

THIS LEASE made in triplicate this 1st day of September, 2010, in pursuance of the Short Form of Leases Act:

B E T W E E N:

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

as Landlord
(the "CITY")

- and -

Ontario Clean Water Agency

as Tenant
("OCWA")

RECITALS:

(a) The CITY is the owner of a certain parcel of land and buildings in Schedule "A" to this lease. This parcel of land and building is known as the "Bobcaygeon Service Center".

(b) OCWA wishes to lease a portion of the "Bobcaygeon Service Center" for its district administrative office.

THIS LEASE IS ENTERED in consideration of the rents, covenants and agreements reserved and contained on the part of OCWA and respectively paid, observed and performed, and for other consideration, the receipt and sufficiency of which are acknowledged, the CITY demises and leases the PREMISES to the OCWA.

ARTICLE 1.00: INTERPRETATION

1.01 Definitions: Wherever a term set out below appears in the text of this LEASE in capital letters, the term shall have the meaning set out for it in this Section 1.01. Wherever a term below appears in the text of this LEASE in regular case, it shall be deemed to have the meaning ordinarily attributed to it in the English language.

- (a) **GROSS RENT** means, for year one \$25,000, year two and three increase based on Stats Can Consumer Price Index as per Stats Canada.
- (b) **BUSINESS** means the OCWA's business of an administrative office for Water and waste water management.
- (c) **CITY** means The Corporation of the City of Kawartha Lakes, a municipal corporation duly incorporated pursuant to the laws of the Province of Ontario. Where the context permits, the term also includes the CITY's servants, employees, agents and delegated officials.
- (d) **DIRECTOR** means the Director of the Department responsible for real estate management for the CITY.
- (e) **EVENT OF DEFAULT** means any one or more of the circumstances set out in the following numbered paragraphs.
 - (1) The OCWA breaches its covenant to pay RENT. The default occurs whether the CITY has demanded payment or not, if the RENT remains unpaid for a period of thirty (30) days after it is due.
 - (2) The OCWA breaches any of its other covenants in this LEASE. The

default occurs if the breach continues for a period of thirty (30) days (or such longer period as may be reasonably necessary to cure the breach) after notice by the CITY to the OCWA specifying the nature of the breach and requiring it to be remedied.

- (3) In circumstances where the breach set out in the notice given to the OCWA by the CITY pursuant to paragraph (2) above reasonably requires more time to cure than the time period referred to in the notice, but the OCWA has not commenced remedying the breach; or, in the opinion of the CITY, has failed to diligently remedy it within a reasonable time.
 - (4) The PREMISES are vacated by the OCWA or become vacant or remain unoccupied by the OCWA for a period of thirty (30) consecutive days.
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- (f) The **LANDS** are comprised of the lands described in Schedule "A" to this LEASE.
 - (g) **LEASE** means this lease agreement, including its recitals and schedules, which form integral parts of it, as amended from time to time in accordance with Section 6.07
 - (h) **OCWA** means the Ontario Clean Water Agency, a corporation established and created under the Capital Investment Plan Act 1993 S.O. 1993, c 23.
 - (i) The **Premises** are comprised of a portion of the building on the LANDS. The Premises are comprised of an area outlined in solid red on Schedule "B"
 - (j) **PROPERTY MANAGER** means the DIRECTOR, or, where the CITY has hired an employee, consultant or contractor for the purposes of management of the LANDS, that person.
 - (l) **RENT** means any and all sums due and payable by the OCWA pursuant to this LEASE. RENT includes the following amounts:
 - (1) the GROSS RENT;
 - (2) all other costs, expenses and charges (including interest on overdue payments) incurred in and about the PREMISES required to be paid by OCWA pursuant to any provision of this LEASE.
 - (m) The **RENT COMMENCEMENT DATE** is _January 1, 2010.
 - (p) The **TERM** means the entire __3__-year period during which this LEASE is operational, as set out in Article 2.00. In the event that a renewal is engaged pursuant to Section 2.04, the definition of TERM shall be deemed to be amended by adding the number of years of the renewal period.

1.02 **Legislation, By-laws:** Each reference to Provincial legislation in this LEASE, unless otherwise specified, is a reference to the Revised Statutes of Ontario, 1990 edition, and, in every case, includes all applicable amendments to the legislation, including successor legislation. Each reference to a By-law in this LEASE, unless otherwise specified, is a reference to a By-law of the CITY, and, in every case, includes all applicable amendments to the By-law, including successor by-laws.

1.03 **Construing this LEASE:** (a) The captions, article and section names and numbers appearing in this LEASE are for convenience of reference only and have no effect on its interpretation. (b) All provisions of this LEASE creating obligations on either party will be construed as covenants. (c) This LEASE is to be read with all changes of gender or number required by the context. (d) The words "include", "includes" and "including" are not to be read as limiting the words or phrases which precede them.

1.04 **Reasonableness:** Wherever any consent, agreement or approval of the

CITY or the OCWA is required under the terms of this LEASE, then unless otherwise specifically mentioned, the party acting will do so reasonably.

ARTICLE 2.00: DEMISE, TERM AND RENTAL

2.01 Demise: The CITY grants to the OCWA a leasehold interest in the LANDS to have and to hold for a TERM of three (3) years, to be computed from the 1st day of January 2010, concluding on the 31st day of December 2012, subject to renewal and termination as provided in this LEASE.

2012. As of Dec 31/15 now over hold.

2.02 Renewals: This LEASE contains one right of renewal for one further term of three (3) years. Renewals after expiration of the second TERM will be the subject of negotiation between the CITY and the OCWA at that time.

2.03 GROSS RENT: During the first three (3) years of the TERM of this LEASE, the GROSS RENT will be as set out in Section 1.01 If OCWA exercises its right of renewal pursuant to Section 2.04 the base rent shall be negotiated.

2.04 Payment of RENT: The RENT is payable as follows:

- (a) the GROSS Rent calculated at a monthly amount, shall be paid on the RENT COMMENCEMENT DATE, and thereafter shall be payable on the first day of each month during the TERM;
- (b) all other costs, expenses and charges (including interest on overdue payments) incurred in and about the PREMISES required to be paid by the OCWA pursuant to any provision of this LEASE, shall be paid upon the OCWA's receipt of invoice or demand therefor.

2.05 Parking: OCWA acknowledges that the parking lot must service both the Cities and OCWA's use of the LANDS. OCWA agrees that it will Ensure no more that seven parking spots are used at any time Unless prior permission is granted by the CITY.

ARTICLE 3.00: COVENANTS, WARRANTIES & ACKNOWLEDGEMENTS

3.01 Covenant to pay RENT: The OCWA agrees to pay the RENT at the times and in the manner prescribed in this LEASE, without any abatement or deduction.

3.02 Interest on overdue RENT: Without waiving any right of action of the CITY in the EVENT OF DEFAULT of any payments pursuant to this LEASE, in the event that the OCWA is delinquent in payment of any RENT for thirty (30) days or more, the OCWA agrees to pay interest on the arrears of RENT at the rate of one point two eight five (1.285%) per cent per month, compounded, (which equates to a rate of sixteen point five six (16.56%) per cent per annum), retroactive from the date the amount was due and payable, until it is actually paid.

3.03 Access: The OCWA agrees to provide the CITY with full and free access (for inspection purposes, during normal business hours, and in the presence of the OCWA), to any and every part of the PREMISES. It is understood and agreed, however, that in cases of emergency, the CITY shall at all times and for all purposes have full and free access to the PREMISES.

3.04 Quiet Enjoyment: Subject to the provisions of this LEASE, the CITY agrees that the OCWA shall have quiet possession of the PREMISES.

3.05 Maintenance/Refuse Handling: The OCWA agrees to regularly maintain the buildings, structures, landscaped and paved areas on the LANDS in good condition, and to keep the PREMISES free of debris and neat and tidy at all times. The OCWA acknowledges and agrees that no outdoor storage or stockpiling of goods or refuse is

permitted on the LANDS. The OCWA agrees to provide complete and proper arrangements for the adequate sanitary handling and disposal of all trash, garbage and other refuse on or in connection with the BUSINESS, all to the satisfaction of the PROPERTY MANAGER.

3.06 **No Damage:** The OCWA agrees that it shall not do (or allow to be done) any thing which may damage the PREMISES beyond the damage occasioned by reasonable use. The OCWA further agrees that it shall, at its cost and expense, repair all portions of the PREMISES which may at any time be damaged by the OCWA or its invitees (ordinary wear and tear only excepted). In the event of the failure on the part of the OCWA to repair pursuant to this section, the OCWA agrees to indemnify and save harmless the CITY from all damages, costs and expenses suffered or incurred by the CITY, the public, or any other third parties by reason of the damage to the PREMISES, to the extent that the OCWA is liable for the same in law. The OCWA agrees to make payment forthwith upon receipt of appropriate accounts for these damages.

3.07 **Laws & Rules:** The OCWA agrees to abide by all applicable Federal, Provincial, and/or Municipal or local Statutes, Regulations, and By-laws.

3.08 **Fire Prevention:** The OCWA agrees to take all precautions to prevent fire from occurring in or about the PREMISES. The OCWA further agrees to observe and comply with all instructions given from time to time by the PROPERTY MANAGER with respect to prevention and extinguishing of fires.

3.09 **Signs:** The OCWA agrees that it shall not construct, erect, place or install (outdoors) on or at the PREMISES, any poster, advertising sign or display, electrical or otherwise, without first obtaining the consent, in writing, of the DIRECTOR.

3.10 **Liability Insurance:** The OCWA agrees to place and at all times maintain public liability and property damage insurance against claims for personal injury, death or damage to property arising out of any of the operations of the OCWA under this LEASE, or of any of the acts or omissions of the OCWA. This insurance shall be with a company or companies acceptable to the CITY and all policies for this insurance shall be in an amount and in a form satisfactory to the CITY. The CITY shall be named as co-insured on any such policy. Every policy shall contain a provision that thirty (30) days' written notice of cancellation shall be given to the CITY.

3.11 **Insurance:** The OCWA acknowledges that the CITY shall not provide it with fire insurance. It is the OCWA's obligation to insure its contents against fire (or other perils) at its sole expense.

3.12 **Insurance Documents:** The OCWA agrees, upon request, to provide to the CITY any one or more of the following documents:

- (a) the policy or policies, described in Sections 3.10 and 3.11,
- (b) a Certificate of Insurance, or
- (c) an affidavit from its insurance company confirming that proper insurance coverage is in place; and
- (d) any renewals of the above-listed documents.

3.13 **Coverage to be maintained:** The OCWA agrees that it shall not do anything (nor omit to do anything, nor allow anything to be done or omitted to be done) on the PREMISES which will in any way impair or invalidate the policies provided pursuant to Sections 3.10 and 3.11.

3.14 **Objectionable Materials:** The OCWA agrees that it will not, upon or about the PREMISES, bring, keep, sell, store, offer for sale, give away or otherwise use, handle or dispose of any merchandise, goods, materials, effects or things which may by the PROPERTY MANAGER for any reason be deemed objectionable.

3.15 **Use.** The OCWA agrees that the PREMISES shall be used solely for the BUSINESS. ~~For greater clarity, and without limitation, the OCWA acknowledges that this LEASE does not provide authority for it to operate~~

3.16 **No Claims:** The OCWA shall not have any claim or demand against the CITY for damages of any nature, however caused to the PREMISES, or to any person or property, on or about the LANDS or PREMISES, unless the damage is due to the negligence or wrongful actions of the CITY (or any of its officials, employees, servants or agents while acting within the scope of his or her duties or employment).

3.17 **Indemnification:** The OCWA agrees that it shall at all times indemnify and save harmless the CITY from and against all claims and demands, by whomsoever made, which are occasioned by or attributable to the existence of this LEASE or any action taken or things done or maintained because of this LEASE, or the exercise of rights arising pursuant to this LEASE (excepting claims for damage resulting from the negligence of any officer, servant or agent of the CITY while acting within the scope of his or her duties or employment).

ARTICLE 4.00: IMPROVEMENTS

4.01 **Condition of Lands:** The OCWA accepts the PREMISES in an “as is” condition without any obligation on the part of the CITY to make the PREMISES suitable for the BUSINESS except as otherwise noted in this LEASE.

4.02 **Alterations:** The OCWA agrees that it will not construct or make alterations to the PREMISES, until plans showing the design and nature of the proposed building and/or alterations to the PREMISES have been approved by the DIRECTOR. It is understood and agreed that any approved alterations to the PREMISES must be completed and then maintained by the OCWA to the satisfaction of the PROPERTY MANAGER. The CITY and the OCWA agree to execute an agreement addressing the timing and maintenance of the OCWA’s improvements to the LANDS. The OCWA acknowledges that its development on the LANDS may be subject to site plan control.

ARTICLE 5.00: TERMINATION

5.01 **Termination Without Cause:** The CITY has the right to terminate this LEASE upon six months notice in writing to the OCWA.

5.02 **Surrender:** At the expiration or sooner determination of the TERM of this LEASE, the OCWA shall peaceably surrender and yield to the CITY, the PREMISES in a well-maintained, fully operating condition with all related facilities, buildings, structures and improvements (excepting those removed pursuant to Section 5.03) in a good state of repair (reasonable wear and tear excepted). At the expiration of the LEASE, the CITY will have and enjoy absolute title to all of the PREMISES without compensation to the OCWA, and free of any claim or encumbrance. In the event that this LEASE is terminated due to an EVENT OF DEFAULT, no goods, materials or chattels of any sort may be removed by the OCWA without the CITY’s express consent.

5.03 **Removal of Improvements:** Notwithstanding Section 5.02, and provided the OCWA is not in default of its obligations pursuant to this LEASE, at the expiration of the TERM or any renewal period, or upon earlier determination of the TERM, the CITY shall have the first right of refusal to purchase some or all of the OCWA’s leasehold improvements at its then market value. In the event that the OCWA and the CITY cannot agree on terms of purchase, the OCWA shall remove, at its sole cost, all improvements on the PREMISES which the City does not require. The OCWA agrees to restore the LANDS or PREMISES upon which the removed improvements were located, to a state of repair satisfactory to the CITY within six (6) months of the date of the termination of the TERM.

5.04 **Default:** Upon the occurrence of an EVENT OF DEFAULT, the current months’ RENT together with the RENT for the three months next ensuing shall immediately become due and payable. In addition, at the option of the CITY, the TERM

shall become forfeited and void, and the CITY may, without notice or any form of legal process whatsoever, forthwith re-enter upon the LANDS and/or PREMISES and repossess and enjoy the same as of its former estate, anything contained in any statute or law to the contrary notwithstanding, and the provisions of Section 5.02 shall apply.

5.05 CITY's Performance: Nothing in this LEASE prevents the CITY, in the circumstances of an EVENT OF DEFAULT, from entering upon the PREMISES and performing the OCWA's obligations. This work shall be completed at the sole cost and expense of the OCWA, and in addition, the CITY may levy any charge as may then be applicable, in accordance with the policies of the CITY for administration and overhead. It is expressly understood and agreed that the CITY is not under any obligation to perform any of the OCWA's covenants.

5.06 Other Remedies: Forfeiture of this LEASE by the OCWA shall be wholly without prejudice to the right of the CITY to recover arrears of RENT or damages for any antecedent breach of covenant on the part of the OCWA. Notwithstanding any forfeiture, the CITY may subsequently recover from the OCWA damages for loss of RENT suffered by reason of the LEASE having been determined prior to the end of the TERM as set out in this LEASE. This clause and the right under it shall survive the termination of this LEASE whether by act of the parties or by operation of law.

ARTICLE 6.00: MISCELLANEOUS

6.01 Notice: Any notice to be given under this LEASE shall be sufficiently given if delivered by hand, or facsimile, or if sent by prepaid first class mail and addressed to the OCWA at:

Ontario Clean Water Agency
123 East St. South
Bobcaygeon, Ontario
K0M 1A0

or to the CITY at:

The Corporation of the City of Kawartha Lakes
Attention: Clerk
26 Francis Street South
P.O. Box 9000
Lindsay, Ontario
K9V 5R8
Facsimile: 705-324-8110

Receipt of notice shall be deemed on:

- (a) the date of actual delivery of a hand delivered document; or
 - (b) the business day next following the date of facsimile transmission; or
 - (c) five (5) days following the date of mailing of the notice;
- whichever is applicable. Notwithstanding Section 6.07, either party may change its address for notice by giving notice of change of address pursuant to this Section.

6.02 Force Majeure/Time: Notwithstanding anything in this LEASE, neither party shall be in default with respect to the performance of any of the terms of this LEASE if any non-performance is due to any force majeure, strike, lock-out, labour dispute, civil commotion, war or similar event, invasion, the exercise of military power, act of God, government regulations or controls, inability to obtain any material or service, or any cause beyond the reasonable control of the party (unless such lack of control results from a deficiency in financial resources). Otherwise, time shall be of the essence of this LEASE and all the obligations contained herein.

6.03 Successors: The rights and liabilities of the parties shall enure to the benefit of and be binding upon the parties and their respective successors and approved assignees. Neither party shall assign this LEASE without the written consent of the other party.

6.04 Entire Agreement: This LEASE constitutes the entire agreement between the parties and it is agreed that there is no covenant, promise, agreement, condition precedent or subsequent, warranty or representation or understanding, whether oral or written, other than as set forth in this LEASE and this LEASE fully replaces and supersedes any letter, letter of intent, or other contractual arrangement between the parties related to the PREMISES in existence at the time of execution and delivery of this LEASE.

6.05 Partial Invalidity: If any article, section, subsection, paragraph, clause or subclause or any of the words contained in this LEASE shall be held wholly or partially illegal, invalid or unenforceable by any court of competent jurisdiction, the CITY and the OCWA agree that the remainder of this LEASE shall not be affected by the judicial holding, but shall remain in full force and effect. The provisions of this LEASE shall have effect, notwithstanding any statute to the contrary.

6.06 Relationship of Parties: Nothing in this LEASE shall create any relationship between the parties other than that of landlord and OCWA. It is specifically agreed that neither party is a partner, joint venturer, agent or trustee of the other.

6.07 Amendments: No supplement, amendment or waiver of or under this LEASE (apart from amendments to notice provisions of Section 6.01) shall be binding unless executed in writing by the party to be bound. No waiver by a party of any provision of this LEASE shall be deemed to be a waiver of any other provision unless otherwise expressly provided.

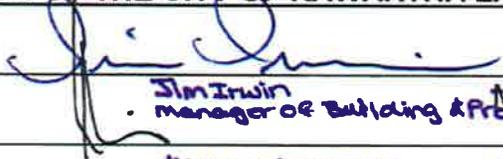
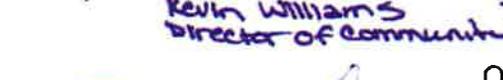
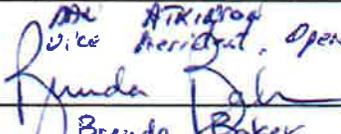
6.08 Governing Law: This agreement shall be construed in accordance with and governed by the laws of the Province of Ontario.

6.09 Freedom of Information: The OCWA acknowledges that this LEASE may be subject to the provisions of the Freedom of Information and Protection of Privacy Act and the Municipal Freedom of Information and Protection of Privacy Act.

6.10 Independent Legal Advice: The OCWA acknowledges that it has either received or waived the benefit of its own legal advice with respect to the execution of this LEASE.

TO WITNESS, the undersigned affixed their corporate seals attested by the hands of our properly authorized officers. By so executing this document, the officers warrant and certify that the corporations for which they are signing are in good standing and duly incorporated and organized under the laws of the jurisdiction in which they are incorporated, and that the officers are authorized and empowered to bind the corporation(s) to the terms of this LEASE by their signatures.

THE CORPORATION OF THE CITY OF KAWARTHA LAKES

	
Jim Irwin Mayor Manager of Building & Property	
	
Kevin Williams Clerk Director of Community Services	
	OCWA
	
Debra Atkinson Vice President, Operations	Name Title
	
Brenda Baker V.P. Finance & Corporate Services	Name Title

I/We have authority to bind the Corporation

Schedules:

"A" LANDS (legal description)

Plan 70

Part Block C

Designated as Part 1 on reference Plan 57R-1441

Formerly in the Village of Bobcaygeon, County of Victoria, now in the City of Kawartha
Lakes