

THE CORPORATION OF THE TOWN OF AMHERSTBURG

BY-LAW NO. 2021-006

**By-law to extend a Service Agreement with Ontario Clean Water Agency
for the operation, maintenance and management services of
Amherstburg Water and Wastewater Treatment Systems**

WHEREAS a Service Agreement was entered into between the Ontario Clean Water Agency and the Corporation of the Town of Amherstburg on the 1st day of April, 2016 for the operation, maintenance and management services for the Amherstburg Water and Wastewater systems;

AND WHEREAS the Town of Amherstburg and the Ontario Clean Water Agency mutually agreed through Amending By-law 2018-25 to amend the 2016 contract to expire December 31, 2020;

AND WHEREAS the service provider, the Ontario Clean Water Agency has requested another amendment to the service agreement to extend for an additional twelve (12) months while negotiating new terms;

AND WHEREAS the Council of The Corporation of the Town of Amherstburg deems it appropriate at this time to once again amend the service agreement with Ontario Clean Water Agency for the operation, maintenance and management services for Amherstburg Water and Wastewater Treatment Systems;

NOW THEREFORE the Council of The Corporation of the Town of Amherstburg enacts as follows:

1. That the Council of The Corporation of the Town of Amherstburg agrees to amend the contract as attached hereto as Schedule "A" to this By-law.
2. That the Mayor and Clerk are hereby authorized to sign and seal said agreement on behalf of the Corporation of Town of Amherstburg.
3. That By-law 2016-25 and Amending By-law 2018-25 are hereby repealed.
4. This By-law shall come into force and take effect immediately upon the final passing thereof.

Read a first, second and third time and finally passed this 25th day of January, 2021.


MAYOR - ALDO DICARLO


MUNICIPAL CLERK - PAULA PARKER

AMENDING AGREEMENT

THIS AMENDING AGREEMENT made as of the 1st day of January, 2021.

BETWEEN

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

(referred to in this Amending Agreement as "OCWA")

AND

THE CORPORATION OF THE TOWN OF AMHERSTBURG

(referred to in this Amending Agreement as "the

Client") (Each a "Party" and together, "the Parties")

BACKGROUND TO THIS AMENDING AGREEMENT

WHEREAS the Client and OCWA entered into an agreement effective April, 2016 concerning the operation and maintenance of the Client ' s Facility (the "Existing Agreement") attached as Appendix A to this Amending Agreement;

AND WHEREAS the Client and OCWA have agreed to amend the Existing Agreement, as described below;

AND WHEREAS the Council of the Client passed By-Law No. 2021-006 on the 25th day of January, 2021 authorizing the Client to enter into this Amending Agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained in this Amending Agreement and other good and valuable consideration, the sufficiency of which is hereby irrevocably acknowledged, the Client and OCWA agree to the following amendments to the Existing Agreement:

1. Any capitalized terms not defined herein shall have the meaning ascribed to such term in the Existing Agreement.

Section 4.1 of the Existing Agreement is hereby deleted and replaced with the following:

"Section 4.1 - Term of Agreement

This Agreement shall start on the Effective Date **January 1, 2021** and shall continue in effect until December 31, 2021."

SCHEDULE D of the existing agreement is hereby deleted and replaced with the following:

SCHEDULE D - The Annual Price And Other Charges

1. Annual Price for the Term

In accordance with Section 4.2 and subject to any adjustments made pursuant to other provisions of this Agreement, the Client shall pay OCWA a price for the Services for the Year of the Term in the following amounts (the "Annual Price"):

Year 6 - January 1, 2021 to December 31, 2021: \$1,745,863.53

The Annual Price includes the OCWA Fixed Fee and Reconcilable Costs. The annual cost and monthly billing for the year of the extended term of the Agreement is as follows;

Year 6	January 1, 2021 to December 31, 2021			
Facility	Fixed Costs	Reconcilable Costs	Total	Monthly Billing
McGregor Wastewater Plant	\$154,711.59	\$12,884.55	\$167,596.14	\$13,966.35
McLeod Wastewater Plant	\$180,688.32	\$8,231.80	\$188,920.12	\$15,743.34
Big Creek Wastewater Plant	\$119,027.23	\$1,610.57	\$120,637.80	\$10,053.15
Edgewater Wastewater Plant	\$173,347.74	\$298.25	\$173,645.98	\$14,470.50
Boblo Wastewater Plant	\$94,235.20	\$1,789.52	\$96,024.72	\$8,002.06
Amherstburg Wastewater Plant	\$306,596.04	\$45,334.51	\$351,930.55	\$29,327.55
Amherstburg Water Plant	\$589,247.06	\$57,861.16	\$647,108.23	\$53,925.69
Total	\$1,617,853.19	\$128,010.36	\$1,745,863.53	\$145,488.64

OCWA has been designated to be a municipality under Section 22 of Part VI of Schedule V of the Excise Tax Act. As a result the prices shown are HST Exempt.

Reconcilable Costs

Commodities such as chemical and diesel costs will be charged as reconcilable costs. No later than October 31st of each Year of the Initial Term, OCWA shall provide an estimate to the client for its approval of the charges associated with the commodities for the next financial Year. The Client will notify OCWA no later than December 31st whether the estimate is approved. If the Client does not provide OCWA a decision regarding approval by the December 31st date, the estimate will be deemed approved.

Payment of Reconcilable Costs. The Client shall pay the estimate on a monthly basis as part of the Fixed Cost payment. By March 1st of each Year the Agreement is in force, OCWA shall determine the actual charges for the commodities for the calendar year. If the estimate paid by the client exceeds the actual charges, OCWA will pay the Client the difference within thirty (30) days of OCWA making the determination. If the actual charges exceed the estimate paid by the Client; the Client will pay the difference within thirty (30) days of OCWA making the determination.

2. Optional Services

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

- (a) Labour rates on Business Days, Monday to Friday, (8:00 to 5:00) shall be billed at \$85.00/hour/person for an Operations Manager, Compliance Technician or UPIT, and \$60.00/hour/person for an Operator or Mechanic plus vehicle expenses at \$0.50/km/vehicle;
- (b) Labour rates after hours and on weekends shall be billed at \$127.50 /hour/person for an Operations Manager, Compliance Technician or UPIT, and \$90.00/hour/person for an operator or mechanic with a minimum four (4) hour charge plus vehicle expenses at \$0.50/km/vehicle;
- (c) Labour rates on statutory holidays shall be billed at \$127.50/hour/person for an Operations Manager, Compliance Technician or UPIT, and \$90.00/hour/person for an operator or mechanic, with a minimum eight (8) hour charge plus vehicle expenses at \$0.50/km/vehicle;
- (d) The labour rates set out in paragraphs (a) (b) and (c) above are subject to increases which OCWA's applicable OPSEU employees may receive during the term of this Agreement. Any increase in the labour rates shall coincide with the start date of such increases, including any retroactive start dates, and OCWA will communicate any rate changes to the Town; and
- (e) Costs for parts, equipment and supplies, and outside labour charges (i.e., contractors), used by OCWA staff to provide the Optional Services shall be billed to the Client, and the Client will pay such costs together with a Service Fee.

3 **Service Fee**

"Service Fee" means an additional fee charged to the Client when OCWA purchase materials, supplies, equipment or contractor's services on behalf of the Client. For any individual item or service purchased, the Service Fee shall be 10%.

IN WITNESS WHEREOF the Parties have duly executed this Amending Agreement.

ONTARIO CLEAN WATER AGENCY

Date of Signing J. Terry
By: J. Terry Bender Digitally signed by J. Terry Bender
DN: cn=J. Terry Bender, o=OCWA,
ou=VP Operations,
email=jtender@ocwa.com, c=CA
Date: 2021.02.22 09:42:12 -05'00'
(Authorized Signing Officer)

March 1, 2021

Date of Signing
By:  VP, Finance
(Authorized Signing Officer)

THE CORPORATION OF THE TOWN OF AMHERTBURG

Date of Signing
By: 
(Authorized Signing Officer)

MAYOR - ALDO DICARLO

Date of Signing
By: 
(Authorized Signing Officer)

CLERK - PAULA PARKER