

This Memorandum of Understanding ("MOU") for Conservation Halton's Watershed Programs and Services made this 1st day of January 2024 (the "Effective Date").

BETWEEN:

THE HALTON REGION CONSERVATION AUTHORITY

hereinafter referred to as "Conservation Halton"

- and -

THE CITY OF HAMILTON

hereinafter referred to as the "City"

**WHEREAS** Conservation Halton and the City (the "**Parties**") have a shared interest in providing complementary, value-added, and customer-focused environmental and **watershed services** within the City of Hamilton;

**AND WHEREAS** the **Parties** agree that there is a shared need to eliminate unnecessary duplication and streamline environmental and **watershed services** to optimize the use of existing resources and technical expertise and, where possible, coordinate efforts;

**AND WHEREAS** Conservation Halton is a conservation authority, established under the *Conservation Authorities Act* (the "Act"), with the object to provide, in the area over which it has jurisdiction, programs and services that further the conservation, restoration, development, and management of natural resource in its watersheds;

**AND WHEREAS** under the Act, Conservation Halton is required to provide **Category 1 programs and services**;

**AND WHEREAS** under the Act, Category 1 programs and services, including operating expenses and capital costs, are funded through the budget and apportionment process in accordance with the applicable regulations and without a memorandum of understanding or agreement with the City;

**AND WHEREAS** under the Act, Conservation Halton may also provide **Category 2 and/or 3 programs and services** where there is a memorandum of understanding, or such other agreement, with the City in respect of the programs and services;

**AND WHEREAS** under the Act, **reduced operating expenses and capital costs for Category 2 and/or Category 3 programs and services** may be funded through the budget and apportionment process and provided with a memorandum of understanding or other agreement with the City;

**AND WHEREAS** under the Act, **Category 2 and/or Category 3 programs and services** may also be provided where there is a memorandum of understanding, or such other agreement, with the City in respect of the programs and services, outside of the budget and apportionment process, through individual procurement agreements;

**AND WHEREAS** this memorandum of understanding (the "**MOU**") sets out the principles, terms, and conditions governing the delivery of **Category 2 and/or Category 3 programs and services** that may be funded by the City through the budget and apportionment process, or otherwise requested by the City outside of the budget and apportionment process;

**NOW THEREFORE** the **Parties** hereby agree to enter into this MOU in relation to the provision of **Category 2 and/or Category 3 programs and services** in the City of Hamilton within Conservation Halton's jurisdiction, in accordance with specific terms and conditions outlined herein.

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## 1. DEFINITIONS

**“Category 1 Program or Service”** – means mandatory programs and services described in O. Reg. 686/21 (e.g., natural hazard management, regulatory, management of Conservation Halton-owned lands, source protection, watershed-based resource management strategy). Category 1 programs and services are funded through the budget and apportionment process in accordance with the applicable regulations and may be municipally funded and/or through user fees, and/or grants.

**“Category 2 Program or Service”** – means programs and services that are at the request of a municipality as described in S.21.1.1 of the *Conservation Authorities Act*, including watershed services. Category 2 programs and services may be municipally funded and/or through user fees and/or grants, but a MOU/service agreement is required if municipally funded.

**“Category 3 Program or Service”** – means programs and services that a Conservation Authority considers advisable to further the purposes of the *Conservation Authorities Act* as described in S.21.1.2 of the Act, including watershed services. The programs and services may be municipally funded and/or through user fees and/or grants, but a MOU/service agreement is required if municipally funded.

**“Watershed Services”** – means areas wherein Conservation Halton has professional expertise, including but not limited to natural hazard and natural resources management, watershed data collection, watershed monitoring, analysis and reporting, watershed planning and management, environmental education and outreach, environmental restoration, landowner outreach and stewardship, and climate change assessment.

**“MCVA apportionment method”** – means a method of apportioning a Conservation Authority’s operating expenses and capital costs that is based on the modified current value assessment (MCVA) of the properties within the Authority’s area of jurisdiction and further described in *Conservation Authorities Act* regulations.

**“Parties”** – means the Parties to this agreement, including Conservation Halton and the City of Hamilton.

**“Reduced operating expenses and capital costs”** – means the capital and operating costs of a Conservation Authority for a given year, as reduced following *Conservation Authorities Act* regulations.

## 2. PURPOSE

2.1. The purpose of this MOU is to:

- a) satisfy provincial requirements under the *Conservation Authorities Act* (the "Act");
- b) outline the **Category 2 and/or 3 programs and services** delivered by Conservation Halton which are funded, in part or whole, by the City; and
- c) detail the agreed-upon terms for the delivery of **Category 2 and/or Category 3 programs and services** by Conservation Halton.

2.2. This MOU is not intended to conflict with or preclude any other agreement between Conservation Halton and other municipalities, agencies, partners, or entities.

## 3. OBJECTIVES

3.1. The objectives of this MOU are to:

- a) ensure that environmental and watershed-related programs and services in the City of Hamilton are effective, complementary, value-added, and customer-focused;
- b) eliminate unnecessary duplication and streamline environmental and watershed-related programs and services to optimize the use of existing resources and technical expertise and, where possible, coordinate efforts;
- c) continuously improve working relationships and enhance service performance of all **Parties**;
- d) ensure natural resources in the City of Hamilton are protected, managed and/or restored using a watershed or systems-based approach and cost-effective solutions;
- e) support the development of a collaborative watershed-based resource management strategy that addresses natural resource issues of interest and concern to the **Parties**; and
- f) ensure relevant watershed resource data is collected using sound science and robust analytical tools and technologies, is shared among the **Parties** to support decision making and evaluation, and that related outcomes and progress are reported among the **Parties**.

## 4. AGREEMENT

4.1. Conservation Halton will deliver **Category 2 and/or Category 3 programs and services** in accordance with any standards and requirements, and any terms and conditions, that may be prescribed pursuant to subsection 21.1.1(4) of the Act.

4.2. Conservation Halton agrees to deliver **Category 2 and/or Category 3 programs and services** specifically described in the attached Schedule(s).

4.3. The **Parties** agree to meet on an annual basis to ensure that the objectives and terms of this MOU and its associated Schedule(s) are achieved.

## 5. TERM

5.1. This MOU shall be executed by the **Parties** and come into effect on January 1, 2024.

5.2. This MOU shall be endorsed by the Conservation Halton Board and City Council. Signatories to the MOU must warrant sufficient authority to bind the **Party**.

- 5.3. This MOU shall be reviewed every four (4) years, or as necessary to reflect any legislative changes or Provincial directions. Conservation Halton shall lead the review of the MOU with any final recommended changes subject to full agreement by all **Parties**.
- 5.4. Schedules may be added to, amended, or removed from this MOU without Board and City Council endorsement.
- 5.5. A Schedule to this MOU does not require Conservation Halton Board and City Council endorsement, but signatories to the Schedule must warrant sufficient authority to bind the **Party**.
- 5.6. A **Party** may withdraw from this MOU by providing a six (6) month written notice to Conservation Halton and continuing to fund program delivery costs during the six (6) month notification period.

## 6. FUNDING

- 6.1. Conservation Halton shall follow the prescribed budgetary process and shall comply with the prescribed methods of apportionment or, where permitted, by agreement in accordance with the Act and applicable regulations.
- 6.2. Conservation Halton shall identify what proportion of **Category 2 and/or Category 3 programs and services** identified in the annual budget are funded by the City through the **MCVA apportionment method** and shall apportion the associated **reduced operating expenses and capital costs** to the City. **Category 2 and/or Category 3 programs and services** are described in Schedule A of this Agreement.
- 6.3. Where **Category 2 and/or Category 3 programs and services** are requested by the City and involves municipal funding other than the **MCVA apportionment method**, Conservation Halton shall attribute the associated operating expenses and capital costs to the City.
- 6.4. Where the City procures **Category 2 and/or Category 3 programs and services** outside of the budget process, Conservation Halton will be considered when procuring services related to Conservation Halton's areas of expertise and in accordance with applicable procurement and purchasing policies.

## 7. DISPUTE RESOLUTION

- 7.1. In the event of any dispute between the **Parties** in carrying out the terms this MOU and associated Schedules that cannot be resolved between staff members, the issue(s) under dispute are to be elevated to the **Parties'** Chief Administrative Officers for resolution. The **Parties** understand that no dispute will be referred to any court, tribunal, arbiter, or any other binding forum or process.
- 7.2. Any notice, election, demand, request, consent, or objection required or contemplated to be given or made by any provisions of this MOU shall be given or made in writing and either delivered personally, electronically, or sent by registered mail, postage prepaid, to the **Parties**.

## **8. INSURANCE**

8.1. Conservation Halton agrees that it shall, at its own expense during the performance of the **Category 2 and/or Category 3 programs and services**, maintain the following insurance:

- i. Comprehensive General Liability Insurance – such coverage shall include personal injury coverage, bodily injury and public liability, and property damage coverage against loss or damage resulting from bodily injury to or death to one (1) or more persons and loss of or damage to property of the City or any other public or private property resulting from or arising out of any negligent act or omission on the part of Conservation Halton. Such insurance shall include: 1) a \$2,000,000.00 limit of coverage per occurrence; and 2) a cross liability/severability of interest clause.
- ii. Comprehensive Automobile Liability Insurance – Conservation Halton agrees to carry a comprehensive automobile liability policy providing bodily injury liability and property damage liability insurance. The policy shall protect the **Parties** against all liability arising out of the use of owned or leased automobiles, both passenger and commercial. The limits of the liability under this insurance policy shall not be less than \$2,000,000.00 per occurrence.

8.2. Conservation Halton further agrees that the coverage provided by the policies specified in this Section will not be changed, amended, or cancelled until sixty (60) days after written notice of such intended change, amendment or cancellation has been delivered to the **Parties**.

## **9. WORKPLACE SAFETY AND INSURANCE BOARD COVERAGE**

9.1. Workplace Safety and Insurance coverage is applicable and required where Conservation Halton engages in any form of services on the City's premises. A Workplace Safety and Insurance Board (WSIB) certificate showing Conservation Halton's coverage shall be provided to the City upon execution of this Agreement.

## **10. INDEMNIFICATION**

10.1. Conservation Halton covenants and agrees to indemnify and save the City, its Councillors, officers, employees, and agents harmless from any liability, action, claim, loss, injury, damage, payment, cost, fine, fine surcharge, recovery or expense, including assessable legal fees arising out of the performance of its obligations under this Agreement, including without limitation any negligent act or omission by any employee, agent or sub-consultant, or anyone else from whom it is in the law responsible, save and except where the liability, action, claim loss, injury, damage, payment, cost, fine, fine surcharge, recovery or expense, including assessable legal fees, arises out of the negligence of the City, its Councillors, officers, employees or agents.

10.2. The City covenants and agrees to indemnify and save Conservation Halton, its Board Members, officers, employees, and agents harmless from any liability, action, claim, loss, injury, damage, payment, cost, fine, fine surcharge, recovery, or expense, including

assessable legal fees arising out of the performance of its obligations under this Agreement, including without limitation any negligent act or omission by any employee, agent, or sub-consultant or anyone else from whom it is in the law responsible, save and except where the liability, action, claim loss, injury, damage, payment, cost, fine, fine surcharge, recovery or expense, including assessable legal fees, arises out of the negligence of Conservation Halton, its Board Members, officers, employees, or agents.

## **11. GENERAL**

- 11.1. The **Parties** acknowledge that there are no covenants, representations, warranties, agreements, or conditions express or implied, collateral or otherwise, forming part of or in any way affecting or relating to this MOU other than as set out in this MOU which constitutes the entire agreement between the **Parties** and which may be modified only by further written agreement.
- 11.2. This MOU and the covenants and agreements herein contained extend to and ensure to the benefit of and are binding upon the **Parties** and their respective successors and assigns, according to the purport and intent of their respective covenants and agreements.
- 11.3. Should any provision or provisions of this MOU be illegal or unenforceable, it or they shall be considered separate and severable from this MOU, and the remaining provisions shall remain in force and be binding upon the parties hereto as though the said provision or provisions had never been included.
- 11.4. The **Parties** agree that each of them shall and will, upon the reasonable request of the other, make, do, execute, or cause to be made, done or executed, all such further and other lawful acts, deeds, things, documents and assurances whatsoever necessary to give effect to this Agreement, and the terms and conditions contained herein.
- 11.5. This MOU may be executed in any number of counterparts and may be delivered by means of electronic transmission.
- 11.6. The headings contained in this MOU are for reference only.

## **12. PUBLIC AVAILABILITY**

- 12.1. This MOU shall be accessible to the public on Conservation Halton's website in accordance with the Act and any applicable regulations.



IN WITNESS WHEREOF, the parties have entered into this MOU as of the Effective Date.

**THE HALTON REGION CONSERVATION AUTHORITY**

Per: Hassaan -

Name: Hassaan Basit  
Title: President and Chief Executive Officer

Per: Gerry Smallegange

Name: Gerry Smallegange  
Title: Chair, Conservation Halton Board

Approved as to Form and  
Content

Paul Lawson

Paul Lawson

Signature

Date: November 24, 2023

Authority: Item 10, GIC Report  
23-027

Date of Authority: Approval  
granted by Council on October  
25, 2023

Legal Services Division

**THE CORPORATION OF THE CITY OF HAMILTON**

Per: Andrea Horwath

Name: Andrea Horwath  
Title: Mayor

Per: Janet Pilon

Name: Janet Pilon  
Title: Acting City Clerk

OFFICE OF THE CLERK	
APPROVED BY COUNCIL	
DATE	<u>October 25, 2023</u>
AUTHORITY	<u>GIC 23-027, Item 10</u>
INTL - <u>CW</u>	YEAR FILE <u>2023-16638</u>

## “Schedule A”

### DESCRIPTION OF CATEGORY 2 PROGRAMS & SERVICES (WATERSHED SERVICES) THAT CONSERVATION HALTON (CH) DELIVERS THAT ARE PARTIALLY FUNDED BY THE CITY OF HAMILTON THROUGH THE ANNUAL BUDGET & APPORTIONMENT PROCESS

Program/Service Name	Description/Rationale
Watershed and Subwatershed Planning	Conservation Halton (CH) develops plans to characterize the land use, stressors, water resource and natural systems within a watershed or subwatersheds. These plans provide analysis based on stressor and mitigation scenarios, as well as recommend implementation actions to meet study goals and objectives. Plans may also include the identification, prioritization and quantification of risks and cost-benefit analysis of a range of management options, with management recommendations based on this analysis.
Watershed Monitoring and Reporting	CH collects and analyzes a suite of data on water quality and water quantity, rainfall and climate, natural assets, and biodiversity. CH's data is used to 1) inform comments on municipal policy and planning applications, source protection policies and technical requirements, watershed planning and management initiatives; 2) assess and report on water and environmental conditions, trends, drivers, and risks within a watershed or subwatersheds (e.g., Watershed Report Cards, interactive story maps, etc.); 3) provide flood warnings and forecasting and support emergency planning; 4) identify and prioritize natural areas for protection, restoration, and enhancement; 5) carry out natural asset condition and risk assessments; and 6) undertake performance monitoring. CH data is also used by consultants/municipalities to support technical reports and studies (e.g., Subwatershed Studies, Environmental Assessments, Environment Implementation Studies) and inform municipal water management.
Climate Change Vulnerability Assessment and Resiliency Planning	CH assesses trends and impacts of climate change as they relate to natural resources, including flood mitigation and stormwater management, natural heritage, biodiversity, and environmental health. CH develops risk assessment/management methodologies to identify priority short- and long-term vulnerabilities and risks to natural and built infrastructure/properties, undertakes cost-benefit analysis, identifies prioritized response actions at the watershed level, and develops mitigation and adaptation policies and plans.
Environmental Education and Outreach	CH delivers programs and services to engage, educate, and coordinate environmental and climate change awareness and learning programs. Includes implementation of curriculum-based outdoor education programs, adult workshops, public awareness events, Water Festival, Forest Festival, and other community events, etc.
Landowner Engagement and Stewardship	CH engages with urban, rural, and agricultural landowners to promote private land stewardship and provide project advice, design and implementation assistance to property owners, and delivery of CH's existing landowner assistance programs.
Restoration on Public and Private Lands	CH undertakes projects to manage natural hazards and improve the environment for landowners and municipalities and undertakes environmental restoration and enhancement projects on behalf of the private sector (e.g., developers, private companies). The program is partially funded through provincial and/or federal programs or other grantors/partners.

	Includes, but is not limited to, delivery of wildlife habitat improvement projects, water quality projects, forestry services, wetland restoration projects, on-line dam removal, and riparian restoration.
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