

DRAFT TERM SHEET
for
WASTEWATER ENERGY TRANSFER (WET) AGREEMENT

Between
CITY OF OTTAWA
and
THEIA PARTNERS / ENVARI

SECTION 1: INTRODUCTION

In June 2022, the City of Ottawa ("Ottawa" or the "City", such terms used interchangeably) and Theia Partners Inc. Partnership/ Enviri Holding Inc. entered into a Memorandum of Agreement (MOA) to formalize a level of commitment between the parties to pursue the design, construction, operation and maintenance of a Wastewater Energy Transfer (WET) System coupled to the City's infrastructure at the Dream Development located at 665 Albert Street, Ottawa, Ontario ("PROJECT SITE"), which is under private ownership.

In accordance with the obligations set out in the MOA, a Technical Advisory Committee was established in August 2022 in order to explore preferred technical solutions and business terms regarding a proposed WET Project culminating in this term sheet ("Term Sheet") which reflects the commercial principles intended to serve as a framework for the final negotiations between the Parties and a proposed new WET Agreement, subject to the following:

- (a) the approval by Ottawa City Council for a new WET Annual Energy Transfer Fee;
- (b) completion of due diligence by both Ottawa and Theia Partners / Enviri and the results thereof being acceptable to them, each in their sole discretion.

This Term Sheet (the "TERM SHEET") is a summary of the principal terms and conditions of a proposed arrangement between the City of Ottawa and Theia Partners / Enviri. This Term Sheet is meant for discussion purposes only and is not an exhaustive summary of the terms and conditions upon which the Parties would enter into a binding transaction.

This Term Sheet does not constitute an offer or a commitment by either Party to enter this transaction or any other transaction. Except as provided in Section 20, this Term Sheet is not intended to and does not create any binding obligations between the Parties. For greater clarity, other than as provided in Section 20, the Term Sheet does not constitute a legally binding or enforceable agreement.

SECTION 2: PARTIES

Theia Partners: Theia Partners Inc.

Envari: Envari Holding Inc.

City: City of Ottawa, a municipal corporation existing under the laws of the province of Ontario.

SECTION 3: DEFINITIONS

In addition to the terms defined above and elsewhere herein, the following terms will have the meanings stated below when used in this Term Sheet:

“Annual Energy Transfer Fee” has the meaning ascribed in Section 7.

“Commencement Date” means the date on which the commissioning provided for in Section 14 is completed, the certificate contemplated therein is delivered to the City and Theia Partners / Envari is able to begin to deliver chilled water and hot water to the Project Site. It is expected that the Commencement Date will occur on or about June 2025

“Claims” or **“Claim”** means any and all actual, threatened or potential claims, demands, proceedings, complaints, grievances, actions, adjudications, litigation, applications, suits, causes of action, orders, charges, arbitrations or other similar process, of whatsoever kind or nature (whether civil, administrative, regulatory, arbitral or otherwise).

“Construction Completion Date” means the date on which construction of the WET System is sufficiently completed for commissioning to occur.

“CPI” means the Consumer Price Index for all items for Ottawa published by Statistics Canada, or if such Index is discontinued, such replacement index intended to measure inflation in the City of Ottawa as Theia Partners / Envari and the City may agree upon, both acting reasonably and in good faith.

“Effective Date” means the date on which all conditions precedent to the Wastewater Energy Transfer Agreement and agreements ancillary thereto have been satisfied by the Parties and the City Agreements are executed and delivered by the Parties.

“Force Majeure” means any cause beyond the reasonable control of and without the fault, negligence or wilful misconduct of the party claiming Force Majeure including, without limitation: (i) acts of God, fires, floods resulting from natural causes, storms, hurricanes, natural disasters, strikes, labour disputes, epidemics, pandemics, quarantines, riots, insurrections, rebellions, revolutions, acts of war (including, without limitation cyber-war and whether declared or otherwise) and terrorism; (ii) inability to obtain and maintain permits, licences and other authorizations or real property interests from any local, provincial or federal government, agency, instrumentality or other person required to supply, install, construct, maintain, repair or replace the WET System or to provide service contemplated herein; (iii) inability to procure gas, water, electricity, oil or other supplies because of third party Force Majeure; and (iv) material change in applicable statutory, regulatory, administrative or other relevant law or government directive, other than same made by the City or its agencies or instrumentalities, which prohibits the operation of the WET System or the ability of either Theia Partners / Envari or the City, as the case may be, to perform its respective obligations hereunder. Notwithstanding the foregoing, Force Majeure does not include: (i) equipment failure due to normal wear and tear or failure due to improper maintenance of equipment; or (ii) unavailability of funds or financing or lack of credit.

“Guarantee” means the guarantee provided by Theia Partners / Envari of the obligations under the WET Agreement for the period from the Effective Date until the first anniversary of the Commencement Date.

“Losses” means damages, fines, penalties, deficiencies, losses, liabilities (whether accrued, actual, contingent, latent or otherwise), costs, fees and expenses (including, without limitation, interest, court costs and reasonable fees and expenses of lawyers, accountants and other experts and professionals).

“Operating Year” means, following the Commencement Date, each 12 month period beginning on January 1 and ending on December 31 of the same year, except that the initial Operating Year will begin on the Commencement Date and the final Operating Year will end on the date on which the Wastewater Energy Transfer Agreement either terminates or expires in accordance with its terms.

“Project Site” means 665 Albert Street, Ottawa, Ontario.

“Sewage Works” means any works for the collection, transmission, treatment or disposal of sewage, stormwater or uncontaminated water, including a combined sewer, sanitary sewer or storm sewer, or any part of such works, located within land owned by the City or an easement in favour of the City, but does not include plumbing or other works to which the Building Code Act applies.

“Term” has the meaning ascribed in Section 9.

“Wastewater Energy Transfer (WET) Agreement” means the agreement to be entered into between Theia Partners / Enviri and the City as contemplated in this Term Sheet.

SECTION 4: PROJECT

Theia Partners / Enviri wishes to use Wastewater Energy Transfer to extract thermal energy from or reject thermal energy to the City’s wastewater system and then to supply such thermal energy to the buildings proposed for construction on the Project Site. Theia Partners / Enviri intends to undertake a project comprised of: (i) the design, construction, financing, ownership, operation and maintenance of the Wastewater Energy Transfer (WET) System; (ii) the use of the WET System to extract thermal energy from or reject thermal energy to the City wastewater system pursuant to the “Wastewater Energy Transfer (WET) Agreement”; and (iii) making use of the WET System, of thermal energy derived from the City wastewater, to the Project Site’s development as described in the WET Agreement referred to herein.

SECTION 5: WET SYSTEM

(1) Theia Partners / Enviri, at its sole expense, will design, construct and install a wastewater energy transfer facility. The WET System construction will comprise the following key components:

- (a) A wet well containing WET System components (pumps, valves, controls) to be constructed below ground and located adjacent to the Interceptor Outfall Sewer (IOS) and the East West Tunnel (EWT) of the Combined Sewage Storage Tunnel (CSST), located in the northwest area of the site, as indicated on Schedule A.
- (b) A system that will transport wastewater between the wet well and the Energy Transfer System (ETS) and back to the sewer;
- (c) An Energy Transfer Station to be constructed on the project site within the buildings to be constructed, which will contain the remainder of the WET system components (heat exchangers, macerator, controls) that will accomplish the thermal energy transfer to and from the sewer to the hydronic system that will be coupled to the chillers that will supply chilled water and hot water to the Project Site development; and
- (e) Monitoring systems for wastewater flow and temperature and sluice gate status;
- (f) Odour control systems;

all as to be particularly detailed through detailed design.

(2) Theia Partners / Enviri will own the WET System and will be responsible to maintain and operate the WET System. Theia Partners / Enviri will hire an engineering firm with extensive experience in wastewater to complete the design of the system, as well as be responsible to construct, operate and maintain the WET System in accordance with applicable laws.

(3) Prior to construction of the WET System, Theia Partners / Enviri will include the City in the design review of the Project, provide the City with the final design drawings, plans and specifications for the WET System for the review and acceptance by the GM, IWSD or delegate; such acceptance not to be unreasonably withheld. Such documents include:

(a) Engineering drawings as follows:

- (i) General drawings (showing the general location of piping routes and equipment
- (ii) Civil
- (ii) Geotechnical investigation
- (iii) Structural
- (iv) Process
- (v) Mechanical
- (vi) Electrical
- (vii) Instrumentation and Controls

(b) A technical memo highlighting the construction sequencing

(c) Process Control Narrative (PCN) explaining the operations and control of the new system.

(d) Regarding proximity to the Confederation Light Rail Transit System:

- (i) Updated Confederation Line Proximity Study that details the impact of the proposed WET system which falls within the Confederation Line Development Zone of Influence
- (ii) Include the overlay of the LRT guideway in detailed design drawings
- (iii) Excavation and Construction methodology including any removal of bed rock
- (iv) A vibration monitoring plan is required for depths which go below the depth of bedrock

(4) In order for such drawings, plans and specifications to be acceptable to the City, the City must be satisfied, acting reasonably, that such drawings, plans and specifications demonstrate that the designs of the WET System comply with all applicable federal and provincial laws and regulations and any specifications or requirements identified by the City in the WET Agreement, and have taken into consideration minimizing the potential for:

(a) sewage spills or discharges to the natural environment

(b) noise or odour

(c) impact to the proper management, operation and/or maintenance of the Sewage Works; and

(d) avoiding any damage to City property and assets.

(4) In connection with such review, Theia Partners / Enviri will reimburse the City for the cost of the City retaining an independent engineer to review such drawings, plans and specifications, up to a maximum cost to Theia Partners / Enviri of \$20,000.00

(5) Theia Partners / Enviri shall obtain all required permits and approvals from applicable governmental entities and regulatory bodies. Theia Partners / Enviri will construct the WET System in accordance with the accepted design drawings, plans and specifications.

(6) Theia Partners / Enviri will retain the services of a contractor acceptable to the City, acting reasonably, for the construction of the connection from the WET System to the IOS. Within 90 days of the Commencement Date, Theia Partners / Enviri will provide the City with As Built drawings of the WET System.

SECTION 6: WASTEWATER SYSTEM CONNECTION

(1) Subject to the terms and conditions hereof, the City will allow Theia Partners / Enviri to connect the WET System to the IOS and EWT at approximately the location identified in Schedule A for the purpose of extracting thermal energy from or rejecting thermal energy to the wastewater flowing through the IOS or EWT.

(2) Theia Partners / Enviri's access to the IOS and EWT and the wastewater is on an "as is where is" basis. The City makes no representation or warranty as to the volume, quality, temperature or chemistry of the wastewater in the IOS or as to the operation, maintenance or condition of the IOS, or as to the suitability of any of them for the Project. Theia Partners / Enviri will not chemically alter the wastewater extracted from or discharged into the IOS, except that Theia Partners / Enviri may extract thermal energy from the wastewater and may reject thermal energy into the wastewater in the IOS. The City may permit others to extract thermal energy from and/or reject thermal energy into the City wastewater system provided that such extraction or rejection does

not adversely affect the temperature or flowrate of the wastewater at the point at which this WET System extracts wastewater from the IOS or EWT (the "Interconnection Point").

(3) The City retains title to and ownership of the wastewater. Nothing in the agreement will transfer or grant any right, title or interest in the wastewater to Theia Partners / Enviri.

(4) Theia Partners / Enviri shall not, at any time during the Term:

(a) modify or replace the connection(s) from the WET System to the IOS or EWT; and/or

(b) make any changes to the WET System or the operation and maintenance thereof that would:

(i) affect the connection(s) from the WET System to the wastewater infrastructure; or

(ii) change the volume of the wastewater extracted from or the volume, rate or quality of the wastewater discharged into the wastewater infrastructure from the WET System beyond expected fluctuations as part of normal operations and maintenance of the WET System without prior consent of the City

(5) The City shall have the right to isolate the WET System from the Sewage Works at the Interconnection Point at any time during the Term in any one or more of the following circumstances as determined solely by the General Manager of IWSD, acting reasonably:

(a) Where and for so long as is necessary for the proper management, operation and/or maintenance of the Sewage Works (including, without limitation, both planned and emergency work), and

(i) in the case of any major planned work that would significantly affect the operation of the WET System, the City will use commercially reasonable efforts to provide Theia Partners / Enviri with two (2) years advance notice in writing;

(ii) in the case of any planned temporary maintenance outage, the City will provide not less than ten (10) Business Days advance notice in writing; and

(iii) in the case of an emergency, the City will endeavour to provide notice thereof to Theia Partners / Enviri in a timely manner thereafter, as is reasonable in the circumstances.

(b) In the event of and immediately upon the occurrence of any of the following events, in each case caused by or related to the operation of the WET System;

(i) any obstruction, damage to, and/or interference with the proper management operation and/or maintenance of the Sewage Works, including, without limitation, buildup of solids, sewer backup, changes in hydraulic grade line, corrosion and/or structural damage, excessive buildup of sewer gases, adverse impact to the operations of the City's wastewater treatment plants or to the structural integrity of any part or parts of the Sewage Works, and/or access to the IOS for regular maintenance

ii) noise and/or odour giving rise to public complaints and/or in breach of the City's Noise By-law or any conditions of any licenses, permits or approvals, and/or other applicable laws;

(iii) spill(s) and/or discharge(s) to the natural environment;

(iv) additional capital and/or operating costs being incurred by the City in respect of the Sewage Works as a result of the WET System that are sustained or reoccurring and material (including, without limitation, any additional wastewater treatment, monitoring, maintenance and/or repair costs);

(v) non-compliance with applicable laws and/or any licenses, permits and approvals in respect of the WET System and/or the City's Sewage Works; and

(vi) such other operational matters as the City and Theia Partners / Envari may agree in the WET Agreement;

Until such time as any such breach is resolved to the City's satisfaction, acting reasonably.

Consistent with Section 19 (City as Municipal Corporation), the City will not be liable for such decision to isolate the WET System, or for any Claims and/or Losses arising from, attributable to or in any way related to such decision; provided such decision is made in accordance with the foregoing.

(6) Upon termination or expiry of the agreement, Theia Partners / Envari will be required, at its sole cost, to remove all connections between the WET System and the IOS and restore the IOS to the satisfaction of the City, acting reasonably.

SECTION 7: FEES

Annual Energy Transfer Fee

- (a) In consideration of the City providing Theia Partners / Enviri with the use of the wastewater as contemplated in the Term Sheet, Theia Partners / Enviri shall pay to Ottawa, commencing on the Commencement Date, an Annual Energy Transfer Fee (“AETF”) of \$108.75 per L/s for the annual peak flow demand to be extracted from or injected into the Sewage Works by the WET System as modeled in the design and as verified by the flow meters..
- (b) The AETF shall be adjusted each year following the Commencement Date during the Term by the same percentage as the increase in CPI such that each year the amount payable is equal to the prior year’s amount plus an amount equal to the percentage increase in CPI for that year, multiplied by the prior year’s amount. Such amount will be calculated in respect of each Operating Year following the Commencement Date and will be due and payable within thirty (30) days following the end of the applicable Operating Year.
- (c) The AETF may be adjusted for any days where the base temperature of the sewer fluctuates below 8.6°C, which may occur as a result of heavy rainfall events or spring snow melts.
- (d) If Theia/Enviri do not have a redundant connection to the EWT, the AETF may be adjust for any days where the City chooses to divert flow from the IOS to the EWT.

WET System Design Review Fee

The purpose of the one-time WET Design Review Fee is to cover the cost of staff time to review the detailed design once submitted and provide municipal staff oversight through construction, commissioning, operation and monitoring of the connection.

SECTION 8: INSURANCE AND SECURITIES

- (1) Each Party will obtain and maintain customary insurance (with limits and deductibles to be agreed upon by the Parties).
- (2) Theia Partners / Enviri will provide, or will cause its construction contractor to provide, to the City a letter of credit, in a form acceptable to the City, acting reasonably, and in a face amount to be agreed in the WET Agreement, to secure against damages that the City may suffer as a result of the construction of the WET System connection to City infrastructure, assets and property. The amount of security and insurance coverage will be informed through a peer review process.

SECTION 9: INTERCEPTOR OUTFALL SEWER (IOS)

(1) Theia Partners / Enviri acknowledges that a primary obligation of the Infrastructure and Water Services Department is to collect, treat and dispose of wastewater. Accordingly, Theia Partners / Enviri covenants and agrees:

(a) Theia Partners / Enviri will design, construct, operate and maintain the WET System in such a manner as to ensure that it will not have any adverse effect on the proper management, operations and maintenance of the Sewage Works at any time. Without limiting the foregoing, Theia Partners / Enviri shall ensure that at all times:

(i) the Sewage Works are not obstructed, damaged and/or compromised and the WET System does not interfere with the proper management, operation and/or maintenance of the Sewage Works (including, without limitation, any buildup of solids; sewer backup; changes in hydraulic grade line; corrosion and/or structural damage; excessive buildup of sewer gases; impact to the operations of the City's wastewater treatment plants or to the structural integrity of any part or parts of the Sewage Works; or access to the IOS for regular maintenance);

(ii) the design, construction, operation and maintenance of the WET System does not result in any noise and/or odours giving rise to public complaints and/or in breach of the City's Noise By-law; the conditions of any licenses, permits or approvals; and/or other applicable laws

(iii) the design, construction, operation and maintenance of the WET System does not result in any spill(s) and/or discharge(s) to the natural environment

(iv) Theia Partners / Enviri will design, construct, operate and maintain the WET System in a way so that the City does not incur any additional capital and/or operating costs in respect of the Sewage Works (including, without limitation, any additional wastewater treatment, monitoring, maintenance and/or repair costs) as a result of the WET System, other than those costs specifically identified in the WET Agreement as being excluded.

(v) Theia Partners / Enviri will perform regular sewer monitoring and inspections at set intervals to confirm that there is no impact on City sewage works. Monitoring and inspection requirements will be developed between the Theia Partners/Enviri and the City.

(v) the WET System is designed, constructed, operated and maintained in compliance with all applicable laws, licenses, permits and approvals; and

(vi) the WET System is designed, constructed, operated and maintained so that it can be fully isolated and shut off from the Sewage Works, if necessary.

- (2) Theia Partners / Enviri will, on or prior to the Commencement Date, install, at its sole cost and expense, thermal meters at the inflow and the outflow of the heat-exchange system to measure the flow, temperature, energy and peak thermal power that has been derived from or rejected to the City's wastewater and shall provide data from the meters to the City for the Term. Real-time transfer of data is preferred, but monthly data reports in arrears will be acceptable.

SECTION 10: TERM

- (1) The term (the "Term") of the WET Agreement will commence on the Effective Date and will terminate on the date that is (TBD) years from the Commencement Date (the "Termination Date").
- (2) Should Theia Partners / Enviri want the Term to extend for another five years past the Termination Date, then Theia Partners / Enviri shall notify the City in writing at least one year prior to the Termination Date, at which point the City will have six months from such notification to deny the request for an extension or the Term will automatically extend for a successive five-year period (the "Extended Term"). Should Theia Partners / Enviri want the Extended Term to extend for another five years past the end of the Extended Term, then Theia Partners / Enviri shall again notify the City in writing at least one year prior to the end of the Extended Term, at which point the City has six months to deny the request for an additional extension or the Term will again automatically extend for a successive five-year period.

SECTION 11: NOTICE RESPECTING MATERIAL ISSUES

During the Term, if a material issue arises respecting the design, construction or operation of the WET System or the performance by a Party of its obligations under the agreement, the Party becoming aware of such issue shall give prompt written notice thereof to the other Party, with reasonable details of the circumstance and the effects thereof to the other Party.

SECTION 12: COMMISSIONING

- (1) Prior to the Construction Completion Date, Theia Partners / Enviri will prepare a commissioning protocol setting out the steps that will occur to commission the WET System. Theia Partners / Enviri will provide the commissioning protocol to the City for its review and acceptance, such acceptance not to be unreasonably withheld. The commissioning protocol shall include safety procedures and a shutdown protocol.

- (2) Theia Partners / Enviri shall schedule regular commissioning meetings to review the commissioning plan and schedule, the coordination required with the City, the equipment testing and start up (especially with regard to the sluice gates). All equipment must be tested with water prior to sending sewage hence contractor will have to provide potable water to fill the wetwell at least once and test equipment.
- (3) Upon achieving the Construction Completion Date, Theia Partners / Enviri will provide the City notice thereof and that the WET System is ready to be commissioned in accordance with the agreed commissioning protocol. Upon the Construction Completion Date, Theia Partners / Enviri may, subject to City approval, not to be unreasonably withheld, commence to divert wastewater into the WET System for the purposes of commissioning the WET System. The City may observe the commissioning and may isolate the WET System from and/or shut off Theia Partners / Enviri access to the Sewage Works during commissioning if the City determines that the operations of the WET System interfere with the proper management, operation or maintenance of the Sewage Works or that the commissioning is not being undertaken in accordance with the agreed commissioning protocol.
- (4) Upon completion of the commissioning, Theia Partners / Enviri shall deliver to the City a certificate of a reputable engineer confirming completion of the commissioning of the WET System.

SECTION 13: OPERATIONAL CONTROLS

- (1) Theia Partners / Enviri will have full operational control of the WET System and the wet well and ETS and they will remain secured and accessible with remote video surveillance at all times, provided that:
 - (a) During the Term Theia Partners / Enviri will provide the City with visual access to all agreed upon operational outputs of the WET System and to Theia Partners / Enviri's non-financial records relating to the Project in order that that the City can develop its policies and procedures relating to wastewater energy transfer projects;
 - (b) authorized City employees will have access to the wet well for annual inspections and to the ETS but only in the event of an emergency; and
 - (c) Theia Partners/Enviri shall shut off the WET system connection to City infrastructure at the request of the City and ensure the WET system is isolated in accordance with Section 9(1) (a)(vi).

SECTION 14: INDEMNITIES

(1) Theia Partners / Enviri shall indemnify, defend and hold harmless the City, its officers, elected official, employees, volunteers and agents, and their respective successors and assigns (collectively, the “Theia Partners / Enviri Indemnitees”) from and against all Claims brought against, or Losses suffered, sustained, or incurred by, the Theia Partners / Enviri Indemnitees which may be directly attributable to, or arising out of:

- (a) the design, construction, installation and operation of the WET System;
 - (b) the negligent acts or omissions of WET or any of WET’s contractors, subcontractors or suppliers in connection with the Project;
 - (c) any deliberate act of wrongdoing or willful misconduct or fraud of WET, or any of WET’s contractors, subcontractors, or suppliers in connection with the Project;
 - (d) any inaccuracy in or breach of the representations or warranties of WET contained in the WET Agreement;
 - (e) any breach of any of WET’s obligations under the WET Agreement;
 - (f) any acts performed by or on behalf of WET beyond the authority of WET, whether negligently or otherwise;
 - (g) a lien or subsequent lawsuit brought in connection with any lien by any of WET’s contractors, subcontractors, or suppliers in connection with the Project; or
 - (h) any infringement or alleged infringement of any patent, trade secret, service mark, trade name, copyright, official mark, moral right, trademark, industrial design or other proprietary rights conferred by contract, common law, statute or otherwise in respect of the Project;
- (collectively, the “Subject Matter of Theia Partners / Enviri Indemnity”)

The Subject Matter of Theia Partners / Enviri Indemnity includes all Claims and Losses that any of the Theia Partners / Enviri Indemnitees may suffer, sustain or incur arising in respect of bodily injury, illness or death of any individual or physical loss of or damage to tangible property.

Theia Partners / Enviri assumes all liability for any damage to the IOS or EWT during construction and operation.

(2) The City shall indemnify, defend and hold harmless Theia Partners / Enviri, its directors, officers, employees, advisers, agents, and contractors (including contractors of any tier and their employees), and their respective successors and assigns

(collectively, the “City Indemnities”) from and against all Claims brought against, or Losses suffered, sustained, or incurred by, the City Indemnitees which may be directly attributable to, or arising out of:

- (a) the negligent acts or omissions of the City;
 - (b) the negligent acts or omissions of any of the City’s contractors, subcontractors or suppliers that directly damage the WET System;
 - (c) any deliberate act of wrongdoing or willful misconduct or fraud of the City or any of the City’s contractors, subcontractors, or suppliers;
 - (d) any inaccuracy in or material breach of the representations or warranties of the City contained in the WET Agreement;
 - (e) any breach of any of the City’s obligations under WET Agreement; or
 - (f) any acts performed by or on behalf of the City beyond the authority of the City, whether negligently or otherwise;
- (collectively, the “City Subject Matter of Indemnity”)

The City Subject Matter of Indemnity includes all Claims and Losses that any of the City Indemnitees may suffer, sustain or incur arising in respect of bodily injury, illness or death of any individual or physical loss of or damage to tangible property.

(3) If a Party becomes aware of any Claim involving any Losses (the “Indemnitee”) to which the other party’s (the “Indemnitor”) indemnity set out above, as the case may be, applies, the Indemnitee will promptly advise the Indemnitor in writing of the Claim with reasonable particulars (to the extent known) of the factual basis for the Claim and the amount of the Claim, as known at that time. If the Indemnitee does not give notice to the Indemnitor as aforesaid, then such failure shall only lessen or limit the Indemnitee’s rights to indemnity hereunder to the extent that the defence of the Claim was prejudiced by such lack of timely notice but such notice shall be provided, in any event, within thirty (30) calendar days of when the Indemnitee becomes aware of the Claim.

(4) If the Indemnitor acknowledges to the Indemnitee in writing that the Indemnitor is responsible to indemnify the Indemnitee in respect of the Claim pursuant hereto, the Indemnitor shall have the right to do either or both of the following:

- (a) assume carriage of the defence of the Claim using legal counsel of its choice and at its sole cost; and/or
- (b) settle the Claim provided the Indemnitor pays the full monetary amount of the settlement and the settlement does not impose any restrictions or obligations on

the Indemnitee or contain any acknowledgement or confirmation that the Indemnitor was at fault; provided that if, in the Indemnitee's reasonable opinion, the Indemnitor fails to diligently defend the Claim, the Indemnitee shall be entitled to assume carriage of such defense using legal counsel of its choice and at the sole cost of the Indemnitor, and to settle the Claim on terms it considers reasonable at the sole cost of the Indemnitor.

(5) Each Party shall cooperate with the other in the defense of the Claim, including making available to the other Party, its directors, officers, employees and consultants whose assistance, testimony or presence is of material assistance in evaluating and defending the Claim

(6) The Indemnitee shall not enter into any settlement, consent order or other compromise with respect to the Claim without the prior written consent of the Indemnitor, (which consent shall not be unreasonably withheld or delayed) unless the Indemnitee waives its rights to indemnification in respect of the Claim or unless such settlement is made pursuant to Section 13(4).

(7) Upon payment of the Claim, the Indemnitor shall be subrogated to all Claims the Indemnitee may have relating thereto. The Indemnitee shall give such further assurances and cooperate with the Indemnitor to permit the Indemnitor to pursue such subrogated Claims as reasonably requested by it.

(8) If the Indemnitor has paid an amount pursuant to the indemnification obligations herein and the Indemnitee shall subsequently be reimbursed from any source in respect of the Claim from any other Person, the Indemnitee shall promptly pay the amount of the reimbursement (including interest actually received) to the Indemnitor, net of any deductible on insurance policies, if applicable, and income taxes required to be paid by the Indemnitee as a result of any such receipt.

SECTION 15: CONDITIONS PRECEDENT TO EFFECTIVE DATE

Customary conditions for a transaction of this nature including, but not limited to:

(1) for the benefit of both Parties:

(a) following completion of negotiations and Council approval, the City Agreements will have been duly executed and delivered; and

(b) confirmation that all WET System Approvals and City Approvals have been obtained or can reasonably be expected to be obtained prior to the Commencement Date;

(2) for the benefit of Theia Partners / Envari:

- (a) Theia Partners / Enviri will have executed and delivered the thermal energy required to service the Project Site development;
 - (b) Theia Partners / Enviri will be satisfied in its sole discretion with the financing arrangements for the Project.
- (3) for the benefit of the City:
- (a) Theia Partners / Enviri will have duly executed and delivered to the City the Guarantee, in a form acceptable to the City, acting reasonably

SECTION 16: EMISSIONS ATTRIBUTES

Theia Partners / Enviri and the City agree to discuss ownership rights to greenhouse gas emissions reductions, avoidances or removals (“GHG Reductions”) arising directly from the Project; and any eligibility for GHG Reductions under existing or future offset credit programs.

SECTION 17: DEFAULT AND TERMINATION

(1) The WET Agreement will contain contractual provisions pertaining to events of default, ability to cure and termination. If a Party is in material breach of an obligation for a period of one hundred and twenty (120) days after having received notice from the other Party of such default, the Party providing such notice may, on providing an additional notice, terminate the agreement; provided that if any such default is not reasonably capable of being cured within such one hundred and twenty (120) day period, such longer period of time as may be reasonable in the circumstances provide that the Party in default commences to cure the default within such one hundred and twenty (120) day period and at all times thereafter uses its commercially reasonable efforts to remedy such default. If a Party takes any action in respect of liquidation or winding up, or makes an assignment for the benefit of creditors, or makes any proposal under the Bankruptcy and Insolvency Act (Canada) or any comparable statute of any applicable jurisdiction, or if a custodian, receiver, receiver and manager, trustee in bankruptcy or any other official with similar powers (collectively, an “Official”) is appointed for the Party or a substantial portion of the Party’s properties and assets and such appointment is not dismissed or discharged within thirty (30) days, or if a bankruptcy or similar petition with respect to the bankruptcy, or other enforced liquidation of, the Party is presented or filed against it unless same is dismissed or discharged within sixty (60) days and during which grace period execution thereunder is effectively stayed, unless, within such thirty (30) day or sixty (60) day period, as the case may be, the Official or any secured creditor of the Party provides to the other Party notice of its intention to continue the operations of the first Party and such person agrees to assume the obligations of the first Party.

(2) In addition to the foregoing, the Wastewater Energy Transfer Agreement will contain the right for the City to terminate the agreement on ninety (90) days prior written

notice to Theia Partners / Enviri where the City has isolated the WET System from the Sewage Works in accordance with Section 6(3)(b) and (i) the breach(es) which gave rise to same have not been resolved to the satisfaction of the City, acting reasonably, and the WET System remains isolated; or (ii) the breach that gives rise to the isolation of the WET System is systemic and reoccurring, and there is no foreseeable ability to mitigate or resolve such breach(es) to the satisfaction of the City, acting reasonably.

(3) The City may terminate the WET Agreement on 2 years notice, where the City has determined to relocate, abandon or make substantial changes to the wastewater infrastructure that make the operation of the WET System no longer feasible, in which case the City will enter into good faith negotiations with Theia Partners / Enviri to find an alternative location for the WET System acceptable to both parties acting reasonably if such is practicable in order that Theia Partners / Enviri can continue to provide services to the Project Site, any such move to be at Theia Partners / Enviri's cost.

(4) Consistent with Section 4 (Project), the City would not be liable for such decision to terminate, or for any Claims and/or Losses arising from, attributable to or in any way related to such decision.

SECTION 18: CITY AS MUNICIPAL CORPORATION

(1) The WET Agreement will contain the following provision, or such other similar provision acceptable to the parties:

(a) Theia Partners / Enviri acknowledges and agrees that the City's proper management, operation, and maintenance of the Sewage Works takes priority over the Project. As such, the City's decision making with respect to the Sewage Works, while being mindful of the Project and its requirements, will be made having regard to that priority as determined solely by the General Manager of Infrastructure and Water Services, acting reasonably, and in accordance with the terms of the WET Agreement. Except as otherwise expressly provided in the City Agreements, Theia Partners / Enviri agrees that the City will not have any liability for any Claims, Losses, and/or adverse impacts (including, without limitation, financial impacts and impacts to infrastructure) to Theia Partners / Enviri or third parties (including, without limitation, Theia Partners / Enviri's customers, contractors, subcontractors, and suppliers) in any way arising from the Project and that all risks with respect to the Project are assumed by Theia Partners / Enviri.

(b) Nothing in this Agreement derogates from, interferes with, or fetters the exercise by the City or any of its representatives or appointed officials of their respective statutory rights and regulatory responsibilities as a municipality, an owner of municipal sewage works or appointed official (whether discretionary or mandatory), and neither the City nor its representatives or appointed officials shall be prevented from or prejudiced in carrying out their respective statutory rights and regulatory responsibilities including, without limitation, its planning

rights and responsibilities. For further clarity, the City agrees that this provision shall not affect the ability of either party to rely upon and enforce the provisions of this Agreement

(c) No communication or dealing between Theia Partners / Envari and any department, committee, body, officer, employee, agent, representative, or elected or appointed official of the City that is not clearly in respect of and in accordance with this Agreement will be deemed to be a communication or dealing under this Agreement between Theia Partners / Envari and the City as parties to this Agreement, or affect the City with notice of any such communication or dealing. It is intended and agreed that any communication or dealing between Theia Partners / Envari and the City as parties to this Agreement will only be effective if delivered in accordance with the notice provisions in this Agreement. No communication or dealing between the City as a party to this Agreement and Theia Partners / Envari as a party to this Agreement will relieve Theia Partners / Envari from the responsibility of discharging its lawful obligations to the City imposed by statute, regulation, by-law, or by any other lawful manner separate and apart from the obligations imposed under this Agreement.

SECTION 19: CITY VALUE OPPORTUNITY

Theia Partners / Envari will work with the City, prior to entering into the WET Agreement, to find opportunities to enhance the value of the Project for the City, such as providing lower cost heating and/or cooling to City owned facilities and other buildings in the area, applying for and sharing funding from senior levels of government, and providing support for community initiatives, among other things. Any such agreed enhancements would form part of the WET Agreement. During the Term for the Project, should Theia Partners / Envari ever want to expand or significantly change the Project in a manner requiring City acceptance, approval, or agreement pursuant to the terms of the City Agreements then Theia Partners / Envari is willing to discuss with the City further enhanced value terms in connection with such City acceptance, approval or agreement.

SECTION 20: CONFIDENTIALITY

(1) Unless otherwise required by law, the City will not disclose any confidential information of Theia Partners / Envari's obtained in accordance with the terms of the WET Agreement. Notwithstanding the foregoing, nothing in the agreement will:

(a) fetter the City's discretion with respect to responding to a request for access to Theia Partners / Envari's confidential information made under Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), provided same is done in accordance with MFIPPA

SECTION 21: GENERAL






(1) A Party will not be liable for any non-performance of its obligations if such non-performance of its obligations results from Force Majeure, provided that such Party provides prompt notice to the other Party of such Force Majeure and uses commercially reasonable efforts to remove and mitigate such Force Majeure.

(2) All \$'s referenced in this Term Sheet are in Canadian Dollars.

(3) Theia Partners / Enviri and the City will negotiate in good faith, each acting reasonably, and use commercially reasonable efforts to finalize and enter into the WET Agreement and to meet the conditions precedent, with a target date of XX.

SCHEDULE A: Location Map



		LOCATION MAP / PLAN DE LOCALISATION	
			Dream LeBreton Site
			Interceptor Outfall Sewer
			Combined Sewer Storage Tunnel
			Area of WET Connection to IOS
22-1173-L			
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