



AGREEMENT FOR SERVICES

THIS AGREEMENT dated this 28th day of NOVEMBER, 2023.

BETWEEN:

NIAGARA PENINSULA CONSERVATION AUTHORITY
(hereinafter called the "NPCA")

OF THE FIRST PART

– and –

CITY OF HAMILTON,
(Hereinafter called the "Participating Municipality")

OF THE SECOND PART

WHEREAS the NPCA is a Conservation Authority established under the Conservation Authorities Act ("Act") and is governed by its members appointed by participating municipalities in accordance with the Act;

AND WHEREAS the Participating Municipality is located wholly or in part within the area under the jurisdiction of NPCA, as shown in Schedule "A";

AND WHEREAS, pursuant to the Act, Conservation Authorities are permitted to provide non-mandatory programs and services under a memorandum of understanding or such other agreement as may be entered into with a Participating Municipality;

AND WHEREAS the Participating Municipality is requesting the NPCA to deliver non-mandatory programs and services within NPCA's area of expertise and jurisdiction, that fall within the Services Areas attached hereto as Schedule "B";

AND WHEREAS the NPCA proposes and is prepared to provide certain non-mandatory services to the Municipality, attached hereto as Schedule "B";

AND WHEREAS the Council of the Participating Municipality has authorized the Participating Municipality to enter into this Agreement for Services with the NPCA for the delivery of programs and;

AND WHEREAS under the *Act*, certain programs and services may be provided at the request of participating municipalities, outside of the budget and apportionment process, through individual procurement agreements, which agreement are not affected or precluded by means of this Agreement for Services;

NOW THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement for Services, including the exchange of promises it contains, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Scope and Use

1. The NPCA agrees to provide to the Participating Municipality the non-mandatory services attached hereto as Schedule "B".
2. Notwithstanding the foregoing, the Participating Municipality acknowledges and agrees that all programs and services identified in Schedule "B" also be included in a watershed-based resource management strategy that the NPCA is required to develop and implement under the *Act*, or any amendments thereto.

Term of Agreement

3. The term of this Agreement shall be for a period of five (5) years commencing on January 1, 2024 and running until December 31, 2028 (the "**Initial Term**"),
4. This Agreement shall be reviewed by the parties within six months of the end-date of the Initial Term for the purpose of determining whether or not this Agreement for Services is to be renewed by the parties, and discussing the terms of any renewal, including, but not limited to, whether any changes will be made to the non-mandatory programs and services attached hereto as Schedule "B". It shall be the NPCA's responsibility to initiate the review with the Participating Municipality.
5. The NPCA and the Participating Municipality, upon mutual agreement, may renew this Agreement for Services for an unlimited number of additional five (5) year terms (the "**Renewal Term(s)**"), provided that any renewed Agreement for Services must also be reviewed by the parties six months prior to the end-date of any such Renewal Term(s), as set out in paragraph 4, above.
6. This Agreement for Services may be terminated by either party prior to the end of the Initial Term or any Renewal Term(s), upon delivery of a written "Notice of Early Termination" as per the Notice clause 19, below, from the terminating party to the non-terminating party at least six months before the early termination date, which date is to be specified in the written "Notice of Early Termination". If legal suite is filed, the Agreement for Services can be terminated with cause.

7. The Participating Municipality and NPCA will strive to facilitate open and timely communication at all levels. The resolution of disputes that may arise between the parties to this Agreement for Services during the Initial Term and/or any Renewal Term(s) shall be subject to alternative dispute resolution for the settling of disputes outside the Court system. Parties will endeavour to resolve the matter through negotiations without use of formal mediation or adjudication. If needed, the Parties will seek mediation to be conducted by a mutually agreed-upon mediator at such time as may be mutually agreed upon by the NPCA and the Participating Municipality, and should mediation be unsuccessful, an arbitration to be conducted by a mutually agreed-upon arbitrator at such time and pursuant to such procedural rules as may be mutually agreed upon by the NPCA and the Participating Municipality. The cost of any mediation and/or arbitration shall be borne in equal shares by the NPCA and Participating Municipality.
8. The NPCA will not add to or delete from the services or programs funded through the levy without first consulting with the Participating Municipality and entering into a written agreement to this Agreement for Services with the Participating Municipality.
9. The Participating Municipality acknowledges and agrees that by executing this Agreement for Services, it is confirmed that the terms of this Agreement for Services have been reviewed and approved by a resolution of the Council of the Participating Municipality.
10. This Agreement for Services does not preclude the parties identifying or entering into agreements with respect to opportunities for further collaboration to the benefit of both parties, and is intended to ensure efficiency, transparency and accountability in the use of resources, including in-kind services and assistance, coordination of complementary policy and program initiatives and projects involving third parties.
11. The resolution of the NPCA Board of Directors to execute this Agreement for Services shall be attached hereto as Schedule "C".
12. The resolution of Council of the Participating Municipality to execute this Agreement for Services shall be attached hereto as Schedule "D".

Agreement for Services Available to the Public

13. As required by the *Act* and/or its regulations, this Agreement for Services shall be made available to the public, including on the NPCA website.

Fees and Payment

14. The costs associated with non-mandatory programs and services falling within Category 2 and/or 3 under the *Act* and/or its regulations shall, subject to this

Agreement for Services, be reviewed by the parties on an annual basis as part of the NPCA annual budget (operating and capital) approval process, in line with budget guidelines.

15. NPCA's final approved budget shall be appended annually hereto as Schedule "E".
16. The fees apportioned to the Participating Municipality will be calculated annually using the Modified Current Value Assessment (MCVA) or the benefit based method, unless otherwise noted as being attributable directly to the Participating Municipality as a special benefiting levy in Schedule "B".
17. NPCA may charge a user fee in the delivery of any programs and services listed in Schedule "B", as appropriate, to assist with costs of NPCA programs or services provided under this Agreement for Services. Such user fees shall only be imposed in accordance with NPCA's Fee Policy and Fee Schedules adopted in accordance with the provisions of the *Act*, or otherwise in accordance with provisions set out in an agreement between NPCA and the Participating Municipality.
18. An "Annual Notice to Pay" shall be sent to the Participating Municipality following NPCA budget approval and payment for annual fees shall be made by the Participating Municipality in four quarterly installments by the end of each fiscal quarter in each calendar year.

Notice

19. Any notice in respect of this Agreement for Services shall be in writing and shall be sufficiently given or made if made in writing and either delivered in person during normal business hours of the recipient on a business day to the party for whom it is intended to the address as set out below, or sent by registered mail or by email addressed to such party as follows:

- (1) in the case of the Municipality, to:
City of Hamilton
71 Main Street West
Hamilton, ON
L8P 4Y5

Attention: Jason Thorne

Email: citymanager@hamilton.ca

- (2) in the case of NPCA, to:
Niagara Peninsula Conservation Authority
250 Thorold Road West, 3rd Floor
Welland, ON
L3C 3W2

Attention: Chandra Sharma, CAO/Secretary-Treasurer

Email: csharma@npca.ca

or to such other addresses as the parties may from time to time set out in writing, and any notice so made or given shall be deemed to have been duly and properly made or given and received on the day on which it shall have been so delivered or, if mailed, then, in the absence of any interruption of postal service affecting the delivery or handling thereof, on the third business day after the date of mailing.

Force Majeure

20. Neither party shall be in default with respect to the performance or non-performance of the terms of this Agreement for Services resulting directly or indirectly from causes beyond its reasonable control (other than for financial inability) that could not reasonably have been foreseen, including, without limitation, any delay caused by war, invasion, riots, acts of terrorism or sabotage, acts of government authority (other than by the Participating Municipality), plague, epidemic, pandemic, natural disaster, strike, lock-out, inability to procure material, or other cause, and the performance of such term or terms shall be extended for a period equivalent to the period of such delay. This provision should not relieve the Participating Municipality of its obligation to pay fees and costs for services rendered.

Governing Law

21. This Agreement for Services shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated in all respects as the locus of contract.

No Agency

22. Nothing herein contained shall make or be construed to make the Participating Municipality or the NPCA a partner of one another nor shall this Agreement for Services be construed to create a partnership, joint venture, principal-agent relationship or employment relationship in any way or for any purpose whatsoever between the Participating Municipality or the NPCA or between the Participating Municipality, the NPCA and a third party. Nothing in this Agreement for Services is to be construed as authorizing one of the NPCA or the Participating Municipality to contract for or to incur any obligation on behalf

of the other of them or to act as agent for the other of then. Any reference herein to the Participating Municipality shall be interpreted to include its boards, agencies, commissions, and subsidiary operations.

Invalidity of any Provision

23. If any provision of this Agreement for Services is invalid, unenforceable or unlawful, such provision shall be deemed to be deleted from this Agreement for Services and all other provisions shall remain in full force and effect and shall be binding in all respects between the parties hereto.

Further Assurances

24. The Parties hereto agree to execute and deliver to each other such further written documents and assurances from time to time as may be reasonably necessary to give full effect to the provisions of this Agreement for Services.

Amendments

25. This Agreement for Services cannot be altered, amended, changed, modified, or abandoned, in whole or in part, except by written agreement executed by the parties, and no subsequent oral agreement shall have any validity whatsoever.

Binding Agreement

26. This Agreement for Services shall ensure to the benefit and be binding upon the parties hereto and their respective heirs, executors, representatives and successors permitted hereunder.

Execution


27. This Agreement for Services may be executed in counterparts and when each party has executed a counterpart, each of such counterparts shall be deemed to be an original and all of such counterparts, when taken together, shall constitute one and the same agreement.


IN WITNESS WHEREOF the Participating Municipality and the NPCA have signed this Agreement for Services on the following page.

[Signature page follows]

SIGNED, SEALED AND DELIVERED THIS 23rd DAY OF NOVEMBER, 2023.

NIAGARA PENINSULA CONSERVATION AUTHORITY

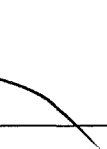
Per: 
Chair – Robert Foster


Per: 
Chief Administrative Officer/Secretary-Treasurer – Chandra Sharma

I/we have the authority to bind the Corporation

SIGNED, SEALED AND DELIVERED THIS 28th DAY OF NOVEMBER, 2023.


CITY OF HAMILTON

Per: 
Mayor – Andrea Horwath

Per: 
City Clerk – Janet Pilon

I/we have the authority to bind the Corporation

Approved as to Form and Content

Paul Lawson


Signature
Date: November 24, 2023

Authority: Item 10, GIC Report 23-027

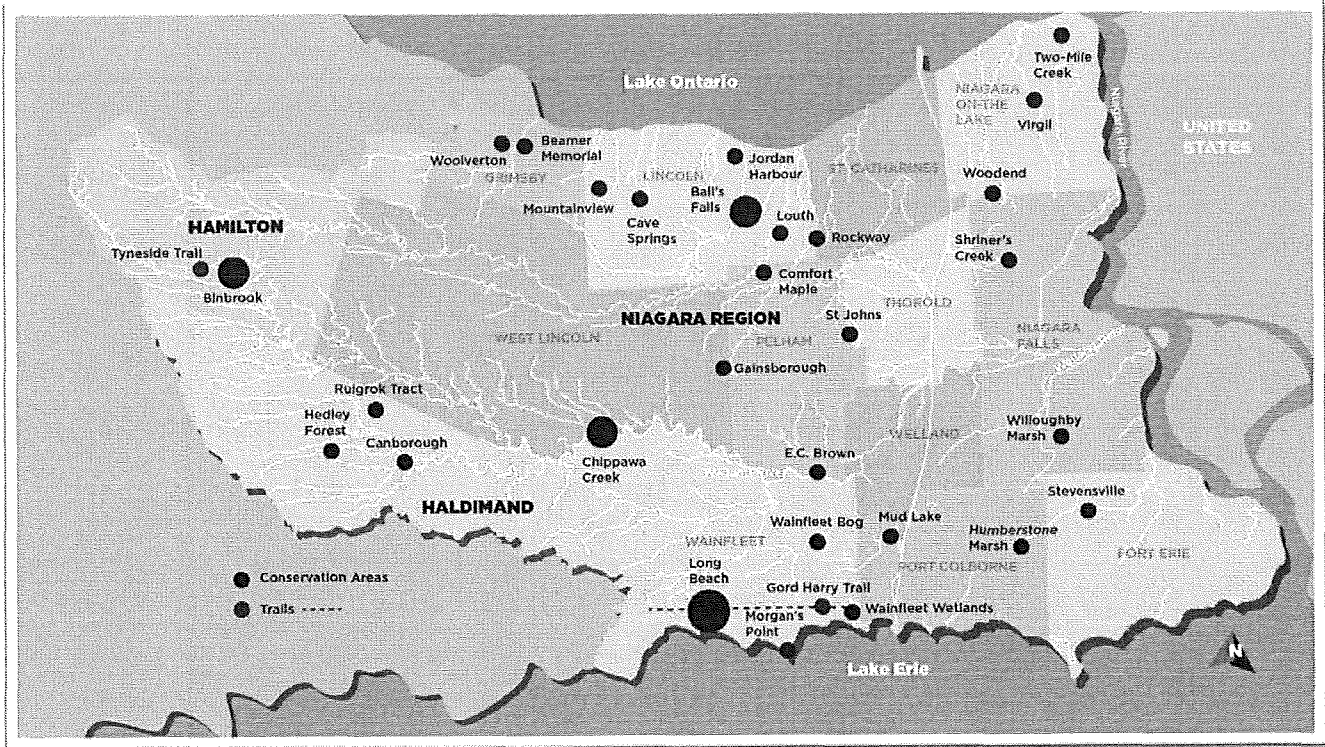
Date of Authority: Approval granted by Council on October 25, 2023

Legal Services Division

OFFICE OF THE CLERK
APPROVED BY COUNCIL
DATE October 25, 2023
AUTHORITY GIC 23-027, Item 10
INTL CW YEAR FILE 2023-16639

Schedule "A"

NPCA Watershed Jurisdiction



Schedule “B”

NPCA Service Areas for Category 2 Services (Non-Mandatory Fee-for-Service or Cost-Shared through Fundraising)

Glanbrook Landfill Monitoring and Assessment

At the request of the Glanbrook Landfill Committee, the City of Hamilton contracts the NPCA biennially (since 1996) to monitor macroinvertebrates upstream and downstream of the Glanbrook Landfill to assess any landfill impacts to the adjacent watercourses. The NPCA collects samples in the spring and fall of each monitoring year and a report is provided to the City of Hamilton and the Glanbrook Landfill Committee.

City of Hamilton Waste Management Division engages the NPCA for the Glanbrook Landfill Monitoring and Assessment for a fee of \$10,000 paid biennially. The next reporting cycle will be in 2025 for the monitoring that will be undertaken in 2024.

Flood and Erosion Management

- a) Flood & erosion hazard mitigation projects on public lands across watershed rivers and streams (beyond NPCA owned lands)

Shoreline Hazard Management & Resilience

- b) Shoreline studies for public lands including environmental assessments
- c) Shoreline flood and erosions capital projects on public lands (beyond NPCA owned lands)

Planning Studies

- d) Class or Conservation Authority Environmental Assessment for restoration, trails or flood and erosion mitigation projects
- e) Review and advice on OP updates and comprehensive Zoning By-Law reviews related to watershed-based resource management and natural hazards (other than natural heritage)
- f) Support cross-disciplinary integration and inform municipal watershed planning and water, wastewater, and stormwater master planning
- g) Technical advisory support on planning matters (other than natural hazards)

Watershed and Sub-watershed Planning

- h) Data, technical analysis and modeling to inform sub-watershed and quaternary planning for growth areas and restoration initiatives
- i) Review and input to sub-watershed studies or other regional scale studies (e.g., comprehensive EIS, master plans)
- j) Watershed and landscape scale integrated science and reporting to foster cross-municipal resource management

Watershed Monitoring

- k) Water quality monitoring to support municipal and other programs and initiatives (Stormwater quality monitoring or performance monitoring of Low Impact Development technologies)
- l) Ecological monitoring to support municipal programs (planning & growth)
- m) Subwatershed monitoring to support municipal studies, including surface water and groundwater quality, equipment set-up and maintenance, fish and other aquatic community surveys
- n) Groundwater monitoring and reporting

Ecological Restoration & Stewardship

- o) Restoration projects (cost-shared and Fee- for-service)
- p) Invasives species management
- q) Agriculture (public and private land), urban (homeowners/public lands) & corporate stewardship and restoration initiatives
- r) Technical support to land owners on restoration and forest management, Knowledge sharing workshops, Hands-on training

Climate Change Resilience

- s) Emerging climate Research and practice to support municipal projects (i.e., Natural Asset Inventories)
- t) Sustainable Stormwater and Erosion/Sediment Management Technologies and Low Impact Development (implementation, training, performance monitoring and Best Management Practices)

Outdoor Education and Cultural Heritage

- u) Outdoor Education and Cultural Heritage Programs

Land Management & Land Care

- v) Land, Lease & Facility Management, Operations and Maintenance

Land Securement

- w) Strategic cost-shared acquisition of properties with lower-tier municipal partners and other agencies.

Schedule “C”
NPCA Board Approval Resolution
2024 Budgets and Municipal Levies

NPCA Board of Directors Meeting, June 16, 2023

9.3 Report No. FA-28-23 RE: Agreements of Services with Municipalities as required under the *Conservation Authorities Act Phase 1 Regulation*

Resolution No. FA-67-2023

Moved by Brian Grant

Seconded by Mark Tadeson

1. **THAT** Report No. FA-28-23 RE: Agreements of Services with Municipalities as required under the Conservation Authorities Act Phase 1 Regulation **BE RECEIVED**.
2. **THAT** staff **BE DIRECTED** to circulate the draft Agreement of Services, as appended, for discussion with NPCA’s partner municipalities as part of the 2024 Budget process, related to Category 2 and 3 Programs and Services.
3. **THAT** this report **BE CIRCULATED** to NPCA’s partner (funding) municipalities, lower-tier municipalities, Ministry of Natural Resources and Forestry (MNRF) and Ministry of Environment Conservation and Parks (MECP).
5. **THAT** the final Agreements of Services **BE PRESENTED** to the NPCA Board of Directors for final approval.
6. **AND FURTHER THAT** the final executed Agreements of Services **BE POSTED** online as required by the Conservation Authorities Act.

NPCA Board of Directors Meeting, October 20, 2023

9.1 Report No. FA-41-23 RE: 2024 Draft Budget and Municipal Levies

Resolution No. FA-104-2023

Moved by Brad Clark

Seconded by Diana Huson

Report No. FA-41-23 RE: 2024 Draft Budget and Municipal Levies **BE APPROVED** with weighted and recorded vote on Item **2b**. 2024 Draft Municipal Levies.

1. **THAT** Report No. FA-41-23 RE: 2024 Draft Budgets and Municipal Levies **BE RECEIVED**;
2. **THAT** the Board of Directors **CONSIDER** and **APPROVE** the following recommendations:
 - a. **THAT** the 2024 Draft Budgets **BE APPROVED** at the Board of Directors meeting on October 20th, 2023, in accordance with Board-approved Budget Assumptions.
 - b. **THAT** the 2024 Draft Municipal Levies **BE APPROVED** at the Board of Directors meeting on October 20th, 2023, for discussion with municipal staff.
 - c. **THAT** the targeted Land Securement contributions as per the Land Securement Strategy **BE PRESENTED** to municipal partners for their consideration, identified as an item in the Special Levy envelope.
 - d. **THAT** the list of 2024 unfunded budget priorities **BE PROVIDED** to partner municipalities for any future opportunities outside the 2024 budget through collaborative projects or external funding.
 - e. **THAT** NPCA staff **REPORT** the results of discussions with municipal staff to the 2024 Q2 Finance Committee and Board of Directors meetings.
 - f. **AND FURTHER THAT** a copy of the 2024 Draft Budgets and Municipal Levies **BE FORWARDED** to partner municipalities in advance of the October 20th, 2023, NPCA Board of Directors meeting and the weighted levy vote.

Schedule “D”
City of Hamilton Council Approval Resolution
NPCA 2024 Budgets and Municipal Levies

Schedule "E"

NPCA 2024 Budgets and Municipal Levies

Links:

1. [2024 Budget Book](#)
2. [2024 Budgets - Programs and Services Format](#)