

Memorandum of Understanding

THIS MEMORANDUM OF UNDERSTANDING made the 6th day of September 27, 2023.

B E T W E E N:

Town of Greater Napanee
("the Municipality")

OF THE FIRST PART

- and -

QUINTE CONSERVATION AUTHORITY
("the QCA")

OF THE SECOND PART

Hereinafter the Municipality and the QCA shall collectively be referred to as the "**Parties**"

WHEREAS the QCA 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 Municipality is located wholly or in part within the area under the jurisdiction of the QCA;

AND WHEREAS the Act permits the QCA to provide non-mandatory programs and services under a Memorandum of Understanding or such other agreement as may be entered into with a Municipality;

AND WHEREAS the QCA is prepared to provide certain non-mandatory programs and services to the Municipality;

AND WHEREAS the Municipality wishes to avail itself of those programs and services described in this Memorandum of Understanding (MOU) and to pay the amount charged by the QCA for those programs and services;

NOW THEREFORE, in consideration of the terms of this Memorandum of Understanding and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. Entire Memorandum of Understanding

1.1. This MOU, together with:

Schedule "A" - Category 2 Programs and Services

Schedule "B" - Category 3 Programs and Services

constitutes the entire MOU between the Parties with respect to the subject matter contained in this MOU and supersedes all prior oral or written representations and agreements.

1.2 This MOU will be posted publicly on the QCA's website to comply with requirements under the *Conservation Authorities Act*.

2. Definitions

2.1 In this MOU:

"Category 2" means the municipal programs and services that the QCA hereby agrees to provide at the request of and on behalf of the Municipality; and

"Category 3" means the programs and services that the QCA's Board wishes to provide on behalf of the

watershed to further the *Conservation Authorities Act* under a cost apportioning agreement amongst participating municipalities who agree to the implementation of the programs and services, as outlined in the QCA's Programs & Services Inventory.

3. Term of Memorandum of Understanding

3.1 The initial term of this MOU shall commence on the date this MOU is signed by the Parties and shall, subject to the renewal provisions of this MOU, end on December 31, 2028 ("the Initial Term").

3.2 Unless this MOU has been terminated early in accordance with the terms or conditions of this MOU, the MOU shall be automatically renewed for a five (5) year term from December 31, 2028 ("**Renewal Term**"), on the same terms and conditions contained herein.

3.3 This MOU shall be reviewed by the Parties prior to the expiry of the Initial Term and each Renewal Term. It is the QCA's responsibility to initiate the review with Municipality at least one hundred and twenty (120) days prior to the expiry of the Initial Term or Renewal Term, as the case may be.

3.4 Subject to the provisions of Clause 9 of this MOU, the terms and conditions of this MOU may be amended at any time with the mutual written consent of both of the Parties.

4. Fees and Payment

4.1 The cost structure for the programs and services provided in Schedule A and Schedule B shall be based on the actual costs to the QCA of providing the programs and services.

4.2 An increase will be applied to the total fees for the programs and services provided in Schedule A and Schedule B effective January 1 in each calendar year and will be no less than the same percentage as the QCA's overall levy increase.

4.3 The fees apportioned to the Municipality will be calculated annually using the benefit-based apportionment method for Schedule A services and the Municipal Current Value Assessment (MCVA) apportionment method for Schedule B services. The MCVA apportionment method shall be based on the ratio that the Municipality's modified current value assessment is of all participating municipalities. The amount of the fees apportioned to the Municipality shall be provided annually at least 30 days before the meeting at which the budget is approved.

4.4 In addition to the foregoing cost structure for programs and services provided in Schedule A and Schedule B, the QCA may charge a user fee in the delivery of any programs and services listed, as appropriate.

4.5 The Municipality shall pay the QCA all fees and charges as invoiced by the QCA pursuant to this MOU within sixty (60) days of the date of the invoice.

5. Notice

Any notice in respect of this MOU 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:
Brandt Zatterberg, Deputy CAO
Town of Greater Napanee
99-A Advance Avenue, Napanee, ON, K7R 3Y5
(613) 776-1111 | bzatterberg@greaternapanee.com

(2) in the case of the QCA, to:

Quinte Conservation
2061 Old Highway # 2
Belleville, ON K8N 4Z2

Attention: Brad McNevin, Chief Administrative Officer
Email: bmcnevin@quinteconservation.ca

or to such other addresses as the Parties may from time to time notify 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.

6. Force Majeure

Neither Party shall be in default with respect to the performance or non-performance of the terms of this MOU 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 Municipality), plague, epidemic, pandemic, natural disaster, strike, lock-out, inability to procure material, acts, laws or regulations of government authority or other cause beyond the reasonable control of such Party and not caused by the act or omission of such Party, 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 Municipality of its obligation to pay fees and costs when due.

7.0 General

7.1 The QCA shall not hold itself out as an employee of the Municipality.

7.2 The QCA may subcontract all or any portion of the programs or services in its sole discretion, provided that any such subcontracted program(s) or service(s) conforms to the terms of this MOU. Nothing contained in this MOU will create a contractual relationship between any subcontractor or its directors, officers, employees, agents, partners, affiliates or volunteers and the Municipality. No subcontract will relieve the QCA from any obligation under this MOU or impose any liability on the Municipality unless otherwise agreed to in writing.

7.3 The QCA will maintain confidentiality of any information provided by the Municipality and identified as confidential and will limit disclosure of such information to only those individuals who require access to the information in order to complete the program or service, or as required to be disclosed by law.

7.4 Notwithstanding the foregoing, the Municipality acknowledges and agrees that all programs and services identified in Schedule "A" shall also be included in a Watershed-based Resource Management Strategy that the QCA is required to develop and implement under the *Conservation Authorities Act*.

8. Dispute Resolution

If requested in writing by either Party, the Parties shall attempt to resolve any dispute between them arising out of or in connection with this Agreement by entering into structured non-binding negotiations with the assistance of a mediator on a without prejudice basis. The mediator shall be appointed by agreement of the Parties. If a dispute cannot be settled within a period of ninety (90) calendar days with the mediator, the dispute shall be referred to and finally resolved by arbitration. The arbitrator shall be appointed by the agreement of the Parties.

No person shall be appointed to act as mediator or arbitrator who is in any way interested, financially or otherwise, in the conduct of the work on the Project or in the business or other affairs of either of the Parties.

The award of the arbitrator, including an award for costs if applicable, shall be final and binding upon the Parties.

The provisions of the Arbitration Act, R.S.O., 1991, Chapter 17, as amended shall apply.

9. Early Termination

This MOU shall terminate automatically upon either Party providing the other Party with prior written notice of their intention to terminate this MOU given no less than one-hundred and eighty (180) days and no more than three hundred (300) days prior to the end of such calendar year. Upon such written notice of intention to terminate this MOU being given in any calendar year during the Initial Term or Extension Term, the date that is the last date of such calendar year or such date as may be otherwise agreed to by all Parties in writing, shall be the "Termination Date". In the event this MOU is terminated, any operating expenses and costs incurred by the QCA for providing services to the Municipality shall be paid by the Municipality up to and including the Termination Date.

10. Termination

Upon a termination notice being given, the QCA shall be entitled to operational and capital costs reasonably incurred up to the date of the termination notice and all ongoing fixed costs incurred in reliance on the funding commitment of the Municipality. The Municipality shall pay the QCA within thirty (30) days of termination.

11. Insurance

Both Parties agree to obtain and maintain in full force at all times, Certificates of Insurance for commercial general liability at a minimum level of five million dollars (\$5,000,000) and shall add the other Party as a named insured.

12. Execution

This MOU may be executed in counterparts in writing or by electronic signature and delivered by mail, facsimile or other electronic means, including in Portable Document Format (PDF), no one copy of which need be executed by all of the Parties, and all such counterparts together shall constitute one MOU and shall be a valid and binding agreement among the Parties hereto as of the date first above written.

13. Severability

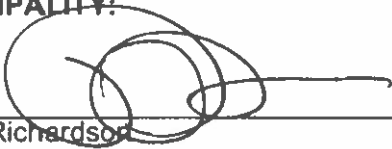
If any term or provision of this MOU shall to any extent be held to be invalid or unenforceable, the remainder of this MOU shall not be affected thereby, and each term and provision of this MOU shall be separately valid and enforceable to the fullest extent permitted by law.

14. Successors

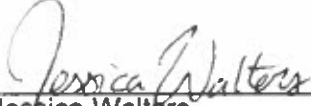
This MOU shall ensure to the benefit of and be binding upon Parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF the Municipality and the QCA have signed this Memorandum of Understanding.

MUNICIPALITY:



Terry Richardson
Mayor




Jessica Walters
Clerk/Director of Legislative Services

I / We have authority to bind the Municipality.

QUINTE CONSERVATION AUTHORITY



Brad McNevin
Chief Administrative Officer/Secretary-Treasurer



Chris Malette
Chair

I / We have authority to bind QC.

Schedule A – Category 2 Programs and Services

(Only applicable to Centre Hastings, City of Belleville, Deseronto, Madoc, Marmora and Lake, Prince Edward County, Town of Greater Napanee and Tweed)

1. DRINKING WATER SOURCE PROTECTION

Quinte Conservation has been operating under an existing agreement to provide the Source Water Protection Part IV Enforcement services Since 2019/2020. This agreement will supersede the Existing Agreements and ensure compliance with the changes brought forward by the Province of Ontario. Schedule A Section 1 of the agreement only applies to the following municipal partners - Centre Hastings, City of Belleville, Deseronto, Madoc, Marmora and Lake, Prince Edward County, Town of Greater Napanee and Tweed

Goals:

The goals of the service agreement between the municipality and Quinte Conservation are:

- a) To delegate Part IV responsibilities from the Municipality to the Conservation Authority by appointing the Conservation Authority to carry out enforcement under Part IV of the Act within the Municipality, and
- b) To administer and enforce Part IV responsibilities for all lands located within the Municipality's jurisdiction from the regional Quinte Conservation Risk Management Office. This includes lands within the vulnerable areas surrounding the municipal Drinking Water System.
- c) To delegate education and outreach responsibilities from the Municipality to the Conservation Authority related to *Policy-G-1: Education and Outreach* in the *Quinte Region Source Protection Plan*.

General Conditions:

- d) Under section 4 of the Act, the Quinte Conservation Authority serves as the Source Protection Authority for the Quinte Source Protection Area. Ontario Regulation 284/07 under the Act designates the participating municipalities for the Quinte Conservation Authority when it acts as the Source Protection Authority under the Act.
- e) The Act states that municipalities are responsible for Part IV enforcement of Source Protection Plans. The Act further provides that a municipality may enter into an agreement for the enforcement of Part IV by a board of health, a planning board, or a Source Protection Authority.
- f) This Agreement shall be applicable to all lands located in the Municipality that are subject to Part IV of the Act.
- g) The Conservation Authority shall faithfully carry out its duties hereunder on a fee for service basis in accordance with the Act, the Quinte Region Source Protection Plan (as amended from time to time), this Agreement, and any other applicable legislation.
- h) The Conservation Authority will appoint such Risk Management Officials and Risk Management Inspectors as are necessary pursuant to subsection 48 (2) of the Act and shall issue a certificate of appointment to the Risk Management Officials and Risk Management Inspectors as per subsection 48 (3) of the Act.
- i) The Risk Management Officials and Risk Management Inspectors will be qualified as prescribed by the Regulation.

1.1 Risk Management Official/Risk Management Inspector Services

Quinte Conservation Authority Responsibilities:

- i) Appointing Risk Management Officials and Risk Management Inspectors as necessary for the administration and enforcement of Part IV of the *Clean Water Act* (Act) under this MOU, and who are qualified in accordance with the provisions of Section 53 of the Act.
- ii) Providing Restricted Land Use mapping to the participating municipalities and establishing protocols, in consultation with municipal staff, to facilitate information sharing.
- iii) Inspecting, monitoring and ensuring compliance with prohibition policies under Section 57 of the Act and with risk management plans under Section 58 of the Act.
- iv) Reviewing all development, building permit and land use planning applications for properties within the areas designated as Restricted Land Use in the Quinte Source Protection Plan and issuing notices with respect to Restricted Land Use under Section 59 of the Act prior to those applications proceeding
- v) Negotiating or, if negotiations fail, establishing risk management plans with persons (business owners, landowners, tenants, and others) engaged or proposing to engage in an activity and at a location designated under Section 58 of the Act, as identified under the Quinte Source Protection Plan
- vi) Charging fees for the establishment of a Risk Management Plan, where negotiations have failed
- vii) Making resolutions under s.55 of the Act, as deemed necessary
- viii) Reviewing and accepting risk assessments that meet the requirements of Section 60 of the Act
- ix) Maintaining adequate records of all documents and materials used in performing the duties required under this Agreement, and in accordance with s. 54. (1) of the Act and making records available to the public when required to do so and to the Participating Municipalities on request
- x) Preparing documentation for and making provisions for staff to attend Ontario Land Tribunal Hearings if required
- xi) Using powers of entry on properties where required, as detailed in Section 62 of the Act, and obtaining inspection warrants from a court when required
- xii) Issuing orders and notices and exercising any other powers set out under Part IV of the Act to ensure compliance with the Quinte Source Protection Plan
- xiii) Reporting annually on activities to the Participating Municipalities and Source Protection Authority as required under the Act

Participating Municipalities Responsibilities:

Circulate to the Risk Management Official the following items for review and response for properties within the areas designated as Restricted Land Use in the Quinte Source Protection Plan:

- i) building permit applications and preliminary inquiries for building permits
- ii) municipal by-laws that potentially impact land use activities
- iii) land use planning proposals and applications
- iv) other inquiries and applications relating to changes in land use activities

1.2 Source Protection Education and Outreach

Objective 1 - General Awareness

- Increase general awareness of the overall Source Protection Program

Objective 2 - Municipal Water System Customers

- Increase awareness of municipal drinking water systems among all municipal water users, with a focus on where water comes from, how it is treated to ensure it is safe to drink, and the connection between land use practices and water quality.

Objective 3 - Best Management Practices

- Facilitate best management practices on private properties by providing information and motivating behavioural changes regarding drinking water threats set out in the Quinte Region Source Protection Plan.
- Update and development of outreach materials for significant drinking water threats, as needs arise. Creation and distribution of promotional material.
- Updates to the Quinte Conservation Source Water Protection website page, as required.
- Provide information and links to municipalities for website and newsletters.
- Distribution of material through mail outs and door-to-door delivery as required.
- Make use of municipal opportunities for distribution of information.
- Use of Quinte Conservation social media (e.g. Facebook).
- Incorporation of Source Protection messaging at appropriate events (e.g., Plowing match, trade shows, municipality-hosted event upon request).
- A continued support system for the municipalities and public for queries about Source Protection.
- A continued support system for the Risk Management Officials.
- Reporting - Quarterly reporting to the QC Board of Directors, annual report to Municipalities.

2. MOIRA LAKE WEIR INSTALLATION (DOWNY'S RAPIDS)

Quinte Conservation staff install, remove, and maintain a seasonal recreation weir at the outlet of Moira Lake. This weir is an important structure to ensure residents of Centre Hastings can enjoy the lake throughout the summer. All expenses for the installation, removal and maintenance are covered by the Municipality of Centre Hastings. Quinte Conservation's 10-year capital asset management plan for our water management structures includes the Moira Lake weir.

3. STOCO LAKE WEIR INSTALLATION

Quinte Conservation staff install, remove, and maintain a seasonal recreation weir at the outlet of Stoco Lake. The weir is an important structure to ensure residents of Tweed can enjoy the lake throughout the summer. All expenses for the installation, removal and maintenance are covered by the Municipality of Tweed. Quinte Conservation's 10-year capital asset management plan for our water management structures includes the Stoco Lake weirs.

4. BELLEVILLE ICE CONTROL STRUCTURES

Quinte Conservation staff maintain the Belleville Ice Control Structures on the Moira River in the City of Belleville. These structures maintain head-ponds to promote formation of a solid ice sheet in the winter, the ice sheet insulates the river, reducing frazil ice generation. The ice booms hold the ice sheet in place to reduce potential ice jamming. All expenses related to testing of low flow valves, vegetation clearing, in-water inspections of the ice booms, replacement of deteriorated components, and fastening, clearing, and repositioning of the booms are covered by the City of Belleville. Quinte Conservation's 10-year capital asset management plan for our water management structures includes the Belleville Ice Control Structures.

Schedule B – Category 3 Programs and Services

1. SURFACE WATER QUALITY MONITORING PROGRAM

Surface water quality monitoring at 322 baseflow sites, 9 Long-term Monitoring Open water sites, 4 tributary sites (in addition to PWQMN), Lake Ontario nearshore water monitoring at area beaches, coastal wetland monitoring of Bay of Quinte Area of Concern, benthic monitoring at 48 OBBN sites across the watersheds. Costs include staff, equipment and calibration, sampling, analysis, and reporting. The information is used for watershed report cards and watershed project prioritization as part of the mandatory reporting requirements to the province.

2) EDUCATION AND OUTREACH SERVICES

The portion of the education and outreach program not directed to mandated programs primarily centered on watershed and natural environment curriculum. These are curriculum-based education programs for elementary and secondary students. These programs focus on local watersheds, ecosystems, and environmental issues. Programs take place at schools (indoors and outdoors), field trips to conservation areas and community parks and through online learning.

Education and outreach programs and community events to assist in achieving the objectives of the conservation authority. These programs are open to people of all ages.

3) LANDOWNER STEWARDSHIP SERVICES

The stewardship and restoration services have some key components: one-on-one technical assistant to watershed landowners, connecting landowners with cost-share funding, and the reforestation services. These projects reduce the risk to life and property from natural hazards, protect water quality and quantity, improve forest conditions, increase biodiversity, and make the watersheds more resilient to climate change. These services when applied across the entire watershed improve the health of the entire system. Examples include the annual native plant and wildflower sales, private land stewardship including tree planting, guided conservation area field trips, webinars, 50 Million Tree program, etc.

3.1 Private Land/Rural Stewardship Program

Our program is designed to work with property owners to implement Best Management Practices to mitigate flood and erosion hazards, improve and protect water quality, restore floodplains and river valleys, reduce nutrient contamination, restore, and enhance wetlands to reduce flooding peaks and augment low flow, management of terrestrial non-native invasive species, protect groundwater, and improve aquatic species at risk habitat. Includes partnership programs with Lower Trent CA. Apply for and manage external funding, promote private land stewardship, outreach, provide technical advice and design assistance, participation on technical working groups, etc.

3.2 Tree Planting and Forestry Services

Forestry services including initial site visit to determine if landowners would qualify for a large-scale tree planting and then pass them onto the 50-Million Tree Program local delivery agent. Private woodlot stewardship, technical assistance, link to funding programs to maintain form and function of watershed forest cover. Our goal will be to build on this service in partnership with other lead agencies.

4) DEPOT LAKES CAMPGROUND

Operate a campground and associated facilities at the Depot Lakes Conservation Area in Verona (Township of Central Frontenac) that provides seasonal and interior camping opportunities. This service operates on a cost recovery basis.

5) GREEN ENERGY PROGRAM MCLEOD DAM HYDRO FACILITY

Own and operate a hydro facility and associated infrastructure at an existing water control structure within the City of Belleville. McLeod Dam Hydro Facility was established in 2008 to provide power to 400 homes. The facility has a Feed In Tariff (FIT) contract until August 2028 and a loan set to expire in November 2028. As a member of the Ontario Waterpower Association (OWA) we have been actively participating in the discussions regarding contract renewal for the sale of the energy produced.