent (50%) of the decrease in the Service Fee attributable to that Efficiency Improvement or optimization of prices and services. The percentage of the decrease in the Service Fee resulting from such Huron contributions shall be determined by agreement between the Parties and shall be based upon the percentage contribution of Huron to the Efficiency Improvement or optimization. Failing agreement between the parties, the determination of the appropriate decrease in Service Fee may be referred to dispute resolution pursuant to Article 17 by either Party.

- (d) Where, as a result of any Capital Improvement by Huron, there is a decrease in Operating and Maintenance Costs, the amount of the decrease shall be applied as follows:
  - (i) the Service Fee payable by Huron shall be reduced by the entire amount of the decrease in Operating and Maintenance Costs until such time as Huron has recovered one hundred percent (100%) of the cost to Huron of the Capital Improvement plus interest at the Prime Rate; and
  - (ii) following recovery by Huron of the cost of the Capital Improvement, Huron and the Operator shall thereafter, in equal shares, share the decrease in Operating and Maintenance Costs such that the Service Fee payable by Huron shall only be reduced by fifty percent (50%) of the aforesaid decrease in Operating and Maintenance Costs.
- (e) Where, as a result of any capital Improvement by the Operator, there is a decrease in Operating and Maintenance Costs, the amount of the decrease shall be applied as follows:
  - (i) the Service Fee payable by Huron shall be increased by the cost of the Capital Improvement by the Operator annualized over the remainder of the Term minus the decrease in Operating and Maintenance Costs until such time as the Operator has recovered one hundred percent (100%) of the cost to the Operator of the Capital Improvement plus interest at the Prime Rate; and
  - (ii) following recovery by the Operator of the cost of the Capital Improvement, Huron and the Operator shall thereafter, in equal shares, share the decrease in Operating and Maintenance Costs such that the Service Fee payable by Huron shall only be reduced by fifty percent (50%) of the aforesaid decrease in Operating and Maintenance Costs.
- (f) The Operator shall accommodate and support optimization and efficiency programs implemented by Huron, including but not limited to:
  - (i) Accommodating or undertaking reasonable sampling;



- (ii) Accommodating reasonable access and utilization of the laboratory space by Huron staff;
- (iii) Provide limited training and support of Huron staff in the use of equipment at the Facilities;
- (iv) Operating the Facilities in support of optimization and efficiency initiatives and related studies; and
- (v) Assisting in the review of work plans, procedures and study results and investigations undertaken by Huron.

## **7.2 Incentive Payments.**

- (a) At the end of each Contract Year commencing the second Contract Year, the Operator shall be entitled to an Incentive Payment of One Hundred Thousand Dollars (\$100,000.00), subject to any deductions as set out in this Amended Agreement.
- (b) In addition to the Incentive Payment provided for by subsection 7.2(a) above, at the end of each Contract Year commencing the second Contract Year, the Operator shall be entitled to a employee retention incentive payment of thirty thousand dollars (\$30,000.00) provided that the Operator can demonstrate to the Huron, acting reasonably, that all staff positions at the Facilities have been filled over that Contract Year, and the Operator has had a staff turnover, except in the case of retirement and statutory leave of absence such as in the case of maternity/paternity leave or short/long term disability, at the Facilities of no more than two (2) persons during that Contract Year.
- (c) The following positions are excluded from consideration for the purposes of determining the entitlement of the employee retention Incentive Payment:
  - (i) Administrative assistants and similar clerical staff;
  - (ii) Electricians;
  - (iii) Mechanics and millwrights; and
  - (iv) Instrumentation Technicians.

## **ARTICLE 8 COMPENSATION PAYABLE TO THE OPERATOR**

### **8.1 Service Fee.**

- (a) Effective the Start Date, Huron shall pay the Service Fee to the Operator for the services provided by the Operator under this Amended Agreement to Huron. The Service Fee to be paid by Huron shall be for the services provided by the Operator under this Amended Agreement only to Huron. The Service Fee shall be calculated as follows:

Service Fee for the Contract year = the Operations Fee +  
Adjustments to the Service Fee

- (b) The Operator acknowledges that the Service Fee is inclusive of all Operating and Maintenance Costs for the Facilities and for all services to be supplied by the Operator pursuant to the terms and conditions of this Amended Agreement.
- (c) The Parties agree that the Operations Fee for each Contract Year of the Term and cost for the Initial and Final Condition Survey are as set out in Schedule "E-2".

## **8.2 Volume of Potable Water.**

- (a) The Parties agree that Huron shall only pay a Service Fee and Adjustments to the Service Fee as described herein for the volume of Potable Water supplied to Huron. Huron shall not be responsible for payment of the Service Fee for the Potable Water supplied to the Elgin Area Primary Water Supply System.
- (b) The Operator is prohibited from supplying the Elgin Area Primary Water Supply System from the Lake Huron Primary Water System, and is prohibited from supplying the Lake Huron Primary Water System from the Elgin Area Primary Water Supply System without express written authorization from each of Huron and the Elgin Area Primary Water Supply System to such supply. The Operator agrees that the Elgin Area Primary Water Supply System will continue to be supplied by the Elgin WTP and that the Lake Huron Primary Water System will continue to be supplied from the Lake Huron WTP, unless express written authorization is received from each of Huron and the Elgin Area Primary Water Supply Systems.
- (c) The Operator agrees that neither the Elgin Area Primary Water Supply System or the Lake Huron Primary Water System will be used to supply Potable Water to any person, corporation, municipality or other entity without express written authorization from the owner of the water supply system from which the provision of such supply is sought.

## **8.3 Electricity Cost.**

- (a) Huron is solely responsible for the payment of the Electricity Cost.
- (b) For greater certainty, the Operator must participate in Huron's energy efficiency and pump optimization strategy.

## **8.4 Adjustments to the Service Fee.**

### **(1) General.**

- (a) The Parties acknowledge that the purpose of an "**Adjustment to the Service Fee**" is to reflect a material change to the actual Operating and Maintenance Costs.
- (b) The Parties agree that it is their intention that an Adjustment to the Service Fee shall be limited to a review of only those costs and expenses which have been affected, either negatively or positively, by the occurrence of only the events, or any one of them described below and in order to account for the impact of such event, and should not be considered an opportunity to review all items included or excluded from the Service Fee.

**(2) Adjustments to the Service Fee.**

- (a) Either Huron or the Operator may require an Adjustment to the Service Fee if either Party can demonstrate that there has been an increase or decrease in the actual Operating and Maintenance Costs that has occurred as a result of only the following events:
- (i) an Uncontrollable Circumstance, or Huron Fault;
  - (ii) Process or Operational Changes which have been approved by Huron pursuant to this Amended Agreement;
  - (iii) Capital Improvements made or not made to the Facilities;
  - (iv) a Change of Laws;
  - (v) a request by Huron for additional types of insurance or higher policy limits made pursuant to subsection 14.1(2)(d); and,
  - (vi) a change in the location of the waste disposal site for the Facility's dewatered solids, resulting in changes to the haulage and disposal costs incurred by the Operator, including but not limited to tipping fees, sampling and testing fees and other disposal costs.
- (b) All Adjustments to the Service Fee from the occurrence of any of the events described in subsection 8.4(2)(a) above shall be reviewed on a quarterly basis.
- (c) Any Adjustments to the Service Fee shall be equal to the actual change to the Operating and Maintenance Costs as a result of any of the events described in subsection 8.4(2)(a) above.

**(3) Adjustment to the Service Fee as a Result of Fluctuations in Demand.**

- (a) The Parties acknowledge that Raw Water Quality may vary from time to time. The Parties agree there shall be no Adjustments to the Service Fee for any change in Raw Water quality or quantity, materially consistent with historical variations.
- (b) The Parties recognize that the Water Supply System Potable Water demand may vary from time to time. The Operator acknowledges and agrees that it has been supplied by the Board with the projected Potable Water demand trend for the Term of this Amended Agreement. The Parties agree that there shall be no Adjustment to the Service Fee, if during any Contract Year, the actual Potable Water demand is no greater than one hundred and five percent (105%) of the projected Potable Water demand for that year and no less than ninety-five percent (95%) of the projected Potable Water demand for that year.
- (c) The Parties agree that there shall be an Adjustment to the Service Fee if in any Contract Year, the actual Potable Water demand is greater than one hundred and five percent (105%) of the projected Potable Water demand for that year and less than ninety-five percent (95%) of the Potable Water demand for that year. Any Adjustments to the Service

Fee provided for in this subsection shall be applicable to the Contract Year in which the increase or decrease in the actual demand occurs and for such period of time that the actual demand exceeds the limits set out in subsection 8.4(3)(b) above. Any Adjustment to the Service Fee provided for in this subsection shall be equal to the actual change to the Operating and Maintenance Costs as a result of any of the events described in this subsection. Any Adjustment to the Service Fee provided for in this subsection shall be equal to the actual change to the Operating and Maintenance Costs as a result of any of the events described in this subsection. Any Adjustment to the Service Fee provided for in this subsection shall be limited to:

- (ii) an adjustment up to the equivalent cost associated with ninety five percent (95%) of the demand, in the case where actual demand is less than ninety five percent (95%); or,
- (iii) down to the equivalent cost associated with one hundred and five percent (105%) of the demand, in the case where actual demand is greater than one hundred and five percent (105%).

The Parties agree that the adjustment provided for in this subsection shall not be adjusted to one hundred percent (100%) of the Potable Water demand.

- (d) Any Adjustments to the Service Fee made in accordance with this subsection once approved by Huron shall be paid within two months from the end of the Contract Year in which the change occurred and, thereafter shall be paid for the period of time such change continues, with regular instalments of the Service Fee as provided in Section 8.9.

**(4) Procedure for Adjustments.**

- (a) If a Party requests an Adjustment to the Service Fee, the onus shall be on that Party to provide supporting evidence of its claim for an Adjustment to the Service Fee. The Party will be required to demonstrate that:
  - (b) There has been an occurrence of one of the events described in subsection 8.4(2) above has occurred;
    - (i) There has been a change to the actual Operating and Maintenance Costs; and
    - (ii) The change to the actual Operating and Maintenance Costs is directly related to one of the circumstances described in subsection 8.4(2) above.
    - (iii) The Operator shall cooperate with Huron in providing Huron with information on the Operating and Maintenance Costs which Huron determines that it requires to support the Operator's claim for an Adjustment to the Service Fee.
- (c) The Adjustment to the Service Fee shall be made retroactive to the date on which the impact on the Operating and Maintenance Costs of such event was first documented by the Operator. If, at any time, Huron and the Operator cannot agree on the appropriate

Adjustment to the Service Fee, then either Party may refer the matter to dispute resolution pursuant to Article 17 of this Amended Agreement.

## **8.5 Business Plan.**

### **(1) General.**

- (a) The Operator submitted a separate Business Plan, Operations and Maintenance Plan, Transition Arrangement Plan, Service Fee for each of the Elgin Area Primary Water Supply System and the Lake Huron Primary Water System.
- (b) The Operator acknowledges that it has been provided with information on historical and forecast Raw Water quality, Potable Water demand, base flow.
- (c) The Operator agrees that the Business Plan (as amended from time to time in accordance with this Amended Agreement) forms part of this Amended Agreement and constitute representations and warranties on the part of the Operator which are enforceable pursuant to the terms of this Amended Agreement.
- (d) The Business Plans shall be for a period of three (3) years commencing from the Start Date.
- (e) Together with the third Quarterly Contract Report in each Contract Year, the Operator shall update the Business Plan and the updated Business Plan shall cover the three-year period following the Contract Year.
- (f) Following the First Contract Year, the Operator shall provide Huron with a Business Plan by October 30 of each Contract Year and Huron shall review and accept the Business Plan by November 30 of each Contract Year, failing which Huron and the Operator shall meet to attempt to resolve the dispute. If the Parties are unable to reach a resolution within ten (10) days, then either Party may refer the matter to dispute resolution pursuant to Article 17 of this Amended Agreement.
- (g) The Operations and Maintenance Plan shall be as comprehensive as possible and should include all services intended to be provided pursuant to this Amended Agreement. Any services not otherwise addressed in the Operations and Maintenance Plan will be deemed to not be included within this Amended Agreement except as they are otherwise provided for in this Amended Agreement.
- (h) The Business Plan, Operations and Maintenance Plan and Transition Plan may not be changed, altered or modified by the Operator, unless prior written approval has been obtained from Huron acting reasonably, for such changes.

### **(2) Contents.**

- (a) The Business Plan will cover in detail the following:

- (i) the philosophy of the Operator with respect to the Management and Operations of the Facilities, including the Operators mission statement, vision statement and objectives with respect to this Amended Agreement;
- (ii) the objectives and targets that the Operator will meet in each year of the Business Plan including the method of measurement to determine if the objectives or targets have been met;
- (iii) deficiencies identified in the Facilities and the operations and maintenance procedures, and recommended changes to the operations and maintenance procedures for the Facilities;
- (iv) the improvements to be made by the Operator to the Facilities for the purpose of improving the performance of the Facilities and reducing the cost to Huron, including the period of time over which such improvements are to be made;
- (v) a business case analysis of any potential improvements identified in accordance with previous subsection;
- (vi) any changes to operations and maintenance procedures required as a result of expansion of the Water Supply System or anticipated changes to technology employed at the Facilities;
- (vii) business continuity plans which address the issues of knowledge retention, succession planning and how resources will be provided for anticipated operational changes. The business continuity plan shall also be included in and form part of the emergency response plan;
- (viii) a discussion of such other issues pertaining to this Amended Agreement and the Facilities as have arisen over the course of the previous Contract Year.

### **8.6 Operations and Maintenance Plan.**

The Operations and Maintenance Plan shall contain the following information:

- (a) Operator's Asset maintenance approach;
- (b) Operator's proposed maintenance programs and procedures;
- (c) Operator's program for SCADA system and CMMS optimization;
- (d) Operator's general maintenance and operations procedures including overall Facility and equipment appearance, corrosion prevention and Asset protection procedures; and
- (e) Operator's detailed and specific operation and maintenance procedures for each of the water Facilities, reservoirs, Pumping Stations and Feeder mains.

### **8.7 Transition Plan.**

The Transition Plan shall contain a detailed identification by the Operator of the transition issues from the current Operator and the proposals by the Operator to address those issues including the details of each service to be provided and the cost of the service to be provided by the Operator. The Transition Plan shall include job shadowing to be provided by the Operator on its own cost and expense for a period of three (3) months for up to five (5) persons prior to the expiration or termination of this Amended Agreement.

### **8.8 Penalty for Failure to Prepare and Abide by Plans**

In the event the Operator fails to provide the plans identified in this Amended Agreement in the form and substance acceptable to Huron and in accordance with the requirements set out herein, or provides same but fails to govern itself according to such plans, Huron shall have the right to withhold twenty thousand dollars (\$20,000.00) per annum per plan.

### **8.9 Method of Payment.**

- (a) Effective forty-five (45) days after the Start Date, the Operator shall render an invoice to Huron by the 15th day of each month for services provided in the preceding month, for an amount equal to 1/12 of the Service Fee for the Contract Year.
- (b) The Operator shall also render an invoice to Huron for any agreed upon Adjustments to the Service Fee applicable to the month immediately preceding the month in which such invoice is rendered.
- (c) The invoices rendered by the Operator to Huron shall be in accordance with the format agreed upon by Huron and the Operator, both acting reasonably, and shall be accompanied by such backup information and documentation as is considered necessary by Huron, acting reasonably.
- (d) Except where the Operator fails to provide Huron with the necessary backup information and documentation as required by subsection 8.9(c) of this Amended Agreement, and provided that Huron does not require clarification from the Operator as to the charges included in the invoice, Huron shall pay each invoice within thirty (30) days after the date of the invoice. The Service Fee and the agreed upon Adjustments to the Service Fee shall be paid in the amount billed in each such invoice notwithstanding any circumstance, happening or event whatsoever, except to the extent Huron is permitted and decides to withhold a portion of the Service Fee pursuant to this Amended Agreement.
- (e) Within sixty (60) days after the end of each Contract Year, the Operator shall provide to Huron for review and approval an annual statement which shall show for each Contract Year the calculation of all amounts owed or payable to the Operator by Huron under this Amended Agreement, all amounts owed or payable to Huron by the Operator under this Amended Agreement, all amounts paid by Huron to the Operator under this Amended Agreement and all amounts paid by the Operator to Huron under this Amended Agreement, including corrections and reconciliations to actual values of all estimated amounts. Huron shall review the annual statement and make any amendments it deems necessary within thirty (30) days of receipt. If there are no amendments required to the

annual statement, Huron shall approve the annual statement. If the approved annual statement reflects any balance owed by either Huron or the Operator to the other, such amount shall be paid within twenty (20) days after Huron's approval.

- (f) If Huron makes amendments to the Annual Statement, Huron shall return the amended annual statement to the Operator. If the Operator agrees with the amendments, then the balance owing on the amended annual statement shall be paid within thirty (30) days of the Operator's approval. If the Operator disagrees with the amendments, then Huron and the Operator shall meet to attempt to resolve the dispute. If the Parties are unable to reach a resolution within thirty (30) days, then either Party may refer the matter to dispute resolution pursuant to Article 17 of this Amended Agreement.

### **8.10 Other Payments.**

#### **(1) Payment of Municipal Taxes.**

Huron is responsible for payment of any and all municipal taxes or payments in lieu of taxes assessed against the Facilities.

#### **(2) Payments for Items not Included in the Service Fee.**

Huron shall pay the Operator for the preparation of the Inventory and Baseline Survey as part of the Service Fee.

#### **(3) Compensation to Landowners**

Huron shall pay landowners any compensation for access to the pipeline easement pursuant to the Pipeline Operations and Maintenance Agreement between Huron and the landowners.

### **8.11 Withholding of Service Fee.**

If Huron decides to withhold any portion of the monthly payment of the Service Fee to the Operator pursuant to the terms of this Amended Agreement, no interest shall accrue or be paid to the Operator for the time the portion of the monthly payment of the Service Fee is withheld by Huron unless otherwise ordered pursuant to subsection 17.9(m). Huron shall not withhold any portion of the monthly payment of the Service Fee which is not in dispute and shall promptly advise the Operator of the basis for Huron's withholding of any portion of the monthly payment of the Service Fee.

### **8.12 Additional Services.**

During the Term of this Amended Agreement, Huron and the Operator agree that the Operator may perform additional services outside of the scope of this Amended Agreement, and, if Huron requests additional services, the Operator shall provide a price to provide the additional services. Huron will review the Operator's price and decide whether to use the Operator's services or have the additional services carried out by another party.



**8.13 Operating Deficit.**

To the extent that the Operating and Maintenance Costs in any Contract Year exceed the Service Fee paid hereunder to operate and manage the Facilities as set out herein, and an operating deficit is created, the Operator agrees to finance the deficit and shall ensure sufficient funds are available for fulfillment of the Operator's obligations hereunder.

**8.14 HST Arrangements.**

If Harmonized Sales Tax ("HST") is payable, then the Operator is responsible for charging Huron applicable HST and Huron shall pay the applicable HST.

**8.15 Books, Payrolls, Accounts and Records.**

- (a) The Operator shall maintain and keep sufficiently complete and accurate books, payrolls, accounts, and records which pertain to this Amended Agreement in accordance with the applicable and accepted accounting procedures to permit their verification and audit and they shall have no claim for payment unless such books, payrolls, accounts, and records have been so maintained and kept.
- (b) Huron may inspect, review or audit the books, payrolls, accounts, and records of the Operator as they pertain to this Amended Agreement at any time during the Term of this Amended Agreement and at any time thereafter as deemed by Huron to be desirable but not exceeding the preservation period set forth in subsection 8.15(c) below.
- (c) The Operator shall preserve all original books, payrolls, accounts, and records which pertain to this Amended Agreement relating to the performance of this Amended Agreement or to claims arising from the performance of this Amended Agreement, for a period of thirty-six (36) months after the completion of the Term or thirty-six (36) months after the final settlement of all claims, made or threatened at the time of completion of this Amended Agreement, whichever period is the longer.

**8.16 Failure of Huron to Approve Adjustments.**

Any failure of Huron to approve an Adjustment to the Service Fee where such Adjustment is provided for in this Amended Agreement may be submitted by the Operator to dispute resolution pursuant to Article 17 of this Amended Agreement.

**ARTICLE 9**  
**TRANSFER OF RESPONSIBILITIES**

**9.1 Initial Transition Plan.**

Immediately following the execution by the Parties of this Amended Agreement and prior to the Start Date, the Operator and Huron shall further develop and implement the Transition Plan based on the Transition Plan described in Section 8.7 hereof to further address the particulars of the transfer of managerial and operational responsibility for the Facilities. Each of the Parties shall take all steps required to ensure a smooth transition and to ensure that transition is completed by the Start Date.

## **9.2 Transfer of Business.**

### **(1) Contracts to Expire Upon Termination of Amended Agreement.**

The Operator shall ensure that all contracts and commitments it has entered into in relation to the Facilities expire upon the completion or termination of this Amended Agreement. The Parties agree that Huron will not assume any of the Operator's contracts and commitments upon the completion or termination of this Amended Agreement, unless agreed to by Huron, at the sole discretion of Huron.

## **9.3 Transfer of Records.**

- (a) Huron shall make available to the Operator all records and documents in the possession of Huron in respect of the management, operation and maintenance of the Facilities which the Operator may request either prior to the Start Date or from time to time thereafter provided that such documents are readily available and no other restrictions as to their release exists.
- (b) At the completion or termination of this Amended Agreement, the Operator shall return all operational and maintenance documents and records to Huron. All operational and maintenance documents and records that are stored in electronic format shall be returned in electronic format, unless otherwise agreed upon by Huron.

## **9.4 Transfer of Assets.**

### **(1) Huron's Inventory.**

One hundred and twenty (120) days of the Start Date of this Amended Agreement the Operator shall be compensated as mutually agreed to complete an inventory of all existing Attractables owned by Huron and available at the Facilities as of the Start Date (the "**Huron's Inventory**").

### **(2) Attractables.**

- (a) Huron shall transfer all Attractables owned by Huron which are located on and within the Facilities at the time of the Start Date at no cost to the Operator (the "**Huron's Attractables**").
- (b) The Operator shall be responsible for securing and providing all additional or replacement Attractables, in addition to Huron's Attractables, the Operator deems necessary to operate and maintain the Facilities pursuant to the terms of this Amended Agreement.
- (c) Huron shall retain ownership of Huron's Attractables provided to the Operator, and the Operator shall not dispose of nor grant security interests in Huron's Attractables without the prior written consent of Huron.
- (d) The Operator shall maintain all Attractables in accordance with the manufacturer's recommendations and shall include the maintenance of all Attractables in the CMMS.

- (e) Upon the completion or termination of this Amended Agreement, the Operator shall return all Attractables to Huron at no cost to Huron and, in the same condition on an overall basis as they were in on the Start Date, reasonable wear and tear excepted.

**(3) Consumables.**

- (a) Huron agrees to sell to the Operator and the Operator agrees to purchase from Huron the Consumables on hand at the Facilities at the Start Date at their invoiced price value. Huron shall deduct an amount equal to one third of the purchase price of the Consumables from each of the first three (3) monthly payments of the Service Fee in the First Contract Year.
- (b) At the completion or termination of this Amended Agreement, the Operator shall ensure that the Consumables on hand at the Facilities are sufficient for two (2) months operation of the Facilities from the date of completion or termination.
- (c) At the completion or termination of this Amended Agreement, the Operator agrees to sell to Huron and Huron agree to purchase from the Operator the Consumables described in subsection 9.4(3)(b) at their invoiced price value. Huron shall pay the Operator for the consumables within thirty (30) days of the completed sale.

**(4) Spare Parts.**

- (a) Huron shall provide to the Operator all Spare Parts related to the Operation and Maintenance of the Facilities which are located at the Facilities on the Start Date at no cost to the Operator.
- (b) Huron and the Operator shall, within ninety (90) days of the effective date of the Amended Agreement, jointly develop and agree to a list of Spare Parts, including quantity and type, that will be maintained by the Operator during the Term of this Amended Agreement, as amended (the "**Spare Parts Inventory**").
- (c) At the completion or termination of this Amended Agreement, the Operator shall return to Huron all Spare Parts, at no cost to Huron, in good working condition to the satisfaction of Huron and in quantities at least equal to the Spare Parts Inventory.

**ARTICLE 10**  
**COMPLETION OR TERMINATION OF THIS AMENDED AGREEMENT**

**10.1 Termination by Huron.**

Huron shall have the right to terminate this Amended Agreement in the Event of Default or an Extraordinary Event of Default of the Operator on the terms set out in this Article of this Amended Agreement.

**10.2 Termination by the Operator.**

The Operator shall have the right to terminate this Amended Agreement in the Event of Default or an Extraordinary Event of Default of Huron on the terms set out in this Article of this Amended Agreement.

### **10.3 Notice and Cure for Event of Default.**

- (a) If any Party determines that the other Party has committed an Event of Default, the non-defaulting Party shall give notice in writing to the defaulting Party of the Event of Default. The Parties shall, no later than thirty (30) days following delivery of such notice of breach, meet and determine whether the Event of Default is a result of an Uncontrollable Circumstance and agree upon the remedial steps, if any, to be taken by the defaulting Party.
- (b) If the Parties are unable to agree upon the remedial steps to be taken within a further thirty (30) days or to agree upon the occurrence of an Event of Default, then the matter may be referred to dispute resolution pursuant to Article 17 of this Amended Agreement.
- (c) If the defaulting Party does not implement the remedial action agreed upon or fixed by dispute resolution within the time frame agreed upon or fixed by dispute resolution, then the non-defaulting Party may exercise any of the remedies set forth in this Amended Agreement.
- (d) The Parties agree that any time period allowed for a defaulting Party to cure an Event of Default shall be extended if the Event of Default cannot be cured without Governmental Authority approval by the time required to obtain such approval, provided that an application for such approval has been filed with the appropriate Governmental Authority within the applicable cure period.

### **10.4 Termination Upon Event of Default.**

- (a) If a defaulting Party does not cure an Event of Default as described in Section 10.3 above, then:
  - (i) if the Operator is the Party in default, Huron may terminate this Amended Agreement on not less than sixty (60) days prior written notice of the effective date of termination; or
  - (ii) if Huron is the Party in default, the Operator may terminate this Amended Agreement on not less than sixty (60) days prior written notice of the effective date of termination.
- (b) The foregoing remedies shall be in addition to, and not in lieu of or a limitation of all remedies available at law or in equity to the non-defaulting Party.

### **10.5 Definition of "Extraordinary Event of Default".**

The occurrence of any of the following shall be an Extraordinary Event of Default under this Amended Agreement:

- (a) material and persistent Events of Default by a defaulting Party, whether or not remedied by the defaulting Party, including the Operator's failure to correct or remedy Compliance Failures or a Performance Failure pursuant to Sections 4.4 and 4.5 of this Amended Agreement and which are not due to an Uncontrollable Circumstance, Huron Fault or

variations in Raw Water quality or quantity materially inconsistent with historical seasonal variations;

- (b) If:
  - (i) the Operator generally does not pay its debts as they become due;
  - (ii) the Operator admits in writing its inability to pay its debts generally or makes a general assignment for the benefit of creditors;
  - (iii) a receiver is appointed for the Operator for any substantial part of its property; and
  - (iv) any proceedings are instituted by or against the Operator seeking to adjudicate it a bankrupt or insolvent, or seeking liquidation, winding up, reorganization, arrangement, adjustment protection, relief or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debts, or seeking the entry of an order for relief by the appointment of a receiver, trustee, custodian or other similar official for it or for any substantial part of its property where any such proceeding has not been stayed or dismissed within thirty (30) days of a receiver custodian or other similar official being appointed for it or any substantial part of its property;
- (c) if Huron fails to pay the monthly payment due for the Service Fee or agreed upon Adjustments to the Service Fee as provided for in Section 8.8 of this Amended Agreement within thirty (30) days of the date upon which such payment is due as provided in this Amended Agreement (subject to the exceptions as provided for in Section 8.8), except where an amount is withheld by Huron in accordance with the terms of this Amended Agreement;
- (d) any strike or lock out of the employees of the Operator which creates a situation which poses a potential for a real and serious threat to the health and public welfare of residents and consumers served by Huron's WTP or which would seriously jeopardize the operational capacity or integrity of the Facilities;
- (e) if the Operator operates or maintains, or fails to properly operate or maintain the Facilities in accordance with industry standards so as to create a situation which poses a potential for a threat to the health and public welfare of the residents and consumers served by Huron's WTP, or which would jeopardize the operational capacity or integrity of the Facilities, except in the event of Uncontrollable Circumstance or Huron Fault;
- (f) any change of Control of the Operator in contravention of Article 21 of this Amended Agreement or any realization by any creditor upon its shares as may be pledged;
- (g) there is a failure to provide the insurance coverage specified in Article 14 of this Amended Agreement in a form acceptable to Huron, within the time specified in subsection 14.1(2)(b) or there is a lapse of the insurance coverage required to be maintained by the Operator pursuant to Article 14 of this Amended Agreement, and failure to secure replacement coverage within fifteen (15) days of the insurance coverage expiration date; or

- (h) failure by the Operator to provide and maintain a Performance Letter of Credit in accordance with the requirements of subsection 14.2(1).

**10.6 Remedy for Extraordinary Event of Default.**

- (a) In the event of any Extraordinary Event of Default, the non-defaulting Party shall be entitled to give notice of termination of this Amended Agreement, specifying the circumstances of the asserted Extraordinary Event of Default, which notice shall be effective immediately.

**10.7 Conditions upon Completion or Termination of this Amended Agreement.**

**(1) Costs Payable by the Operator Upon Termination by Huron.**

- (a) In the event Huron terminates this Amended Agreement pursuant to this Article 10, the Operator shall not be entitled to any compensation subsequent to receiving notice of termination from Huron including, without limitation, but for this subsection 10.7(1), any fee which would be payable to the Operator. The Operator shall also not be entitled to any demobilization costs incurred as a result of Huron's termination of this Amended Agreement.
- (b) Upon termination of this Amended Agreement by Huron, the Operator shall:
  - (i) forfeit the Performance Letter of Credit described in Section 14.2; and
  - (ii) and in any case, the Operator shall pay to Huron all reasonable costs incurred by Huron in negotiating and implementing a new agreement with the subsequent operator of the Facilities, and all reasonable costs incurred by Huron in operating and maintaining the Facilities until such time as the new Operator commences operation and maintenance of the Facilities.

**(2) Costs Payable by Huron to Operator Upon Termination by Operator.**

In the event the Operator terminates this Amended Agreement pursuant Section 10.2, the Operator shall be entitled to payment from Huron of the sum of (a) all reasonable costs and expenses of the Operator relating to demobilization by the Operator from the Facilities including (without limitation) reasonable costs of termination of employees, subcontractors, contracts for the purchase of Consumables and movement of equipment of the Operator located at the Facilities, (b) all capital investment of the Operator approved by Huron pursuant to this agreement relating to the purchase by the Operator of Capital Improvements which have not been fully amortized and (c) lost profits of the Operator for one (1) year as determined in accordance with the provisions of this Amended Agreement.

**(3) Carryover Services.**

Upon the completion or termination of this Amended Agreement and only at Huron's request, the Operator shall provide the services necessary to continue normal operations for a period of up to ninety (90) days after the termination date. This ninety (90) day period shall commence only at Huron's request and shall be only for the purpose of training and assisting new employees of

Huron or the subsequent operator of the Facilities in the management, operation and maintenance of the Facilities. In such event, Huron agree to pay to the Operator a pro rata portion of the then current Service Fee for such ninety (90) day period.

**(4) Return of Civil, Structural and Site-Related Assets.**

- (a) Upon the completion or termination of this Amended Agreement, the Operator shall return the Civil, Structural and Site-Related Assets to Huron, in the same condition on an overall basis as they were in at the Start Date, except that under no circumstances shall the Operator be responsible for deficiencies caused by an Uncontrollable Circumstance or Huron Fault or deficiencies identified under Section 5.2 and not corrected or repaired by Huron.
- (b) The Operator shall be responsible for the correction and repair of any deficiencies identified by Huron pursuant to subsection 5.2(2) of this Amended Agreement, unless otherwise specified in this Amended Agreement.

**(5) Return of the Mechanical and Electrical Equipment.**

- (a) Upon the completion or termination of this Amended Agreement, the Operator shall return the Mechanical and Electrical Equipment to Huron in a well-maintained and functional condition and shall ensure that the Mechanical and Electrical Equipment is fully operational in accordance with manufacturer's equipment specifications, except that under no circumstances shall the Operator be responsible for deficiencies caused by Uncontrollable Circumstance or Huron Fault.
- (b) The Operator shall be responsible for the repair and correction of any deficiencies identified by Huron in accordance with the provisions of Section 5.6 of this Amended Agreement.

**ARTICLE 11**  
**INVENTIONS AND INNOVATIONS**

**11.1 Inventions.**

The Operator shall retain exclusive rights to all inventions and innovations developed by or for it in connection with its operations and maintenance of the Facilities during the Term of this Amended Agreement, with the exception of the CMMS, SCADA and all associated software. For the Operator-owned inventions introduced into the Facilities during the Term of this Amended Agreement, the Operator shall grant to Huron a perpetual non-exclusive fully paid-up licence, to continue to use such technology in connection with the operation, maintenance and management of the Facilities after the expiration or termination of this Amended Agreement, without charge to Huron. The licence shall be specific to Huron and the Facilities and may be transferred or assigned by Huron to any subsequent operator of the Facilities for use in connection with the operation, maintenance and management of the Facilities. This provision shall apply only to those inventions and innovations for which the Operator has the right to grant such a licence to Huron.

**ARTICLE 12**  
**CONFIDENTIALITY AND NON-DISCLOSURE**

**12.1 Confidentiality and Non-Disclosure.**

- (a) The Operator acknowledges that all sampling and laboratory test results and other similar information collected or received by it during or following the term hereof concerning the day to day operations of the Facilities are the property of Huron and may be confidential and any such information shall not be released or disclosed to any person, unless required or compelled by Applicable Law to do so, without the prior written consent of Huron, which consent shall not be unreasonably withheld. The Operator shall have the right to retain copies of all such sampling and laboratory test results and other similar information.
- (b) This Amended Agreement and all schedules attached hereto shall be a public document and subject to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990 c. M.56, as amended from time to time.

**ARTICLE 13**  
**TRADE MARK**

**13.1 Trade-Mark.**

- (a) The name of Huron and all related marks, slogans and designs belongs to Huron exclusively and shall not be used in any way by the Operator unless otherwise approved in writing by Huron.
- (b) Within sixty (60) days after the Start Date, the Operator shall cause to be removed all marks, slogans and designs related to the Previous Operator from any buildings at the Facilities, structures or vehicles to be used by the Operator.

**ARTICLE 14**  
**INSURANCE AND LETTER OF CREDIT**

**14.1 Insurance.**

**(1) Insurance Coverage to be Obtained by the Operator.**

- (a) The Operator shall obtain and maintain, throughout the Term, insurance with insurers that are acceptable to Huron covering the following events and in the following amounts:
  - (i) Occurrence-basis comprehensive general liability insurance in an amount not less than fifty million dollars (\$50,000,000.00) covering the directors, officers, employees, agents and other persons for whom the Operator is responsible throughout the entire period of this Amended Agreement. Such policy shall include non-owned automobile liability, personal injury, broad form property damage, contractual liability, owners' and contractors' protective, completed operations, contingent employers liability, cross liability and severability of interest clauses. This insurance shall have a deductible no greater than two hundred and fifty thousand dollars (\$250,000.00) per occurrence.



- (ii) Standard all risk property insurance covering the property of the Operator, including Attractables, in an amount not less than the full replacement cost value with a deductible of no more than two hundred and fifty thousand dollars (\$250,000.00); such policy shall include a waiver of subrogation in favour of Huron;
- (iii) Automobile third party liability insurance covering all vehicles owned, leased, hired, borrowed or operated by the Operator in connection with its operation of the Facilities with a coverage limit of not less than two million dollars (\$2,000,000.00) third party liability per occurrence; such policy to include all mandatory coverage requirements as specified in Ontario Automobile Insurance Act;
- (iv) Environmental impairment liability insurance covering third party property damage and bodily injury and clean-up costs for pollution conditions emanating from the Facilities with a limit of coverage not less than ten million dollars (\$10,000,000.00) per claim and in the aggregate. Such insurance shall provide coverage for on-site clean-up of the Facilities also in an amount not less than ten million dollars (\$10,000,000.00). The Operator further agrees to maintain this insurance coverage for 24 months following the expiry or termination of this Amended Agreement;
- (v) Professional liability insurance covering wrongful acts, errors and omissions arising out of activities and operations of a professional nature in connection with this Amended Agreement with limits of not less than five million dollars (\$5,000,000.00) per claim and in the aggregate. Professional Liability insurance can be provided by the Operator and/or affiliate of the Operator but in the event that such insurance is provided by an affiliate of the Operator, then both the Operator and the affiliate must be named on the policy, and
- (vi) The Operator shall not do, omit to do, or permit any acts or omissions on or in the Facilities that may void coverage under the insurance policies described in 14.1(1)(a)(i) through 14.1(1)(a)(v) above.

**(2) Conditions of Insurance.**

- (a) The Operator shall cause Huron to be included as an additional insured on the policies of insurance described in subsections 14.1(1)(a)(i) to (iv) maintained by the Operator pursuant to this Amended Agreement and each such policy shall contain a cross-liability clause and shall protect Huron against all claims for all damage to any property of Huron or any other public or private property resulting from or arising out of any failure, neglect or omission including negligence.
- (b) The Operator shall provide Huron with certificates, in a form prescribed by Huron, confirming that the Operator has obtained insurance coverage as described in this Amended Agreement sixty (60) days before the Start Date and confirmation of the renewal of such policies within ten (10) days of their renewal date.
- (c) The Operator or the Operator's insurance company shall not suspend, void, cancel, restrict or reduce insurance coverage or limits except after giving thirty (30) days, prior written notice by registered mail to Huron. Any deductibles or self insured retention greater

than that specified in subsection 14.1(1) must be declared to Huron for acceptance or rejection by Huron. Any such deductible or self insured retention shall be the sole and immediate responsibility of the Operator in the event of a claim.

- (d) The policy limits and policy types described in subsection 14.1(1) above shall be reviewed annually by Huron and the Operator, having regard to the Operator's claims history and loss statistics in the prior Contract Year. Huron and the Operator reserve the right to request higher limits or additional types of insurance as they may reasonably require. Huron shall pay the cost of any such higher limits or additional types of insurance required by Huron.
- (e) The insurance as required by this Amended Agreement shall be kept in place by the Operator for a period of twelve (12) months following the expiry or termination of this Amended Agreement.
- (f) The Operator shall promptly notify Huron of the first notice of loss or claim in excess of two hundred and fifty thousand dollars (\$250,000.00) against the policies maintained by the Operator pursuant to this Amended Agreement. If such claims reduce the aggregate coverage amount available from those limits described in subsection 14.1(1) above, or as subsequently amended by agreement between Huron and the Operator, then Huron may require that the Operator acquire additional insurance coverage to ensure that the aggregate limits are maintained at the levels described above. The cost of acquiring such additional insurance shall form part of the Operating and Maintenance Costs.
- (g) The Operator shall advise Huron of the cost of the insurance described in subsection 14.1(1) above. Upon receipt of this information Huron may, in its sole discretion, require the Operator to obtain such insurance or Huron may obtain such insurance at its own cost.
- (h) The minimum liability limits required may be satisfied through the combination of the primary General Liability, Employer's Liability and Automobile Liability limits with an Umbrella Liability policy (with coverage no more restrictive than the underlying insurance) providing excess limits at least equal to or greater than the combined primary limits.

## **14.2 Financial Security.**

### **(1) Performance Bond or Letter of Credit.**

- (a) The Operator shall at its own expense throughout the Term of this Amended Agreement, provide, maintain and pay for a Performance Bond or Letter of Credit, in a form acceptable to Huron, acting reasonably, in the amount of the Service Fee for the First Contract Year as security for the performance by the Operator of its obligations pursuant to this Amended Agreement, to be delivered to Huron prior to the Start Date. For greater certainty, a Performance Bond shall only be acceptable if such Performance Bond uses the standard wording required by the City of London from time to time for such bonds.
- (b) Notwithstanding that any amendments to this Amended Agreement following the date hereof shall not be covered by the Performance Bond or Letter of Credit until expressly so indicated by its issuer, the Operator agrees that all such amendments made pursuant to

the terms of this Amended Agreement shall be supported by a form of security reasonably satisfactory to Huron unless this requirement is waived by Huron.

**ARTICLE 15**  
**REPRESENTATIONS AND WARRANTIES**

**15.1 Representations and Warranties of the Operator.**

The Operator hereby represents and warrants, on a continuous basis, to Huron and acknowledges that Huron is entering into this Amended Agreement in reliance on such representations and warranties:

- (a) The Operator is a corporation established under the Capital Investment Plan Act, 1993. The Operator has sent to the appropriate Governmental Authority all material annual returns and financial statements required to be sent under the laws of Ontario. The Operator has the corporate power and authority to carry on business as currently carried on by it. No act or proceeding has been taken by or against the Operator in connection with the dissolution, liquidation, winding up, bankruptcy or reorganization of the Operator;
- (b) The Operator has the corporate power, authority and capacity to enter into this Amended Agreement and all other agreements and instruments to be executed by it as contemplated by this Amended Agreement and to carry out its obligations under this Amended Agreement and such other agreements and instruments. The execution and delivery of this Amended Agreement and such other agreements and instruments and the completion of the transactions contemplated by this Amended Agreement and such other agreement and instruments have been duly authorized by all necessary corporate action on the part of the Operator and its shareholders, as required;
- (c) This Amended Agreement constitutes a valid and binding obligation of the Operator enforceable against the Operator in accordance with its terms. The Operator is not an insolvent person within the meaning of the *Bankruptcy and Insolvency Act* (Canada);
- (d) The execution, delivery or performance of this Amended Agreement by the Operator and the fulfilment of its obligations herein do not and will not conflict with or result in a breach of:
  - (i) any Applicable Laws affecting the Operator;
  - (ii) any of the terms or conditions of the constating documents of the Operator;
  - (iii) any agreement, document or instrument to which the Operator is a party or by which the Operator is bound or to which any property of the Operator is subject; and
  - (iv) do not and will not constitute or result in a violation, breach or default under any of the foregoing;
- (e) There is no action, suit, proceeding, claim, application, complaint or investigation in any court or before any Arbitrator or before or by any regulatory body or Governmental or non-

governmental Authority pending or threatened by or against the Operator which would materially affect its ability to enter into or perform its obligations pursuant to this Amended Agreement; and, there is no factual or legal basis which could give rise to any such action, suit, proceeding, claim, application, complaint or investigation; and

- (f) The statements, representations, warranties (express and/or implied) in the Operator's Proposal are and remain true as of the date of the execution of this Amended Agreement and shall survive the execution of this Amended Agreement.

## **15.2 Representations and Warranties of Huron.**

Huron hereby represents, warrants, on a continuous basis, to the Operator and acknowledges that the Operator is entering into this Amended Agreement in reliance on such representations, and warranties:

- (a) The execution and delivery of this Amended Agreement has been authorized by Huron and such authorization has not been rescinded or otherwise modified;
- (b) This Amended Agreement has been authorized, executed and delivered by Huron and constitutes a legal, valid, and binding obligation of Huron, enforceable against it in accordance with its terms;
- (c) To the knowledge of Huron there is no action, suit, or proceeding pending or threatened against Huron or the Previous Operator which would materially affect Huron's ability to enter into or perform obligations pursuant to this Amended Agreement or which would or could materially affect the Operator; and
- (d) With respect to the Consumables purchased from Huron pursuant to the provisions of subsection 9.4(3) of this Amended Agreement, Huron has the authority to convey such assets to the Operator as provided in this Amended Agreement. Such assets are or will be at the date of closing of the purchase and sale thereof, free and clear of any and all charges and encumbrances whatsoever.

## **ARTICLE 16 INDEMNIFICATION**

### **16.1 Indemnification by the Operator.**

- (a) The Operator shall indemnify, defend and save Huron, its councillors, directors, officers, agents and employees harmless from all costs, expenses, damages and Claims of third parties for personal injury or property damage arising from the extent of negligent performance or non-performance or wilful misconduct by the Operator of its obligations under this Amended Agreement or which arise as a result of the negligent acts or omissions or wilful misconduct of the Operator in connection with the performance or non-performance of its obligations under this Amended Agreement or in connection with the Operator's use or occupancy of the Facilities pursuant to this Amended Agreement, including, without limitation, Claims for personal injury and damage to or loss of use or loss of any personal or real property caused by or arising out of the negligent act or omission or wilful misconduct of the Operator.

- (b) Without limiting the generality of the foregoing, the Parties acknowledge and agree that part of the Mechanical and Electrical Equipment located at the Facilities includes equipment required to be installed and maintained pursuant to Applicable Laws relating to health and safety. The Operator shall indemnify and save Huron harmless from any and all claims and losses which Huron can demonstrate that it has suffered or incurred as a result of any injury arising from the use of such health and safety equipment, except to the extent such Claims or losses result from insufficient health and safety equipment located at the Facilities at the Start Date in non-compliance with Applicable Laws, and failure by Huron to repair or correct such non-compliance in accordance with subsection 3.15(2)(b).
- (c) The Operator, its agents and all workers and persons employed by or under its control, including subcontractors, shall use all reasonable care to ensure that no person or property is injured and that no rights are infringed in the carrying out of the Operator's duties and obligations under this Amended Agreement.
- (d) The Operator shall be solely responsible for all damages by whomsoever claimable in respect of any injury to persons, including death, or to land, buildings, structures or property of whatever description, and in respect of any infringement of any right or privilege whatever occasioned in the carrying out of the Operator's duties or obligations under this Amended Agreement, or any part thereof, or by any neglect, misfeasance or nonfeasance on the Operator's part or on the part of any of its agents, workers or persons employed by the Operator or under its control, including subcontractors, either carrying out the Operator's duties and obligations under this Amended Agreement or present at the Facilities and shall bear the full costs thereof and shall at its own expense make such temporary provisions to ensure the avoidance of any such damage, injury, or infringement and to prevent the interruption of or danger or menace to the operation of the Facilities.
- (e) The Operator shall indemnify and save harmless Huron from and against all Claims, demands, loss, costs, damages, actions, suits or other proceedings by whomsoever made, brought, occasioned by or attributed to any such damage, injury or infringement referenced in subsection 16.1(d) above.
- (f) The Operator further agrees to indemnify and save Huron, its agents, servants and employees, harmless from all legal consequences including, without limitation, all legal costs and expenses incurred to defend any action brought by the MOE or other Governmental Authority in connection with noncompliance with Applicable Laws or a Change of Laws, as well as any fines or penalties imposed by MOE or a Governmental authority except where the Operator is entitled to indemnification by Huron pursuant to Section 16.2.

## **16.2 Indemnification by Huron.**

- (a) Huron shall indemnify and save the Operator, its agents, employees and subcontractors and Her Majesty the Queen in Right of Ontario, as represented by the Minister of Environment, Conservation and Parks and all directors, officers, employees and agents of the MOE from all reasonable costs, expenses, damages and claims of third parties for personal injury or property damage arising from:

- (i) all reasonable costs, expenses, damages and claims of third parties for personal injury or property damage arising from Huron Fault, including the negligent acts or omissions or wilful misconduct of Huron in connection with the performance or non-performance of its obligations under this Amended Agreement;
  - (ii) any incorrectness in or breach of any representation or warranty of Huron contained in this Amended Agreement or in any other agreement, or instrument executed and delivered pursuant to this Amended Agreement;
  - (iii) a violation of Applicable Law by Huron;
  - (iv) failure of Huron to make Process or Operational Charges or Capital Improvements to achieve compliance with Applicable Laws or to correct unsafe or hazardous situations as advised by the Operator within forty-five (45) days following the Start Date;
  - (v) the presence at the Facilities of (i) subsurface structures, materials or conditions having historical, geological, archaeological, religious or similar significance, or (ii) any habitat of an endangered or protected species;
  - (vi) the presence on the Start Date of hazardous waste or hazardous substances upon or beneath the Facilities in non-compliance with Applicable Laws;
  - (vii) structural damage to or the collapse of the Facilities caused by geological conditions; and
  - (viii) any other matters specifically provided in this Amended Agreement. Notwithstanding the above, Huron shall only be liable for its percentage of fault or negligence.
- (b) Huron further agrees to indemnify and save the Operator, its agents, servants, and employees, harmless from all legal consequences including, without limitation, all legal costs and expenses incurred to defend any action brought by the MOE or other Governmental Authority in connection with non-compliance with Applicable Laws or a Change of Laws, as well as any fines or penalties imposed by the MOE or other Governmental Authority which the Operator can demonstrate it has suffered or incurred arising from or in connection with its compliance with Huron's direction as to the appropriate means of achieving compliance with Applicable Laws or a Change of Laws, subject to the Operator confirming due care and diligence by the Operator in following and implementing Huron's direction and in its management, operation and maintenance of the Facilities.
- (c) Huron shall indemnify and save harmless the Operator, its agents and employees in respect of any claim, demand, action, cause of action, damage, loss, cost or liability arising out of non-compliance of any employee of Huron with the Operator's health and safety procedures.

### 16.3 Survival of Covenants.

Wherever this Amended Agreement contains an express obligation by one or more Parties to indemnify any other Party, such obligation to indemnify shall survive the completion or termination of this Amended Agreement and continue in full force and effect.

### 16.4 Procedure for Indemnification.

#### (1) Notice of Claim.

- (a) Promptly after becoming aware of any action or proceeding that may give rise to a Claim pursuant to this Amended Agreement, the Indemnified Party shall provide to the Indemnifying Party written notice of the commencement of such action or proceeding. Such notice shall specify whether the Claim arises as a result of a claim by a Person other than a Party to this Amended Agreement against the Indemnified Party (a “**Third Party Claim**”) or whether the Claim does not so arise (a “**Direct Claim**”), and shall also specify with reasonable particularity, to the extent that the information is available:
  - (i) the factual basis for the Claim; and
  - (ii) the amount of the Claim, if known.
- (b) If, through the fault of the Indemnified Party, the Indemnifying Party does not receive notice of any Claim in time effectively to contest the determination of any liability susceptible of being contested, then the Liability of the Indemnifying Party to the Indemnified Party under this Article shall be reduced by the amount of any losses incurred by the Indemnifying Party resulting from the Indemnified Party’s failure to give such notice on a timely basis.
- (c) The Party shall be defended by the Indemnifying Party but shall be entitled to participate in the defence of any such claim, at its own expense, and without limiting the generality of the foregoing, may advance a defence available to it, which is not available to the Party obliged to defend and may participate in such defence through counsel without the obligation to conduct the defence. The Indemnifying Party shall not be liable for any settlement of any action or proceeding effected without its written consent.
- (d) The Parties agree that in individual cases it may be more appropriate for the Indemnified Party to conduct its own defence in reliance on the financial obligation of the Indemnifying Party. In these cases, the Indemnifying Party shall not be liable for any settlement of any action or proceeding effected without its written consent.
- (e) The assumption of the defence or financial obligations of the defence by the Indemnifying Party is not a bar to any claim for contribution and indemnity or other relief over against the Indemnified Party.
- (f) If the Indemnifying Party fails to assume control of the defence of any Third Party Claim, the Indemnified Party shall have the exclusive right to contest, settle or pay the amount claimed. Whether or not the Indemnifying Party assumes control of the negotiation, settlement or defence of any Third Party Claim, the Indemnifying Party shall not settle any Third Party Claim without the written consent of the Indemnified Party, which consent shall

not be unreasonably withheld or delayed; provided, however, that the liability of the Indemnifying Party shall be limited to the proposed settlement amount if any such consent is not, obtained for any reason within a reasonable time after the request therefor.

**(2) Direct Claims.**

In the case of a Direct Claim, the Indemnifying Party shall have sixty (60) days from receipt of notice of the Claim within which to make such investigation of the Claim as the Indemnifying Party considers necessary or desirable. For the purpose of such investigation, the Indemnified Party shall make available to the Indemnifying Party the information relied upon by the Indemnified Party to substantiate the Claim, together with all such other information as the Indemnifying Party may reasonably request. If both Parties agree at or before the expiration of such sixty (60) day period (or any mutually agreed upon extension thereof) to the validity and amount of such Claim, the Indemnifying Party shall immediately pay to the Indemnified Party the full agreed upon amount of the Claim, failing which the matter shall be referred to binding arbitration in such manner as the Parties may agree or shall be determined by a court of competent jurisdiction.

**16.5 Limits on Liability.**

Notwithstanding any other provision in this Amended Agreement:

- (a) The Operator shall be liable to Huron for Claims for general and special damages resulting from negligence or wilful misconduct in the performance or non-performance of the obligations under this Amended Agreement up to a total aggregate of the amount(s) recoverable from the insurance and financial security that is required to be in place by Article 14 of this Amended Agreement during the term of this Amended Agreement , whether such damages are characterized as arising under breach of contract or warranty, negligence, fault, strict liability, indemnity or other theory of legal liability.
- (b) Huron shall be liable to the Operator for Claims for general and special damages resulting from negligence or wilful misconduct performance or non-performance under this Amended Agreement, whether such damages are characterized as arising under breach of contract, negligence, fault, strict liability, indemnity or other theory of legal liability.
- (c) The Parties' respective liability under this Amended Agreement shall be limited to Claims arising from the negligence or wilful misconduct, acts, omissions, violations, or non-performance under this Amended Agreement by a Party, or those for whom the Party is responsible at law, in the course of performing the terms and conditions of this Amended Agreement. In addition, neither Party shall be liable for indirect, consequential, aggravated, exemplary or punitive damages, including damages for loss of profit or business shut-down.

**ARTICLE 17**  
**DISPUTE RESOLUTION**

**17.1 Availability of Dispute Resolution.**

The Parties agree that dispute resolution shall be available in the following circumstances, including the interpretation of this Amended Agreement as it relates to those circumstances:



- (a) any dispute or controversy with respect to the assessment of liquidated damages by Huron as provided in this Amended Agreement;
- (b) any dispute or controversy with respect to the withholding by Huron of a portion of the Service Fee as provided in this Amended Agreement;
- (c) any dispute or controversy with respect to an Adjustment to the Service Fee pursuant to Section 8.4 of this Amended Agreement;
- (d) any matters described in this Amended Agreement that require further terms, conditions or payments to be negotiated or agreed upon by the Parties and the Parties are unable to reach an agreement on such terms, conditions or payments; and
- (e) those instances specifically identified in this Amended Agreement.

#### **17.2 Meeting Among Parties to Negotiate a Resolution.**

- (a) If a dispute arises out of or in relation to this Amended Agreement (the “**Dispute**”), the Parties will attempt in good faith to negotiate a resolution of the Dispute.
- (b) The Parties will appoint representatives with decision-making authority to settle the Dispute.
- (c) To commence negotiations under this section, any Party may send a notice to the other Party of a Dispute which has not been resolved in the ordinary course of business. The notice shall include a statement of the Party’s position and the name and title of the representative of the Party who will attend the resolution meeting.
- (d) The Party who receives such a notice shall within ten (10) Business Days deliver a response setting out its position and the name and title of the representative of the Party who will attend the resolution meeting.
- (e) Within ten (10) Business Days of the sending of a notice of Dispute, a meeting shall be held between the Parties at a mutually satisfactory time and place. At the meeting, the Parties will attempt in good faith to negotiate a resolution of the Dispute.

#### **17.3 Dispute Submitted to Mediation.**

If the Parties have not succeeded in negotiating a resolution of the Dispute within ten (10) Business Days after such meeting or if a meeting is not held within fifteen (15) Business Days of the disputing Party’s notice (unless extended by mutual agreement of the Parties), the Dispute shall be submitted to mediation.

#### **17.4 Costs of Mediation.**

The Parties will bear equally all costs of the mediation.

### **17.5 Appointment of Mediator.**

The Parties will jointly appoint a mutually acceptable mediator. If the Parties have been unable to agree upon the appointment of a mediator within ten (10) Business Days from the conclusion of the negotiation period, then each Party shall identify a mediator and the mediators identified by the Parties shall select a mediator, being a person who is not one of the mediators identified by the Parties to select a mediator.

### **17.6 Disclosure.**

There will be complete and honest disclosure by each Party to the other and to the mediator, if appointed, of all information and documents relevant to the Dispute.

### **17.7 Conduct of Mediation.**

- (a) Within ten (10) Business Days following his or her appointment, the mediator shall fix a time and a place in London, Ontario for the purpose of conducting the mediation.
- (b) Each Party shall provide a written summary of no more than five (5) pages summarizing its perspective on the Dispute to the mediator and to the other Party no later than the third day prior to the scheduled commencement of the mediation event.
- (c) The mediation event will be attended by the Parties and their legal counsel, and each Party will be represented by a person or persons who has full and unqualified authority to reach a settlement on all issues relating to the Dispute.
- (d) The Parties agree that they will not call the mediator as a witness for any purpose and will not seek access to any documents prepared or delivered to the mediator in connection with the mediation, including any records or notes of the mediator. Statements made by any person and documents produced in the mediation not otherwise discoverable shall not be subject to disclosure through discovery or any other process and shall not be admissible into evidence in any context for any purpose.
- (e) The Parties agree to keep all communications and information forming part of the mediation in confidence. The only exception to this is disclosure for the purposes of enforcing any settlement agreement reached between the Parties.
- (f) The Parties agree that any agreement reached as the result of the mediation event shall be reduced to writing and signed by the parties.

### **17.8 Participation in Mediation.**

The Parties agree to participate in good faith in the mediation and the related negotiations for a period of fifteen (15) Business Days.

### **17.9 Unsuccessful Mediation**

- (a) If the Parties are not successful in resolving the Dispute through the mediation, then either Party may submit the Dispute to arbitration and such arbitration shall be in accordance with the *Arbitrations Act*, 1991, S.O. 1991 c.17 ("**Arbitrations Act**").

- (b) Arbitration proceedings shall be commenced by the Party desiring arbitration (the “**Initiating Party**”) by giving written notice (the “**Notice of Arbitration**”) to the other Party (the “**Responding Party**”) within ten (10) Business Days of the date the Parties were unable to resolve the Dispute. The Notice of Arbitration shall specify the matter to be arbitrated and request an arbitration thereof.
- (c) The Parties agree that, if the Initiating Party fails to deliver the Notice to Arbitration within the ten (10) Business Day period, the Initiating Party shall be deemed to have waived its entitlement to have the Dispute submitted to arbitration and shall not be permitted to seek further resolution.
- (d) Until the Dispute is finally resolved through arbitration, Huron’s Manager shall, in his or her sole discretion, establish an interim resolution describing the terms under which the Parties shall govern themselves.
- (e) The arbitration shall take place in London, Ontario, Canada unless otherwise agreed.
- (f) The law governing the procedures and substance of the arbitration shall be that of the *Arbitrations Act*.
- (g) A single Arbitrator shall be selected by mutual agreement of both Parties, no later than thirty (30) days following delivery of the Notice of Arbitration. If the Parties are unable to reach an agreement on the selection of the Arbitrator, within the thirty (30) days, either Party may bring an application before the Court requesting the Court to appoint an Arbitrator.
- (h) The Initiating Party shall have sixty (60) days from the date of the Notice of Arbitration or such other period as the Parties may agree, to schedule an arbitration hearing.
- (i) Subject to the Arbitrator’s availability and discretion, the arbitration hearing shall be completed within thirty (30) days of the commencement of the arbitration hearing and the Arbitrator shall deliver a decision within fifteen (15) days of the completion of the arbitration hearing.
- (j) The Arbitrator may determine all questions of law and jurisdiction including questions as to whether the Dispute is arbitrable and has the right to grant legal and equitable relief including injunctive relief and the right to grant permanent and interim injunctive relief and shall have the discretion to award costs including reasonable legal fees, interest and costs of the arbitration.
- (k) The decision of the Arbitrator shall be final and binding on the Parties and there shall be no appeal from such decision.
- (l) Judgment upon the award rendered by the Arbitrator may be entered in any court having jurisdiction thereof.
- (m) Where a matter has been referred to arbitration, the successful Party shall be entitled to be reimbursed by the unsuccessful Party for the reasonable costs incurred by it (including interest on amounts for which reimbursement was not made at the time claimed) as agreed

to by the Parties or as determined by the Arbitrator. Pending final resolution, the Parties agree that the costs of the Arbitrator shall be shared equally by the Parties.

- (n) No issue which has been the subject of arbitration can be the subject of a second arbitration without the consent of both Parties.

## **ARTICLE 18**

### **ANNUAL PERFORMANCE REVIEW**

#### **18.1 Annual Performance Review.**

Huron may conduct an annual performance review of the Operator pursuant to this Amended Agreement, to be conducted no later than ninety (90) days following the end of each Contract Year. Notwithstanding the right of Huron to conduct the annual performance review, Huron may review the Operator's performance at any time during the Term of this Amended Agreement. The Operator shall cooperate with Huron in every respect of the annual performance review.

## **ARTICLE 19**

### **FORCE MAJEURE**

#### **19.1 Performance.**

- (a) In the event that performance of this Amended Agreement in the reasonable opinion of either Party is made impossible by reason of an Uncontrollable Circumstance, and if a Party seeks to rely on the occurrence of an act, event or condition as an Uncontrollable Circumstance as grounds for not performing its obligations under this Amended Agreement, then the Party relying on such act, event or condition shall; (i) provide prompt notice to the other Party of the occurrence of the act, event or condition as soon as reasonably practicable after the Party first knew of such occurrence and give an estimation of its expected duration and the probable impact on the performance of its obligations hereunder (ii) exercise all reasonable efforts to continue to perform its obligations hereunder; (iii) in accordance with this Amended Agreement, as expeditiously as reasonably practicable-take action to correct or cure the act, event or condition preventing its performance; (iv) exercise all reasonable efforts to mitigate or limit damages to the other party; and (v) provide prompt notice to the other Party of the cessation of the act, event or condition giving rise to its inability to perform.
- (b) In the event that performance of this Amended Agreement in the reasonable opinion of either Party continues to be made impossible by reason of an Uncontrollable Circumstance, then either Party shall notify the other in writing and Huron shall either:
- (i) terminate this Amended Agreement forthwith and make all payment for services performed through the date of termination and all reasonable costs incurred by the Operator in demobilizing from the Facilities, subsection 10.7(1) shall not be invoked. Further; Huron shall pay within sixty (60) days, all amounts owing to the Operator including the Operator's reasonable costs related to cancellation of contracts due to such termination and all capital investment of the Operator approved by Huron pursuant to this Amended Agreement relating to the Purchase by the Operator of Capital Improvements which have not been fully amortized;

or

- (ii) authorize the Operator to continue the performance of this Amended Agreement with such Adjustments to the Service Fee as may be required by the Uncontrollable Circumstances, as are agreed upon by both parties. In the event that the Parties cannot agree upon the aforementioned Adjustments, it is agreed by the Parties that this Amended Agreement shall be terminated and Huron shall pay the Operator for all services performed through the date of termination, all reasonable costs incurred by the Operator in demobilizing from the Facilities, and all capital investment of the Operator approved by Huron pursuant to this Amended Agreement relating to the purchase by the Operator of capital Improvements which have not been fully amortized.
- (c) Except as expressly provided under the terms of this Amended Agreement, neither party to this Amended Agreement shall be liable to the other for any loss, damage, delay, default or failure to perform any obligation to the extent it results from an Uncontrollable Circumstance. The occurrence of an Uncontrollable Circumstance shall not excuse or delay the performance of a party's obligation to pay monies previously accrued and owing under this Amended Agreement, or to perform any obligation hereunder not affected by the occurrence of the Uncontrollable Circumstances.

**ARTICLE 20**  
**LIMITATIONS ON DAMAGES**

**20.1 Limitation on Damages.**

Neither Party shall be liable to the other Party for indirect, consequential, aggravated, exemplary, or punitive damages, including damages for loss of profit or business shut-down.

**ARTICLE 21**  
**CHANGE OF CONTROL**

**21.1 Change of Control.**

During the Term of this Amended Agreement, the Operator shall not transfer Control, directly or indirectly of the Operator to a third Party without the prior written consent of Huron. Failure by the Operator to obtain the consent of Huron shall constitute an Event of Default. Huron agrees that a pledge of the shares of the Operator to the Operator's principal lenders shall not constitute a transfer of Control for purposes of this Article 21. Huron further agrees that an initial public offering and listing of the shares of the Operator on a recognized stock exchange shall not constitute a transfer of Control for purposes of this Article 21.

**ARTICLE 22**  
**CONFLICT OF INTEREST**

**22.1 Conflict of Interest.**

- (a) Throughout the Term of this Amended Agreement, the Operator shall not enter into any agreement, relationship or situation which causes or potentially causes a conflict of interest with Huron or the management, operation and maintenance of the Facilities.
- (b) Throughout the Term of this Amended Agreement, any Affiliated Company of the Operator shall not enter into any agreement or relationship with Huron, or provide services to Huron relating to any water services, or water capital projects unless it receives the prior written consent of Huron.

**ARTICLE 23**  
**NO CLAIM FOR LACK OF HURON'S CAPACITY**

**23.1 No Claim for Lack of Huron's Capacity.**

The Operator shall not call into question, directly or indirectly, in any proceeding whatsoever, in law or in equity, or before any administrative tribunal, the right of Huron to enter into this Amended Agreement or to enforce each and every term, covenant and condition herein contained and this Amended Agreement shall be pleaded as an estoppel against the Operator in any such proceedings.

**ARTICLE 24**  
**GENERAL PROVISIONS**

**24.1 Notices.**

- (a) Any notice, certificate, consent, determination or other communication required or permitted to be given or made under this Amended Agreement shall be in writing and shall be effectively given and made if (i) delivered personally, or (ii) sent by prepaid courier service or mail, in each case to the applicable address set out below:

If to Huron, to:

Andrew Henry, P.Eng.  
Director, Regional Water  
Lake Huron Primary Water Supply System  
235 North Centre Road, Suite 200  
London Ontario N5X 4E7

Tel: (519) 930-3505 ext.1355  
Fax: (519) 474-0451  
E-mail: [ahenry@HuronElginWater.ca](mailto:ahenry@HuronElginWater.ca)

with a copy to:

Harry Dahme  
Gowling WLG LLP

1 First Canadian Place, 100 King Street West  
Toronto, Ontario M5X 1G5

E-mail: [harry.dahme@gowlingwlq.com](mailto:harry.dahme@gowlingwlq.com)

Tel: (416) 862-4300

Fax: (416) 863-3410

If to the Operator, to:

Blair Tully  
General Manager  
Suite 370, 450 Sunset Drive  
St. Thomas, Ontario N5R 5V1

E-Mail: [btully@ocwa.com](mailto:btully@ocwa.com)

Tel: (510) 637-8334

Fax: 519 680-1390

with a copy to:

Robin Kind  
Ontario Clean Water Agency  
One Yonge Street  
Toronto, ON M5E 1E5

E-Mail: [rkind@ocwa.com](mailto:rkind@ocwa.com)

Tel: 416 314-9648

Fax: 416 703-2389

- (b) Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, provided that such day in either event is a business day and the communication is so delivered before 4:30 p.m. on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following business day. Any such communication sent by mail shall be deemed to have been given and made and to have been received on the fifth business day following the mailing thereof; provided however that no such communication shall be mailed during any actual or apprehended disruption of postal services. Any such communication given or made in any other manner shall be deemed to have been given or made and to have been received only upon actual receipt.
- (c) Any Party may from time to time change its address under this Section 24.1 by notice to the other Party given in the manner provided by this subsection.

## **24.2 Waiver.**

No covenant or condition of this Amended Agreement may be waived except by the written consent of the Party waiving same and the failure on the part of any Party to insist on compliance with any covenant or condition shall not be deemed a waiver of same or a waiver of any right to subsequently insist upon compliance or fulfilment of same or condonation of continuing or subsequent default or breach.

**24.3 Confidentiality.**

The Operator shall not disclose any information which is not otherwise available to the public relating to the Facilities other than (1) to Huron's Manager, (2) as required from time to time from Huron or the City of London personnel operating equipment or processes affecting the Facilities equipment and processes, (3) as required under Applicable Law or (a) to any Affiliate or the operator or employee, officer, director, accountant, legal counsel or other consultant of the Operator or any Affiliate of the Operator without the written approval of Huron. Disclosure by the Operator or any Affiliate of the Operator of the existence and terms of the transaction described in this Amended Agreement shall not be prohibited by this subsection.

**24.4 Governing Law.**

This Amended Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable in the Province of Ontario and shall be treated in all respects as an Ontario contract.

**24.5 Enurement.**

This Amended Agreement shall enure to the benefit of the Parties and be binding upon their respective successors and assigns, provided that the Operator shall not be permitted to assign or transfer, whether absolutely, by way of security or otherwise, all or any part of its rights and obligations under this Amended Agreement without the prior written consent of Huron except as provided under Article 21.

**24.6 Severability.**

Any provision of this Amended Agreement which is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Amended Agreement, all without affecting the remaining provisions of this Amended Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

**24.7 Set-Off**

The Operator expressly acknowledges and agrees that Huron shall have a right to set-off against any damages incurred or any damages reasonably expected to be incurred or any amounts owed to Huron by the Operator as a consequence of the Operator's breach of this Amended Agreement or an occurrence of any Event of Default, from any monies or amounts otherwise owing to the Operator under this Amended Agreement.

**24.8 Fines.**

- (a) The Operator shall be liable for all fines incurred by either party imposed by any Governmental Authority on the Operator or Huron as a result of the Operator's negligence or non-performance of any of its obligations under this Amended Agreement.



- (b) If Huron chooses to pay a fine, then prior to the payment of the fine by Huron, Huron shall inform the Operator of Huron's intent to pay the fine and the Operator may have the right to contest any government or private suits or proceedings or penalties.

**24.9 Forbearance.**

The Operator agrees that forbearance by Huron in the enforcement of any obligations, rights or remedies pursuant to this Amended Agreement including, but not limited to, the assessment of liquidated damages or the withholding of payment, or the forbearance in the identification of breach of this Amended Agreement or of an Event of Default or Extraordinary Event of Default shall not affect the entitlement of Huron under this Amended Agreement to later seek enforcement of any such obligations, rights or remedies pursuant to this Amended Agreement or arising from such breach, Event of Default or Extraordinary Event of Default.

**24.10 Counterparts.**

This Amended Agreement may be executed and delivered by the Parties in counterparts, each of which shall constitute an original and may be delivered by facsimile, email or other functionally equivalent electronic means of communication, and those counterparts taken together shall constitute one and the same instrument.

*Remainder of this page is intentionally left blank.*

**DATED** this        day of    , 2021.

**IN WITNESS WHEREOF:**

Signed in the Presence of:

\_\_\_\_\_

Signed in the Presence of:

\_\_\_\_\_

By: \_\_\_\_\_

Name:

Title:     Chair  
             Lake Huron Primary Water  
             Supply System Board of  
             Management

By: \_\_\_\_\_

Name:     Kelly Scherr

Title:     Chief Administrative Officer

I/We have authority to bind Huron.



By: \_\_\_\_\_

Name:

Title:

I/We have authority to bind the  
Corporation.



By: \_\_\_\_\_

Name:

Title:

I/We have authority to bind the  
Corporation.

## **SCHEDULE “A-2”**

### **DESCRIPTION OF LAKE HURON PRIMARY WATER SUPPLY SYSTEM**

#### **OVERVIEW**

This Schedule contains a description of the following:

- Description of existing system

#### **DESCRIPTION OF EXISTING SYSTEM**

##### **Overview**

The Lake Huron Primary Water Supply System is responsible for the treatment and transmission of drinking water to the following eight municipalities in south-western Ontario: Municipality of Bluewater, Municipality of South Huron, Municipality of Lambton Shores, Municipality of North Middlesex, Township of Lucan-Biddulph, Municipality of Middlesex Centre, Municipality of Strathroy-Caradoc and the City of London.

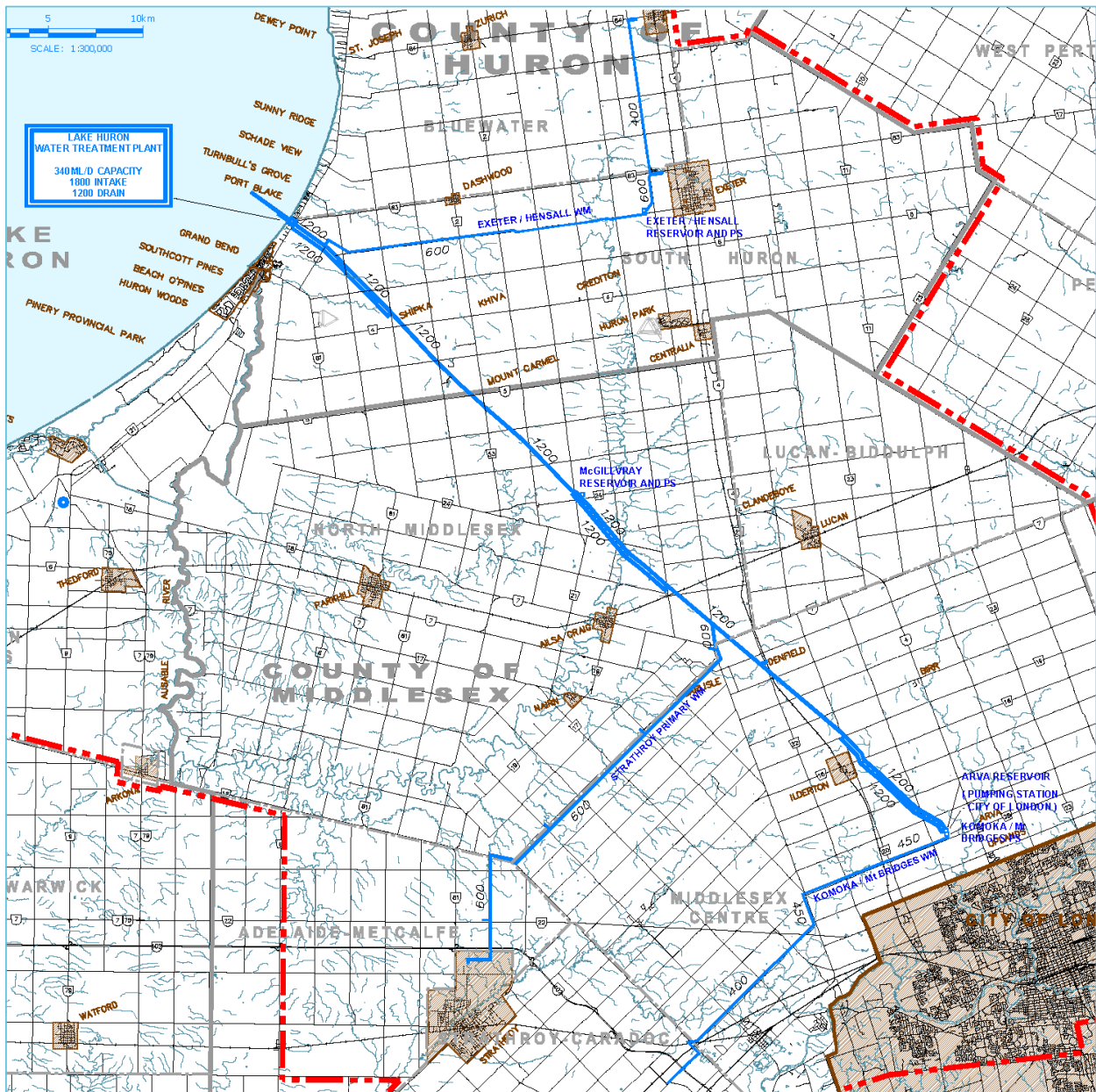
The population served by this system is approximately 390,000. Water is provided bulk wholesale to the municipalities who then distribute it to their customers. The Lake Huron Primary Water Supply System extends to the first isolation valve off of the Primary Transmission Mains in all cases and all flow meters (except on individual service connections which are municipally owned) belong to the Lake Huron Primary Water Supply System.

The drinking water system is monitored at various locations throughout the system via a Supervisory Control and Data Acquisition (SCADA) system.

The Certificates of Classification for the Lake Huron Primary Water Supply System are as follows:

- Water Treatment Subsystem Class IV
- Water Distribution Subsystem Class IV

A map of the system is shown below.



### **Water Treatment Plant**

The 340 ML/D Lake Huron WTP (with low lift pumping station) is located at 71155 Bluewater Highway in the Municipality of South Huron, on the shore of Lake Huron. The plant draws water for treatment from Lake Huron via one 454 ML/D, 2500m long, 1800mm diameter intake at an intake crib depth of 10 m.

The LLPS consists of the following:

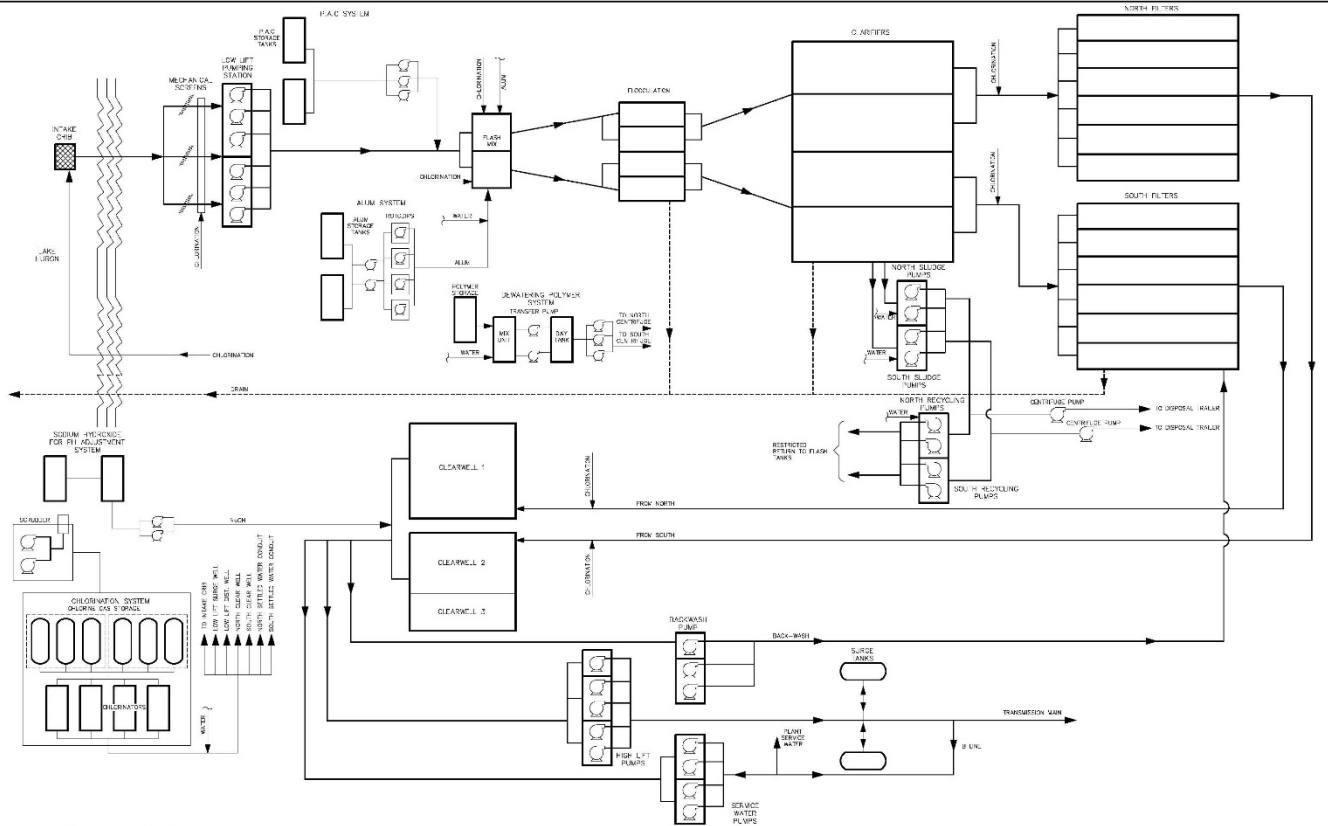
- one semi-circular surge well
- three travelling screens
- one semi-circular pump well
- six low lift pumps, two with variable speed motors
- one 16mm diameter raw water sample line, 15m from the existing water intake manhole
- one 25mm diameter chlorine sample line, within 60m of the intake structure
- one 120mm diameter chlorine solution feed line
- one 75mm diameter sodium hypochlorite solution feed pipe
- one chlorine sample pump
- one raw water sampling pump

The Lake Huron WTP consists of the following:

- two flash mix chambers, each chamber consisting of two cells and one mixer per cell
- two banks of flocculation tanks, each bank consisting of four cells
- four parallel plate clarifiers, each clarifier equipped with picket thickeners and a sludge collector
- twelve dual-media (anthracite and sand) gravity filters
- four filter backwash pumps
- three clearwell tanks with a total volume of 10.1 ML
- one 1.6 ML treated water suction conduit
- Six high lift pumps
- two hydro pneumatic tanks
- four service water pumps
- two surge tanks
- one 2,065 m long, 1,200 mm diameter chlorine contact pipe (watermain) from the plant to the "B-Line" connection
- four diesel generator sets, each rated at 2,500 kW,
- one 200kW diesel generator and one 90 kW diesel generator
- one 125kW diesel generator used for PAC
- one 250 kW diesel pump engine drive
- water treatment chemical systems as follows:
  - alum for coagulation
  - powdered activated carbon for taste and odour control
  - chlorine gas for mussel control
  - chlorine gas for disinfection
  - polymer for filter aid
  - caustic soda for pH control (corrosion control)
- residuals management chemical systems as follows:
  - polymer for sludge dewatering aid
  - sodium bisulphite for dechlorination

After the water is treated, it is pumped from the WTP to various communities or to storage reservoirs.

Wastewater from the sedimentation tanks are thickened by two centrifuges, with the thickened sludge discharged off-site. Flocculation tank drains and filter backwash wastewater are discharged to Lake Huron via a 1070 mm diameter plant drain outfall extending approximately 500 m from the shore.



## Reservoirs and Pumping Stations

There are three booster pumping stations as listed below:

- Exeter-Hensall Pumping Station – 219 L/s (firm)
- McGillivray Pumping Station – 1158 L/s
- Pumping Station #4 (Komoka-Mt. Brydges) – 333 L/s (firm)

There are three in-ground reservoirs as listed below:

- Exeter-Hensall Reservoir (part of above booster pumping station) – 8 ML
- McGillivray Reservoir (part of above booster pumping station) – 18 ML
- Arva Terminal Reservoir – 109 ML

## **Primary Transmission Mains**

There is approximately 151.6 km of primary transmission mains as summarized below and listed in more detail in the table below:

- Primary pipeline – 1200mm, 77.405 km (30.405 km twinned)
- Strathroy-Caradoc pipeline – 600mm, 21 km
- Exeter-Hensall pipeline – 400/600mm, 29 km
- Komoka-Mt. Brydges pipeline – 400/450mm, 24.2 km

<b>System</b>	<b>Description</b>	<b>Diameter (mm)</b>	<b>Approx. Length (m)</b>	<b>Year</b>	<b>Pipe Material</b>
LHPWSS	Primary Pipeline	1200	47,000	1964	C301(E) CPP
LHPWSS	Primary Pipeline - Twinned section #1	1200	7,000	1996	C200 Steel
LHPWSS	Primary Pipeline - Twinned section #2 & #3	1200	7,750	1996	C301(E) CPP
LHPWSS	Primary Pipeline – Twinned section #3	1200	7,750	1996	C301(E) CPP
LHPWSS	Primary Pipeline – Twinned section #4	1200	3,500	2013	C200 Steel
LHPWSS	Primary Pipeline – Twinned section #5	1200	4,405	2013	C200 Steel
LHPWSS	Strathroy-Caradoc Pipeline	600	21,000	2005	C301(L) CPP
LHPWSS	Exeter-Hensall Pipeline	600	19,650	2008	C301(L) CPP
LHPWSS	Exeter-Hensall Pipeline	400	9,350	2008	C303 CPP
LHPWSS	Komoka-Mt. Brydges Pipeline - Contract 1	450	55	2010	PVC
LHPWSS	Komoka-Mt. Brydges Pipeline - Contract 2	450	13,883	2010	PVC
LHPWSS	Komoka-Mt. Brydges Pipeline - Contract 3	400	10,269	2010	PVC

## **Monitoring Stations**

There are eight monitoring stations located throughout the Lake Huron Primary Water Supply System. Four monitoring stations are located on the Exeter-Hensall Pipeline, two monitoring stations are located on the Strathroy-Caradoc pipeline, and two monitoring stations are located on the Komoka-Mt. Brydges pipeline. The monitoring stations each consist of an underground chamber and aboveground panel and/or building structure. The monitoring stations typically contain one or more of the following: flow meters, analyzers, flow control devices, PLCs and communications equipment, and sampling apparatus.

## **Chambers**

Throughout the system, there are numerous chambers that include flowmeters and valves. More information is included in the CD/DVD of supporting information that has been provided as part of the *Request for Proposals for Lake Huron & Elgin Area Primary Water Supply Systems Contract Successful Proponent Procurement dated August 2, 2011*, under the folder H1 Governance – a – System Maps and Chambers.





## SCHEDULE “B-2”

### POTABLE WATER PERFORMANCE CRITERIA

In addition to meeting the requirements of the *Safe Drinking Water Act*, the Drinking Water Systems Regulation (O. Reg. 170/03) and the Ontario Drinking Water Quality Standards (O.Reg. 169/03), all water treatment facilities shall produce drinking water that at least meets with the following criteria at all times except for Uncontrollable Circumstances and Abnormal Raw Water quality:

Finished water quality should produce a product in which none of the microbiological, chemical and radiological standards listed in the Ontario Drinking-Water Quality Standards are exceeded at any point in time.

The finished water quality shall, unless otherwise specified below, at least meet the following criteria:

1. On a daily basis, a turbidity of less than 0.1 NTU, 95% of the time from each filter, and less than 0.2 NTU, 100% of the time from the high lift treated water unless it is established, based upon investigative studies, that the Facilities are not capable of meeting such criteria in which case the Parties shall meet and negotiate criteria which are in compliance with Applicable Laws and which are acceptable to both parties acting reasonably.
2. A daily average concentration of total aluminum of not more than 0.1 mg/L on treated water, based on laboratory results.
3. pH in the finished water in the range of 7.8 – 8.5, targeted at 8.1 to 8.2 as measured at the Arva Terminal Reservoir, or as otherwise identified in the corrosion control plan.
4. Primary and Secondary disinfection to meet the latest standards in “Procedure for Disinfection of Drinking Water in Ontario”. MOECC, 2006 (as amended from time to time)
5. Distribution free chlorine residuals to be maintained above 0.5 mg/L at all points in the transmission mains, including the furthest points and at all points of supply to municipal distribution systems, at all times.
6. The concentration of Trihalomethanes (THMs) shall be below 80 µg/L. The 80 µg/L is based on a locational running annual average of quarterly samples at the extremities of the transmission mains and where otherwise specified.
7. The concentration of Haloacetic acids (HAAs) shall be below 60 µg/L. The 60 µg/L is based on a locational running annual average of quarterly samples at the extremities of the transmission mains and where otherwise specified.
8. Geosmin levels below 4.0 ng/L and MIB levels below 8.5 ng/L in the treated water at all times.

Microbiological concentration in the finished water at discharge, controlled so that E. Coli are never detected and that total coliforms per 100 mL are never detected in consecutive samples or in multiple samples taken as a single submission.

Turbidity, pH and chlorine performance are based on SCADA data.

### **OPERATIONAL PERFORMANCE CRITERIA**

Residue effluent with a monthly average less than 25 mg/L Total Suspended Solids discharged back to Lake Huron,

## SCHEDULE "C-1"

### SAMPLING AND TESTING REQUIREMENTS

Sampling and testing at all water treatment facilities are to be performed in accordance with the latest *Safe Water Drinking Act*, the Drinking Water Systems Regulation (O. Reg. 170/03), Municipal Drinking Water Licence and Applicable Laws.

Additional sampling and monitoring requirements include the following:

The parameters listed in Table 4 of the Technical Support Document for Ontario Drinking Water Standards, Objectives and Guidelines are to be tested at least once annually in the raw and treated water.

Trihalomethanes shall be tested at the extremities of each branch of the transmission main, as well as at the Arva Terminal Reservoir. Reporting is based on a locational running annual average of quarterly samples at each location.

Haloacetic acids (HAAs) shall be tested simultaneously with trihalomethanes on a quarterly basis. Reporting is based on a locational running annual average of quarterly samples at each location.

Geosmin and MIB samples shall be taken weekly in both the raw and treated water during the period July 1 – October 31.

Cyanobacteria Sampling Program - Microcystin-Total shall be collected weekly for raw and treated water during the period of June 1 - October 31. Only raw to be tested unless indicators are present then treated shall be tested.

Continue to participate in the MOECC's Drinking Water Surveillance Program (DWSP) routine monitoring (provide samples approximately twice annually on raw, treated and distribution water), intake monitoring program (provide raw water samples approximately twice monthly), and algal toxins monitoring program (provide raw and treated water samples weekly, June through November).

Participate in storm event sampling as per the protocol developed by Huron.

The following types of continuous on-line SCADA analyzers must be maintained and operational at all times:

- Turbidity
- pH
- Temperature
- Conductivity
- Free Chlorine
- Total Chlorine
- Particle Counters
- Flow
- Dissolved Oxygen
- RMF Total Chlorine
- RMF Oxidation Reduction Potential (ORP)
- RMF Total Suspended Solids (TSS)

**Minimum Operational Testing:**

<b>Location of Sampling</b>	<b>Parameter(s)</b>	<b>Frequency of Testing</b>	<b>Description</b>
Raw Water	Colour	Once daily	
	Turbidity pH Odour Total Chlorine Free Chlorine	Every 4 hours	
Settled Water (North and South)	Turbidity	Every 4 hours	
Filtered Water	Turbidity pH Free Chlorine	Every 4 hours	
Treated Water	Colour Aluminum	Twice daily	
	Turbidity pH Total Chlorine Free Chlorine Taste and Odour	Every 4 hours	
Distribution (furthest extent)	Lead Alkalinity Dissolved Inorganic Carbon	Twice annually	
Distribution (Exeter-Hensall Pumping Station)	Free Chlorine Turbidity	Weekly	
Distribution (McGillivray Pumping Station)	Free Chlorine Turbidity	Weekly	
Distribution (Pumping Station #4)	Free Chlorine Turbidity	Weekly	
Filter Backwash Water	Total Solids (mg/L)	Monthly	Composite sample (at least 3 discrete samples taken at equal time intervals over discharge period)
Centrifuge Centrate	Total Solids (mg/L)	Monthly	Composite sample (at least 3 discrete samples taken at equal time intervals over discharge period)

Location of Sampling	Parameter(s)	Frequency of Testing	Description
Hauled Dewatered Sludge	Total Solids (mg/L) Metals (Arsenic, Cadmium, Chromium, Cobalt, Copper, Lead, Mercury, Molybdenum, Nickel, Selenium, Zinc)	Monthly	
Clarifier Sludge	Total Solids (mg/L)	Monthly	
RMF Effluent Conduit	Total Suspended Solids (mg/L)	Weekly	

**SCHEDULE "D"**

**OPERATOR'S SUBMISSION OF QUALIFICATIONS AND PROPOSAL**

**SCHEDULE "E-2"**  
**OPERATIONS FEE AND INITIAL AND FINAL CONDITION SURVEY COST**

Huron

Item	Proposal Pricing (May 3, 2021)				
	2023	2024	2025	2026	2027
Salaries and Training	\$ 2,710,550	\$ 2,778,989	\$ 2,849,165	\$ 2,921,121	\$ 2,994,904
OCWA Support	\$ 97,750	\$ 101,416	\$ 105,219	\$ 109,164	\$ 113,258
Consulting/Audit	\$ 12,650	\$ 13,124	\$ 13,617	\$ 14,127	\$ 14,657
Health and Safety	\$ 40,250	\$ 41,759	\$ 43,325	\$ 44,950	\$ 46,636
Insurance	\$ 307,163	\$ 320,456	\$ 334,392	\$ 349,001	\$ 364,319
Utilities	\$ 155,250	\$ 163,789	\$ 172,797	\$ 182,301	\$ 192,328
Facility Maintenance	\$ 413,425	\$ 428,929	\$ 445,013	\$ 461,701	\$ 479,015
Transmission	\$ 120,750	\$ 125,278	\$ 129,976	\$ 134,850	\$ 139,907
Equipment Maintenance	\$ 603,750	\$ 626,391	\$ 649,880	\$ 674,251	\$ 699,535
Sampling	\$ 39,100	\$ 40,566	\$ 42,087	\$ 43,666	\$ 45,303
Vehicles	\$ 76,475	\$ 79,373	\$ 82,381	\$ 85,504	\$ 88,746
Site Administration	\$ 36,513	\$ 37,882	\$ 39,302	\$ 40,776	\$ 42,305
Regional Administration Support	\$ 58,650	\$ 60,849	\$ 63,131	\$ 65,499	\$ 67,955
Bank Fees	\$ 14,000	\$ 14,000	\$ 14,000	\$ 14,000	\$ 14,000
Final Condition Assessment					\$ 300,000
RMF Cost	\$ 385,279	\$ 396,665	\$ 413,132	\$ 430,339	\$ 448,320
<b>Subtotal of Costs</b>	<b>\$ 5,071,555</b>	<b>\$ 5,229,466</b>	<b>\$ 5,397,417</b>	<b>\$ 5,571,250</b>	<b>\$ 6,051,188</b>
Water Treatment Chemical cost (\$)	\$ 1,837,815	\$ 1,929,706	\$ 2,026,191	\$ 2,127,501	\$ 2,233,876
<b>Total Cost (\$) excluding taxes</b>	<b>\$ 6,909,370</b>	<b>\$ 7,159,172</b>	<b>\$ 7,423,608</b>	<b>\$ 7,698,751</b>	<b>\$ 8,285,064</b>
Yearly Increase (%)	10.75%	3.62%	3.69%	3.71%	7.62%
Sediment Haulage (included in total RMF cost)	\$ 184,000	\$ 193,200	\$ 202,860	\$ 213,003	\$ 223,653
RMF Treatment Chemical Cost (\$) (included in RMF cost)	\$ 67,016	\$ 68,837	\$ 72,279	\$ 75,893	\$ 79,688
Flow Adjustment Costs	\$ 2,088,831	\$ 2,191,743	\$ 2,301,330	\$ 2,416,397	\$ 2,537,217
Annual treated water volume (m <sup>3</sup> )	46,175,425	46,567,916	46,963,743	47,362,935	47,765,520
WT and RMF Chemical Sediment Haulage costs per cubic metre of treated water and excluding taxes (\$/m <sup>3</sup> )	\$ 0.04524	\$ 0.04707	\$ 0.04900	\$ 0.05102	\$ 0.05312

**Notes:**

- RMF Chemical costs have been adjusted and projected future year escalations based on current market indicators
- One (1) additional MM event added to reflect risk based on acts of God, vandalism and other uncontrollable circumstances
- All CMF costs executed to April 23 2021 have been accounted for into the annual O&M fee (\$100K)
- One (1) additional day shift operator has been added to the org structure for Huron
- Water treatment chemical costs are based on water volumes received in April 2021 from RWS
- Sediment haulage is based on hauling to current day South Huron site
- Sediment disposal tipping fees are based on current regulations and requirements of South Huron
- Natural gas costs has been updated to reflect the HVAC equipment upgrades and eliminate annual reconciliation
- Transition plan has been removed 2022
- The costs for line items RMF Treatment Chemical, Water Treatment Chemical and Sediment Haulage and Disposal will be utilized to calculate any Treated Water Volume reconciliations based on the agreed to terms of (<95% or >105%)

**To:** Chair and Members, Board of Management  
Lake Huron Primary Water Supply System

**From:** Kelly Scherr, P.Eng., MBA, FEC  
Chief Administrative Officer

**Subject:** Asset Management Policy and Asset Management Plan Update

## RECOMMENDATION

That the following actions be taken with regards to the Asset Management Policy and Asset Management Plan Update for the Lake Huron Primary Water Supply System:

- a) The Board of Management for the Lake Huron Primary Water Supply system **APPROVE** the Asset Management Policy; and,
- b) The Board of Management for the Lake Huron Primary Water Supply System **RECEIVE** this report regarding the Asset Management Policy and Asset Management Plan Update for information.

## PREVIOUS AND RELATED REPORTS

December 3, 2020 Asset Management Maturity Assessment and Roadmap

March 4, 2021 Asset Management – Roadmap and Plan Update

## BACKGROUND

In March 2021, Board staff reported on the finalization of the Asset Management Maturity Assessment and Roadmap (AM Roadmap) that outlines the Lake Huron Primary Water Supply System's (LHPWSS) current level of maturity and capabilities related to Asset Management (AM) Planning, as well as illustrating a clear pathway for the improvement of AM processes by prioritizing areas of focus. A key recommendation of the roadmap is the development of an Asset Management Policy and continuing to update the AM Plan following the principles of asset management planning.

## DISCUSSION

### Asset Management Plan Update

Board staff issued the Request for Proposal (RFP) for the AM Plan in mid-February to four consulting firms. In mid-March, three proposals were received by the closing date. The proposals were reviewed by Board staff and evaluated against the requirements identified in the RFP document. Based on this evaluation, the proposal from Dillon Consulting Limited (Dillon) was deemed to have the best value to the Board and was recommended by Board staff.



The overall project budget for this project has been approved by the Board at \$150,000. Dillon estimates the fees associated with this assignment to be \$143,592, including contingency, excluding HST, based on their current work plan. It is therefore anticipated that the total cost for this project will remain below budget.

In accordance with the delegated authority given by the Board in March, the Chair and Chief Administrative Officer executed a consulting services agreement with Dillon for the completion of the AM Plan update.

### **Asset Management Policy**

The AM Policy is a statement that demonstrates the utility's commitment to asset management by setting out the principles by which the utility intends to apply asset management planning to achieve its organizational objectives. The policy establishes the intentions and direction of the utility as formally expressed and committed to by its top management.

The AM Policy is a key deliverable of the AM Plan update and was developed through a series of workshops with all service areas participation to ensure that it's guiding principles and outcomes are implemented across the utility. The policy applies to the assets owned by the LHPWSS and to all service areas that operate or manage infrastructure assets that provide service to our customers. The Director of Regional Water is responsible for leading the implementation of the policy, as well as periodic policy review.

The Board is responsible for:

- Approving the policy;
- Receiving annual reports on the status of implementing the AM plan;
- Approving funding and resources to implement the policy; and
- Endorsing anticipated asset funding requirements through multi-year and long-range financial plans.

The proposed AM Policy recommended by staff for Board approval is attached to this report as Appendix A.

## CONCLUSION

Staff recommends that the Board approve the Asset Management Policy that demonstrates the LHPWSS' commitment to asset management by setting out the principles by which the utility intends to apply asset management to achieve its organizational objectives.

**Prepared by:** Billy Haklander, P.Eng., LL.M.  
Environmental Services Engineer

**Submitted by:** Andrew Henry, P. Eng.,  
Director, Regional Water Supply

**Recommended by:** Kelly Scherr, P.Eng., MBA, FEC  
Chief Administrative Officer

**Attachments:** Appendix A: Asset Management Policy

## APPENDIX A: ASSET MANAGEMENT POLICY



### Asset Management Policy

#### 1. Purpose

Asset Management is a coordinated approach to realize the full value of existing and new assets. The Asset Management Policy outlines the key asset management principles that will be developed and implemented across the utility and be the utility's commitment to asset management.

This policy supports a consistent approach to asset management planning in alignment with the utility's corporate strategic priorities and legislative requirements.

#### 2. Scope

The Lake Huron Primary Water Supply System strives to operate and to continually improve the sustainable, environmentally friendly utility that provides safe and reliable drinking water to current and future customers.

The utility delivers drinking water services which include water supply, treatment, and transmission services to benefiting municipalities. This policy applies to the assets owned by the utility and to all service areas that operate or manage infrastructure assets that provide service to our customers. The value of an infrastructure asset in terms of the level of service the asset provides, and the total cost of owning the asset over its service life, will be the basis for an asset's inclusion in the asset management system.

#### 3. Alignment

The asset management planning approach fosters integration with the Strategic Plan (currently under development), Master Water Plan, Operations Plan and Financial Plan. It is also in alignment with global best practice standards for Asset Management such as ISO 55000.

#### **4. Compliance**

The asset management system, which includes this policy, supporting strategies, and asset management plan satisfies compliance obligations including requirements and standards of ISO 14001, Drinking Water Quality Management Standard, the Environmental and Quality Policy, and any other contractually relevant obligations.

#### **5. Guiding Principles**

The guiding principles for infrastructure asset management priority setting, planning, and investment are the following:

1. **Service Delivery:** Service delivery is the key purpose of infrastructure assets. Decision-making should be focused on delivering defined levels of service that reflect customer expectations and balance risk and affordability.
2. **Long-Term Sustainability and Resilience:** Services and infrastructure assets should be socio-culturally, environmentally, and economically sustainable over the long term. Achieving this involves long-term planning that incorporates triple bottom line considerations, climate change awareness, and the development of resilience.
3. **Fiscal Responsibility and Asset Management Decision-Making:** Financial challenges and constraints are a reality for the utility and robust asset management decision-making processes are required to make the best use of available funds to deliver services for the benefit of the utility's customers.
4. **Whole-Life Perspective:** The utility shall consider the full financial impact of managing an asset from acquisition to disposal. Encouraging holistic thinking and collaborative asset management decision-making across service areas and disciplines will help the utility realize maximum value for the customers we serve.
5. **Environmentally Conscious:** The utility shall minimize the impact of infrastructure on the environment and address the vulnerabilities and risks caused by climate change through lifecycle management. This includes energy and resource optimization, meeting environmental standards such as ISO14001 in our operation, considering end of product life disposal or reuse options, and whole lifecycle considerations at the time of repair, replacement, or new build.
6. **Transparency:** To make transparent infrastructure decisions, the utility shall be data-driven and evidence-based.

## **6. Key Outcomes**

1. The utility must integrate findings from the asset management plan into its annual budgeting process using a business case approach. The asset management plan and progress made on the plan shall be considered in the creation of the capital budget, operating budget, and long-term financial plan.
2. To build a future-ready utility that is data rich as well as knowledge rich, a corporate asset information strategy must be developed to ensure accessibility to a fully integrated asset data registry to support good governance and leverage operational efficiencies.
3. Climate change is part of our risk management approach embedded in asset management and lifecycle management strategies to enhance the resilience of the infrastructure. The utility must develop and maintain an asset risk register capturing climate change impacts on infrastructure assets to inform prioritization of capital projects.
4. Asset management facilitates evidence-based dialogue with the utility and its customers about investment recommendations.
5. Sustainable levels of service and asset lifecycle activities are used by the utility as drivers for investment and are foundational to its decision making.
6. The utility strives for continuous improvement in asset management planning and asset management systems by applying best management practices in alignment with the ISO 55000 standards for asset management which represents global consensus on asset management.

## **7. Responsibilities for Leading Implementation**

1. The utility will communicate this policy to its staff and partners. The Director of Regional Water is accountable for this policy and will review it regularly.
2. The Board's role and responsibilities are to:
  - Approve this Asset Management Policy;
  - Receive reports on the status of implementation of the asset management plan on an annual basis;
  - Approve funding and resources to implement this policy and associated requirements; and

- Endorse anticipated asset funding requirements through multi-year and long-range financial plans.
3. All staff, partners and contractors are responsible for observing and implementing the requirements of this policy.

## **8. Monitoring**

Compliance with this policy will be monitored through the Board's annual review of asset management planning progress that would address:

- The utility's progress in implementing its asset management plan;
- Any factors impeding the utility's ability to implement its asset management plan; and
- A strategy to address these factors including the adoption of appropriate policies practices.

## **9. Definitions**

"Asset" is a thing, item, or entity that has potential or actual value to the utility.

"Asset Management" is the coordinated activity of the utility to realize value from its assets.

"Asset Management Plan" is documented information that specifies the activities, resources and timelines required for an individual asset, or a grouping of assets, to achieve the utility's asset management objectives.

"Asset Management Policy" is a statement that demonstrates the utility's commitment to asset management by setting out the principles by which the utility intends to apply asset management to achieve its organizational objectives. The policy establishes the intentions and direction of the utility as formally expressed by its top management.

"Asset Management System" is the set of interrelated and interacting elements that establish the asset management policy, strategies, plan, processes, and asset information systems to ensure that organizational objectives are met. It is how the utility practices the discipline of asset management.

"Capital budgets" are a summary of annual forecasted funding and expenditure requirements categorized by capital projects.

"Capital projects" are annual forecasted funding and expenditure requirements for specific initiatives that include the purchase, construction, major repair, replacement, and renewal of assets.

“Compliance obligations” are legal requirements that a utility must comply with and other requirements that a utility must or chooses to comply with.

“Green infrastructure asset” is an infrastructure asset consisting of natural or human-made elements that provide ecological and hydrological functions and processes and includes natural heritage features and systems, parklands, stormwater management systems, street trees, urban forests, natural channels, permeable surfaces, and green roofs.

“Infrastructure Asset” means an infrastructure asset, including a green infrastructure asset, directly owned by the utility, or included on the consolidated financial statements of the utility.

“Lifecycle Activities” means activities undertaken with respect to an infrastructure asset over its service life, including constructing, maintaining, renewing, operating, and decommissioning, and all engineering and design work associated with those activities.

“Level of Service” is the parameters, or combination of parameters, which reflect social, political, environmental, and economic outcomes the utility delivers. The parameters can include safety, customer satisfaction, quality, quantity, capacity, reliability, responsiveness, environmental acceptability, cost, and availability.

“Operating Budget” covers the day-to-day expenses required to deliver operations and maintenance services and includes items like staff wages, supplies, spare parts, and utilities.

“Risk” is the effect of uncertainty on objectives. An effect is a deviation from the expected – positive and/or negative.

“Service Life” means the total period during which an infrastructure asset is in use or is available to be used.

“Sustainable levels of service” are maintained for the lifecycle of the asset and within the funding envelope.

“Triple bottom line” is a business concept that includes three parts: social, environmental, and financial.

**To:** Chair and Members, Board of Management  
Lake Huron Primary Water Supply System

**From:** Kelly Scherr, P.Eng., MBA, FEC  
Chief Administrative Officer

**Subject:** Ministry of the Environment, Conservation and Parks Air Quality Monitoring Station – Licence Extension and Amending Agreement

### RECOMMENDATION

That the Board of Management for the Lake Huron Primary Water Supply System **AUTHORIZE** the Board Chair and the Chief Administrative Officer to execute an Agreement with Province of Ontario, substantially in the form attached to this report, for the amendment and extension of the existing licence agreement for the Ministry of the Environment, Conservation and Parks air quality monitoring station located at the water treatment plant property at 71155 Bluewater Highway, South Huron.

### PREVIOUS AND RELATED REPORTS

June 5, 2008	Air Quality Monitoring Station – Licence Agreement
October 4, 2012	Ministry of the Environment Air Quality Monitoring Station – Licence Extension and Amending Agreement
June 8, 2017	Ministry of the Environment and Climate Change Air Quality Monitoring Station – Licence Extension and Amending Agreement

### BACKGROUND

Prior to the transfer and assumption of ownership of the Lake Huron Primary Water Supply System by the Board, the Ministry of the Environment erected and operates an air quality monitoring station near the southwest corner of the water treatment plant property. The Board authorized and entered into a licence agreement, effective June 1, 2007, for the Ministry's continued use of a portion of the plant property for this purpose. The 2007 licence agreement was for an initial term of five (5) years, and allows for the licence to be renewed for an additional five (5) year term.

With the approval of the Board, the 2007 licence agreement was extended in 2012 for an additional five (5) years, with an option to extend the occupancy with two (2) additional five-year extensions (to May 31, 2027).





*Lake Huron*  
Primary Water Supply System

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## DISCUSSION

The proposed licence extension and amending agreement, attached to this report as Appendix A, extends the licensed occupancy for a five-year term (to May 31, 2027) and allows for one (1) additional five-year extension (to May 31, 2032). The proposed agreement further corrects the contact information and notification requirements of the licence.

**Submitted by:** Andrew Henry, P. Eng.,  
Director, Regional Water Supply

**Recommended by:** Kelly Scherr, P.Eng., MBA, FEC  
Chief Administrative Officer

**Attachments:** Appendix A – Licence Extension and Amending Agreement (L11605)

**APPENDIX A – LICENCE EXTENSION AND AMENDING AGREEMENT (L11605)**

**LICENCE EXTENSION AND AMENDING AGREEMENT**

THIS LICENCE made in duplicate as of June 1, 2022.

BETWEEN:

**LAKE HURON PRIMARY WATER SUPPLY SYSTEM  
JOINT BOARD OF MANAGEMENT**

(the "Licensor")

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO AS  
REPRESENTED BY THE MINISTER OF GOVERNMENT  
AND CONSUMER SERVICES**

(the "Licensee")

WHEREAS:

- A. By a license agreement dated April 11, 2008 and effective June 1, 2007, (the "Original License"), the Licensor did licence unto Ontario Realty Corporation acting as agent on behalf of Her Majesty the Queen in right of Ontario as represented by the Minister of Public Infrastructure Renewal ("MPIR") for a term of five (5) years commencing on June 1, 2007 and ending on May 31, 2012 (the "Original Term"), the premises more particularly described as approximately six hundred (600) square feet on the lands municipally known as 71155 Bluewater Highway (the "Licensed Premises"), as more particularly marked with an "X" on the plan attached to the Licence Extension and Amending Agreement dated June 1, 2017 as Schedule "A", for the purposes of placing and maintaining an air monitoring system, in addition to other terms and conditions as set out in the Original License.
- B. Pursuant to the terms of the Original License, the MPIR was entitled to extend the Term for one (1) additional term of five (5) years.
- C. By Order in Council No. 1617/2008, approved and ordered September 17, 2008, all of the powers and duties assigned by law to the MPIR in respect of infrastructure and any other matters were transferred and assigned to Minister of Energy and Infrastructure ("MEI").
- D. By Order in Council No. 1320/2010, approved and ordered September 15, 2010, all of the powers and duties assigned by law to the MEI under Order in Council No. 1617/2008 in respect of infrastructure matters, including but not limited to the powers, duties, functions and responsibilities of the MEI in respect of the Ministry of Government

Services Act, R.S.O. 1990, c.M.25 in respect of real property matters, were transferred and assigned to the Minister of Infrastructure (“MOI”).

- E. Ontario Infrastructure and Lands Corporation (“OILC”) has been delegated MOI’s authorities and responsibilities with respect to real property in the name of MOI subject to certain conditions by Delegation of Authority of Ontario Infrastructure and Lands Corporation under the Ministry of Infrastructure Act, 2011, S.O. 2011, c. 9, Sched. 27.
- F. By Order in Council No. 1376/2011, approved and ordered July 19, 2011, the MOI shall exercise the powers and duties assigned by law to the MOI or that may otherwise be assigned to or undertaken by the MOI in respect of infrastructure and any other matters related to the MOI’s portfolio.
- G. The MOI exercised its right to extend the Original Term by a license extension and amending agreement dated June 1, 2012 (the “First License Extension and Amending Agreement”) with an extension term commencing on June 1, 2012, and expiring on May 31, 2017 (the “First Extension Term”), in addition to other terms and conditions as set out therein.
- H. Pursuant to the terms of the First License Extension and Amending Agreement, the MOI was entitled to extend the First Extension Term for two (2) additional terms of five (5) years each.
- I. By Order in Council No. 219/2015, approved and ordered February 18, 2015, all of the powers and duties previously assigned and transferred to the MOI under Order in Council No. 1376/2011, save and except as set out in Order in Council No. 219/2015, were assigned and transferred to the Minister of Economic Development, Employment and Infrastructure (“MEDEI”).
- J. By Order in Council No. 1342/2016, approved and ordered September 14, 2016, all of the powers and duties previously assigned and transferred to the MEDEI under Order in Council No. 219/2015 in respect of infrastructure and other matters are assigned and transferred to the MOI.
- K. The MOI exercised its right to extend the Original Term by a licence extension and amending agreement dated June 1, 2017 (the “Second Licence Extension and Amending Agreement”) with an extension term commencing on June 1, 2017, and expiring on May 31, 2022 (the “Second Extension Term”), in addition to other terms and conditions as set out therein.
- L. Pursuant to the terms of the Second Licence Extension and Amending Agreement, the MOI was entitled to extend the Second Extension Term for two (2) additional terms of five (5) years each.

- M. By Order in Council No. 1152/2018, approved and ordered October 22, 2018, certain responsibilities in respect of government property under the Ministry of Infrastructure Act, 2011, S.O. 2011, c. 9, Sched. 27 and other responsibilities were assigned and transferred from the MOI to the Minister of Government and Consumer Services.
- N. The Licensee has now exercised its right to extend the Term in accordance with the terms of the Original License as amended and extended, with an extension term commencing on June 1, 2022, and expiring on May 31, 2027.
- O. The Original License, the First License Extension and Amending Agreement, the Second Licence Extension and Amending Agreement, and this licence extension and amending agreement (the “Third Licence Extension and Amending Agreement”) are hereinafter collectively referred to as the “Licence”, except as specifically set out herein.
- P. The parties have agreed to extend and amend the Licence on the following terms and conditions:

**NOW THEREFORE THIS AGREEMENT WITNESSES THAT** in consideration of the sum of Two Dollars (\$2.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. The parties hereto confirm that the foregoing recitals are true in substance and in fact.
2. The Licence is hereby extended for a further term of five (5) years commencing on June 1, 2022 and ending on May 31, 2027 (the “Third Extension Term”), at an annual licence fee of Two Dollars (\$2.00) (the “Licence Fee”), the receipt and sufficiency of which are hereby acknowledged by the parties.

For clarity, upon commencement of this Third Extension Term the Licensee shall be entitled to extend the Licence for one (1) further term of five (5) years.

3. The Licensee shall pay to the Licensor all applicable Sales Taxes assessed on the Licence Fee payable by the Licensee to the Licensor under this Licence.

“Sales Taxes” means all business transfer, multi-usage sales, sales, goods and services, harmonized sales, use, consumption, value-added or other similar taxes imposed by the Government of Canada and/or Ontario upon the Licensor, or the Licensee, or in respect of this Licence, or the payments made by the Licensee hereunder or the goods and services provided by the Licensor hereunder including, without limitation, the use of the Licensed Premises and the provision of administrative services to the Licensee hereunder.

4. The Licensee, at its discretion, shall continue to have the right to terminate this Licence at any time, by giving the Licensor not less than three (3) months’ prior written notice of termination without penalty, compensation, damages or bonus.

5. The extension contemplated pursuant to this Third Licence Extension and Amending Agreement is subject to all the covenants and agreements contained in the Licence, as amended, renewed and extended from time to time, save and except:

- (a) Section 10 of the Original License is hereby amended to provide the following addresses for notice to the Licensee:

Ontario Infrastructure and Lands Corporation  
One Stone Road West, 4th Floor  
Guelph, Ontario N1G 4Y2  
Attention: Vice President, Asset Management  
Fax: (519) 826-3330

With a copy to:

Ontario Infrastructure and Lands Corporation  
1 Dundas Street West, Suite 2000  
Toronto, Ontario M5G 1Z3  
Attention: Director, Legal (Leasing and Contract Management)  
Fax: (416) 327-3376

And an additional copy to:

CBRE Limited  
18 King Street East, Suite 1100  
Toronto, Ontario M5C 1C4  
Attention: Global Workplace Solutions – Director, Lease Administration – OILC  
Fax: (416) 775-3989

- (b) Section 15, Counterparts, shall be inserted as follows:

**“Section 15 - Counterparts**

The parties agree that this Licence may be executed in counterparts, each of which shall be deemed an original and all of which shall be construed together as a single binding instrument. Such counterparts may be delivered by facsimile or other electronic means, including by electronic mail in portable document format (PDF). The electronic signature of any party hereto shall constitute a valid and binding signature with the same effect as an original signature endorsed hereon. Any party delivering an executed counterpart of this Licence by facsimile or by electronic transmission shall, if requested, also deliver an originally executed counterpart within seven (7) days of the facsimile or electronic transmission. Failure to deliver an originally executed copy shall not affect the validity, enforceability or binding effect of this Licence.”

6. **GENERAL**

- (a) The Licensor and the Licensee hereby mutually covenant and agree that during the Third Extension Term they shall each perform and observe all of the covenants, provisos and obligations on their respective parts to be performed pursuant to the terms of the Licence.
- (b) Except as otherwise specifically provided herein, all words and expressions used in the Original License shall apply to and be read as applicable to the provisions of this Third Licence Extension and Amending Agreement.
- (c) The provisions of this Licence shall be interpreted and governed by the laws of the Province of Ontario.
- (d) The Licensor acknowledges and agrees that the commercial and financial information in the Licence is subject to the Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. F.31, as amended and the Open Data Directive as amended. This acknowledgement shall not be construed as a waiver of any right to object to the release of the Licence or of any information or documents.

“**Open Data**” means data that is required to be released to the public pursuant to the Open Data Directive.”

“**Open Data Directive**” means the Management Board of Cabinet’s Open Data Directive, updated on April 29, 2016, as amended from time to time.”

- (e) This Licence shall be binding upon and enure to the benefit of the administrators, successors and/or assigns of the respective parties hereto.

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7. This Licence shall not be binding upon the Licensee until it has been executed by or on behalf of the Licensee.

**EXECUTED** by each of the parties hereto under seal on the dates written below.

**SIGNED, SEALED AND DELIVERED**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

**LAKE HURON PRIMARY WATER SUPPLY  
SYSTEM JOINT BOARD OF MANAGEMENT**

Per: \_\_\_\_\_

Name:

Title:

Authorized Signing Officer

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

**HER MAJESTY THE QUEEN IN RIGHT OF  
ONTARIO AS REPRESENTED BY THE  
MINISTER OF GOVERNMENT AND  
CONSUMER SERVICES, AS REPRESENTED  
BY ONTARIO INFRASTRUCTURE AND  
LANDS CORPORATION**

Per: \_\_\_\_\_

Name:

Title:

Authorized Signing Officer