

## MEMORANDUM OF AGREEMENT

### BETWEEN

The City of Hamilton  
(herein referred to as the "City")

**and**

The Hamilton Region Conservation Authority  
(herein referred to as the "HCA")

**and**

The Niagara Peninsula Conservation Authority  
(herein referred to as the "NPCA")

**and**

Conservation Halton  
(herein referred to as the "CH")

**and**

The Grand River Conservation Authority  
(herein referred to as the "GRCA")

**WHEREAS** the parties desire to set out in writing the framework within which the Conservation Authorities will provide specified planning application and technical review services to the City as set out in Appendix A - Schedules 1 to 4, inclusive;

**AND WHEREAS** it is the intent that this framework apply to all four Conservation Authorities in respect of planning and development applications activities in the geographic area of the City as set out in Appendix A - Schedule 4;

**AND WHEREAS** the four Conservation Authorities have legislated responsibilities under the Conservation Authorities Act to review applications for development pursuant to their individual regulation which process is not subject to this MOU;

**NOW THEREFORE** in consideration of the conditions and obligations described herein, the parties agree as follows:

1. The HCA, NPCA, CH and GRCA (collectively referred to herein as the "Conservation Authorities") shall provide planning application and technical review services to the City in respect of those matters identified in this

Memorandum of Agreement and/or the appendix attached to this Memorandum of Agreement. Nevertheless, the parties acknowledge and agree that the City shall remain the approval authority for those development planning applications for which the City is so designated by statute.

2. The Conservation Authorities, through the Memorandum of Understanding between Conservation Ontario, the Ministry of Municipal Affairs and Housing and the Ministry of Natural Resources, provide the Provincial interest comments on planning applications related to natural hazards. Specifically, the Conservation Authorities review planning applications to ensure they are consistent with the Provincial Policy Statement policies related to flooding hazards, erosion hazards, dynamic beach hazards, unstable soils and unstable bedrock. The Conservation Authorities will clearly identify which comments are specific to the Memorandum of Understanding with the Province.
3. The City agrees to:
  - (a) circulate to the Conservation Authorities those planning applications listed in Appendix A, Schedule 1. Included in the circulation will be the appropriate fee as collected by the City from the proponent. Specifically, the City shall circulate all planning applications that are located or adjacent to a regulated area pursuant to Section 28 of the Conservation Authorities Act, and/or as listed in Appendix A, Schedule 2. This screening protocol is attached as Appendix A, Schedule 4;
  - (b) transfer copies of appropriate policy statements, guidelines, manuals, maps, information, data and criteria from the City to the Conservation Authorities, and transfer said material to them as it is received from the Province of Ontario, or make arrangements to have said material transferred directly from the Province to the Conservation Authorities; and,
  - (c) retain consultants other than the Conservation Authorities to provide the planning application and technical review services identified in this Memorandum of Agreement, when in the opinion of the City or the Conservation Authority, utilizing the Conservation Authority as specified in this Memorandum of Agreement could result in a pecuniary/ownership conflict for the Conservation Authority.
4. Those City-initiated studies and projects not listed in Appendix A, Schedule 1 such as but not limited to official plans, policy official plan amendments, secondary plans, comprehensive zoning by-laws; and policy zoning by-law amendments, subwatershed plans; Master Drainage Plans and Environmental Assessments, will continue to be circulated to the Conservation Authorities however, the Conservation Authorities will review these as a commenting agency without fee to the City.
5. The Conservation Authorities agree to:

- (a) provide the City with those services listed in Appendix A, Schedules 2, 3 and 4 on a fee for service basis. The fee schedule is made pursuant to the Conservation Authorities Act and, as such, is approved by the Conservation Authorities Board of Directors. The Conservation Authorities will consult with the City prior to making any revisions to the fee schedule;
- (b) transfer copies of appropriate policy statements, guidelines, manuals, maps, information, data and criteria from the Conservation Authorities to the City, and transfer said material to the City as it is received from the Province of Ontario, or make arrangements to have said material transferred directly from the Province to the City;
- (c) apply all relevant Provincial and City operational procedures and guidelines in the planning application and technical review services it provides the City;
- (d) not release their planning application and technical review comments for major applications as determined by the HCA's Schedule of Fees to the applicants until they are reviewed by the City;
- (e) not disseminate any data, maps, information or other documents either received directly from the Province or identified as "Provincial data" by the City;
- (f) disseminate City data, maps, information or other documents when requested, only in accordance with City policies and procedures; and
- (g) make provision for their staff to attend Ontario Municipal Board Hearings, upon the request of City Legal staff, with respect to planning application and technical review services provided pursuant to this Memorandum of Agreement. The City will provide the legal representation for Conservation Authorities at the OMB hearing at the cost of the City. Should the Conservation Authority attend the hearing for matters outside of this Memorandum of Agreement, the Conservation Authority will be responsible for retaining and paying for their own legal representation.

6. This Memorandum of Agreement will take effect on March 1, 2013.

7. The parties agree that they will, upon the reasonable request of each other, make, do, execute or cause to be made, done or executed all such further and other lawful acts, deeds, things, devices and assurances whatsoever to effect all of the terms, provisions and conditions of this Memorandum of Agreement.

8. The term of this Memorandum of Agreement will be for a period of five (5) years, after which it may renewed for a further period of five (5) years on written consent of all parties if this Memorandum and appendix are consistent with then current Provincial and City policies.

9. This Memorandum of Agreement may be amended from time to time in writing only, with the mutual consent of the parties.
10. Any party may terminate this Memorandum of Agreement at any time, in writing to all other parties to the agreement, with a minimum of 60 calendar days notice.

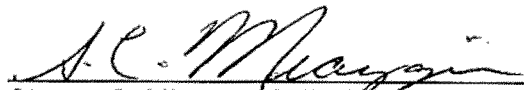
The parties have duly executed this Memorandum of Agreement:

**CITY OF HAMILTON**

\_\_\_\_\_  
Tim McCabe, MCIP, RPP  
General Manager, Planning and Economic Development Department

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013

**HAMILTON REGION CONSERVATION AUTHORITY**

  
\_\_\_\_\_  
Steven C. Miazga, MCIP, RPP  
Chief Administrative Officer

Dated this 21<sup>st</sup> day of December, 2012

**NIAGARA PENINSULA CONSERVATION AUTHORITY**

\_\_\_\_\_  
Tony D'Amario, P.Eng  
Chief Administrative Officer / Treasurer

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013

**CONSERVATION HALTON**

  
\_\_\_\_\_  
Ken Phillips, Chief Administrative Officer

Dated this 7<sup>th</sup> day of JANUARY, 2013

**GRAND RIVER CONSERVATION AUTHORITY**

\_\_\_\_\_  
Joe Farwell, Chief Administrative Officer

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013

## **Definitions**

“Planning Application Review” means:

- i. reviewing planning applications (including formal consultation) under the *Planning Act*;
- ii. identifying the need for and review of technical reports; and
- iii. recommend conditions of approval.

“Technical Review” means:

- i. assessing technical reports submitted by a proponent of development to determine if the reports satisfy requirements specified.

## APPENDIX A – SCHEDULE 1

### CIRCULATION STATUS BY APPLICATION TYPE AND DEFINITIONS

1. The City advises the Conservation Authorities that under this agreement it will circulate the following types of development/planning applications to them for comment as per the items in Appendix A, Schedules 2 and 3:

Official Plan Amendments;  
Zoning By-Law Amendments;  
Subdivisions;  
Condominiums;  
Site Plans;  
Consents;  
Minor Variances; and,  
Community Improvement Plans.

**APPENDIX A – SCHEDULE 2 – CA Responsibilities in Planning Application and Technical Review Services**

Feature/Function	Delegated Authority (1)	Planning Application Review	Regulatory Review
Subwatershed/Master Drainage Planning		X	
Significant Habitat of Endangered and Threatened Species		X (2)	
Wetlands		X	X
Significant Valleylands			X
Significant Wildlife Habitat (4)		X	
Areas of Natural & Scientific Interest (4)		X	
Fish and Fish Habitat		X	
Sensitive Surface Water Features		X	
Sensitive Groundwater Features (3)(4)		X	
Flooding Hazards	X		X
Erosion Hazards	X		X
Dynamic Beach Hazards	X		X
Unstable Soil	X		X
Unstable Bedrock	X		X

**Note 1:**

**Delegated Authority** CA's provide comments pursuant to MoU between Conservation Ontario, Ministry of Municipal Affairs and Housing and Ministry of Natural Resources.

**Note 2:**

The Endangered Species Act is the responsibility of the Ministry of Natural Resources. The City and the Conservation Authorities may provide technical comments on significant habitat of endangered and threatened species pursuant to the PPS. The Ministry of Natural Resources is responsible for permitting (if required) pursuant to the Endangered Species Act.

**Note 3:**

Solely related to interaction between sensitive ground water features and natural heritage features/functions.

**Note 4:**

The GRCA will not provide Planning Application and Technical Review comments for these features/functions.



## APPENDIX A – SCHEDULE 3

### Guidelines for Detailed Engineering Reviews – Responsibilities of Each Organization

Issue/Concern		Conservation Authority	City of Hamilton	Ministry of Environment
Watercourse & Valleys	Floodline Delineation	X(Lead) (1)	X	
	Low Flow Channel Design & Fluvial Geomorphological Considerations	X (Lead)	X	
	Geotechnical Considerations (Slope stability, Natural Hazards)	X (Lead)	X	
Road & Utility Crossings	Hydraulics (Riparian issues and Channel Design)	X (Lead)	X	
Shoreline Design		X (Lead)	X	
Stormwater Management	Type of facility (or facilities)	X	X (Lead)	
	Location of facility with respect to vision of area		X (Lead)	
	Location of facility with respect to Natural Hazards	X (Lead)	X	
	Location of facility with respect to structural setbacks	X	X (Lead)	
	Location of facility with respect to functionality	X	X (Lead)	
	Confirmation of drainage areas	X	X (Lead)	X
	Sizing of facility with respect to quality, erosion and quantity controls, including release rates & settling calculations.	X	X (Lead)	X (3)
	Other potential impacts on receiving watercourse	X (Lead)	X	
	Outlet structure and spillway design	X	X (Lead)	
	Outlet to watercourse (if necessary)	X (Lead)	X	
	Safety – Side slopes, grating, grading, emergency access		X (Lead)	
	Landscaping/Revegetation	X	X (Lead)	
	Long Term Maintenance		X (Lead)	
	Major and minor flow conveyance (internal to subdivision)	X	X (Lead)	
	Hydraulic grade line analysis of storm sewer system and outlet		X (Lead)	
Erosion and Sediment Control Plans		X	X (Lead)	
Grading of Lots Abutting Regulated Areas		X	X (Lead)	
	Trail Design	X	X (Lead)	

**Note 1:** Approvals Lead = Decision Maker  
X = Commenting Role

**Note 2:** Individual situations may require further discussion

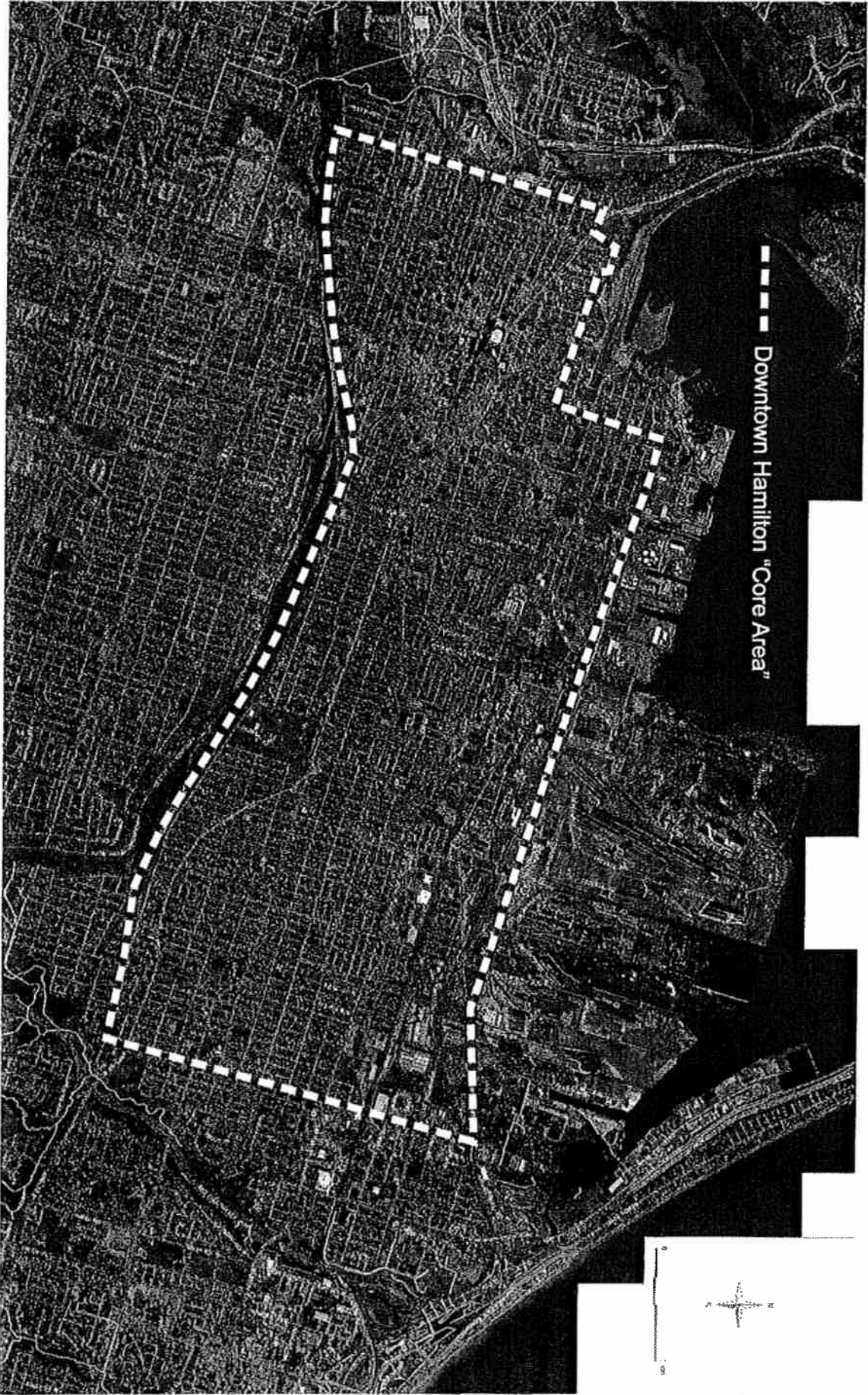
**Note 3:** Environmental Branch of the MOE reviews all systems that fall under s53 of OWRA including residential systems. The Local District Office in Burlington only reviews industrial related systems.

APPENDIX A – SCHEDULE 4

Planning Application Screening Protocol

City-Wide	Official Plan Amendments	Zoning By-Law Amendments	Subdivision/Condominiums	Site Plans	Consents	Minor Variances
Regulated Areas and adjacent areas	Yes	Yes	Yes	Yes	Yes	Yes
Natural Heritage Features (As per Section 2.1 of the Provincial Policy Statement)	Yes	Yes	Yes	Yes	Yes	Yes
<b>Downtown Hamilton “Core Area”<sup>(1)</sup></b>						
Within “Core Area” less than 2 hectares in area	No	No	No	No	No	No
Within “Core Area” but greater than 2 hectares in area or large development projects	Yes	Yes	Yes	Yes	Yes	Yes

**Note 1:** Core as is as shown on Figure 1.



Downtown Hamilton "Core Area"

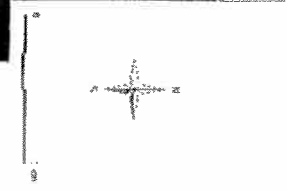


Figure 1

