



**Ganaraska Region
Conservation Authority**

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Port Hope, ON L1A 3V8

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MEMBER OF
CONSERVATION ONTARIO

September 27, 2023

Ron Taylor
Chief Administrative Officer
City of Kawartha Lakes
26 Francis Street
Lindsay, ON K9V 6H7

VIA EMAIL

Dear Ron Taylor:

Re: Memorandum of Understanding

At the September 21, 2023 Board of Directors meeting of the Ganaraska Region Conservation Authority (GRCA), the Board approved the circulation of the Memorandum of Understanding (MOU) for Programs and Services. Staff recently made a presentation to Council to provide some background on the changes to the *Conservation Authorities Act* and associated legislation which outlined the requirement for the MOU.

In 2021, the Province of Ontario implemented changes to the *Conservation Authorities Act* that now requires conservation authorities to sort their programs and services into the following three categories outlined in legislation (Ontario Regulation 686/21):

Category 1: Mandatory Programs and Services

These are programs and services undertaken by all conservation authorities and supported by municipal levy and other sources of revenue. These programs and services are in regard to:

- The risk of natural hazards (e.g., flooding, erosion, steep slopes, unstable soils).
- The conservation and management of lands owned or controlled by the authority.
- The authority's duties, functions and responsibilities under the *Clean Water Act*.
- Other authority duties, functions and responsibilities prescribed by the regulation.

Category 2: Municipal Programs and Services

These are programs and services provided at the request of a municipality. These benefitting levy programs and services are usually funded through program revenue or municipal funding through an agreement with the municipality. They often include projects such as flood mitigation studies and floodplain mapping updates.

Category 3: Other Programs and Services

These are programs and services that a conservation authority determines are advisable to further the conservation, restoration, development and management of natural resources in its watershed. These programs are self-funded through a variety of revenue sources, or in the case of the Clean Water Healthy Lands Landowner Financial Assistance program, through benefitting levy.

As of January 1, 2024, Category 2 and 3 programs and services require a signed MOU between GRCA and each member municipality where municipal general levy helps support the delivery and implementation of those programs and services. It should be noted the GRCA general levy only supports those programs and services in Category 1 which does not require a signed MOU.

Attached is the draft Memorandum of Understanding for your Municipality. GRCA is requesting all watershed municipalities to review and sign the MOU as it does include a clause that provides a mechanism of a transfer of levy dollars between Category 1 and Category 3 should the need arise during extenuating external circumstances. Included in the MOU is a clause that states:

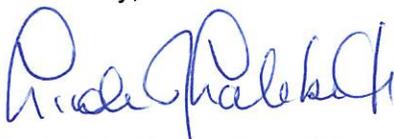
The Participating Municipality agrees Ganaraska Conservation may reallocate a maximum of three percent (3%) of the apportioned value the Participating Municipality is required to pay Ganaraska Conservation for general operating expenses and Category 1 expenses as defined in Ontario Regulation 402/22 under the *Conservation Authorities Act*, R.S.O. 1990, c. C.27.

This is a contingency clause for the Ganaraska Forest Centre education program that has been included and would only be used if and when a need arises should there be an unexpected shortfall in revenues. This allows for a transfer of a maximum of 3% or \$38,389 of the total levy the municipality provides to the GRCA. The exact amount is listed on Schedule A attached to the MOU and is based on the proposed 2024 levy which will be voted on at the GRCA Board of Directors November 23, 2023 meeting. Please be advised, this transfer would only take place in extenuating circumstances.

Projects listed on Schedule A are based on the 2024 Proposed Budget of which final approval is given in April 2024 after the watershed municipalities have passed their respective budgets. Schedule A is subject to change should there be an adjustment in the proposed funding for projects listed in Category 2 and Category 3, if applicable to the municipality.

Please review the attached document and staff will be in touch to set up a time when the MOU can be reviewed and discussed. Please do not hesitate to contact the undersigned should you have any questions.

Yours truly,



Linda J. Laliberte, CPA, CGA
CAO/Secretary-Treasurer

cc. Cathie Ritchie, Clerk
Tracy Richardson, GRCA Board Member

Encl.



**GANARASKA REGION
CONSERVATION AUTHORITY**

**MEMORANDUM OF UNDERSTANDING
FOR PROGRAMS & SERVICES**

*Clean Water, Healthy Land
For Healthy Communities*

**MEMORANDUM OF UNDERSTANDING FOR PROGRAMS AND SERVICES
("MOU")**

THIS MOU dated this day of , 2023.

BETWEEN:

Ganaraska Region Conservation Authority
(hereinafter called the "Ganaraska Conservation")

– and –

City Of Kawartha Lakes
(hereinafter called the "Participating Municipality")

Hereinafter referred to as the "Parties" when referenced collectively.

WHEREAS Ganaraska Conservation is a conservation authority established under the *Conservation Authorities Act*, RSO 1990, c C.27 and is governed by its members appointed by Participating Municipalities in accordance with the *Act*;

AND WHEREAS the Participating Municipality is a municipality, located wholly or partly within the area under the jurisdiction of Ganaraska Conservation, and is designated as a Participating Municipality under the *Act*;

AND WHEREAS in carrying out its mandate under the *Conservation Authorities Act*, Ganaraska Conservation is required to provide mandatory programs and services (Category 1) set out under *Ontario Regulation 686/21*;

AND WHEREAS in carrying out its mandate under the *Act*, Ganaraska Conservation provides non-mandatory programs and services (Category 2) at the request of or on behalf of its Participating Municipalities within its jurisdiction;

AND WHEREAS in carrying out its mandate under the *Act*, Ganaraska Conservation provides non-mandatory programs and services (Category 3) that Ganaraska Conservation provides to manage and conserve the watershed;

AND WHEREAS under the *Act*, Category 1 programs and services are to be funded through the annual budget and apportionment process in accordance with the *Act*;

AND WHEREAS under the applicable regulations, Category 1 operating expenses and capital costs may be included in the apportionment and provided without a MOU;

AND WHEREAS pursuant to the *Conservation Authorities Act*, RSO 1990, c C.27 and Ontario Regulation 687/21, Ganaraska Conservation is required to enter into a MOU with the Participating Municipality in order for Ganaraska Conservation to apportion operating costs to the Participating Municipality to fund other services and programs, Categories 2 and 3, that Ganaraska Conservation wishes to provide to further the purpose of the *Act*;

AND WHEREAS pursuant to the *Conservation Authorities Act*, RSO 1990, c C.27 and Ontario Regulation 687/21, Ganaraska Conservation may establish a fee to be charged by Ganaraska Conservation for other programs and services;

AND WHEREAS the Parties recognize the need for, and the benefits of, entering into an MOU for the delivery of the other programs and services by Ganaraska Conservation;

AND WHEREAS the Parties continue to work together to identify opportunities for further collaboration to the benefit of both Parties while ensuring efficiency and accountability;

NOW THEREFORE, in consideration of the mutual covenants, conditions, considerations and payments herein contained, the parties hereto agree as follows:

1. Ganaraska Conservation agrees to provide the Participating Municipality with the programs and services outlined in the Inventory of Programs and Services, Categories 2 and 3, attached hereto as Schedule "A".
2. The general levy, which is applied to Category 1, will be calculated annually using the current general levy subject to an annual increase as agreed to during budget deliberations. The appointment to the Participating Municipality shall be based on Current Value Assessment (CVA) data as provided by the Ministry. The general levy will be forwarded to the Participating Municipality annually under separate cover.
3. The Participating Municipality agrees to the following adjustment in the general levy associated with Category 1 in accordance with the following formula:
 - The Participating Municipality agrees Ganaraska Conservation may reallocate a maximum of three percent (3%) of the apportioned value the Participating Municipality is required to pay Ganaraska Conservation for general operating expenses and Category 1 expenses as defined in Ontario Regulation 402/22 under the *Conservation Authorities Act*, R.S.O. 1990, c. C.27.
4. The cost structure for the programs and services provided in Schedule A shall be based on the actual costs to Ganaraska Conservation of providing the programs and services.

5. The Participating Municipality agrees that Ganaraska Conservation may establish and charge a user fee for the programs and services outlined in Schedule "A".
6. The Participating Municipality will continue to support the current Inventory of Programs and Services in Schedule "A" throughout the term of this MOU.
7. This MOU will be posted on Ganaraska Conservation's website to comply with the requirements under the *Conservation Authorities Act* R.S.O. 1990, c. C.27.

Term of MOU

8. The MOU will be for a term of a minimum five (5) years commencing on the date of the signature by the last of the parties and shall, subject to the renewal provisions of this MOU, end on December 31, 2028.
9. 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, on the same terms and conditions contained herein.
10. The MOU shall be reviewed by the parties at least six (6) months before the end of each five (5) year term, for the purpose of determining whether the MOU is to be renewed by the parties.
11. Either party may terminate all or any part of Schedule A of this MOU at any time upon delivering six (6) months written notice of termination prior to the following budget year.
12. Any notice to be given pursuant to this MOU shall be delivered in writing to the parties at the following addresses:

Ganaraska Region Conservation Authority
2216 County Road 28, Port Hope, ON L1A 3V8

City of Kawartha Lakes
26 Francis Street, Lindsay, ON K9V 6H7
13. The MOU will terminate six (6) months after the date on which written notice of early termination is delivered to the parties.

Force Majeure

14. 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 Participating 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 does not relieve the Participating Municipality of its obligation pay fees and costs when due.

Dispute Resolution

15. Ganaraska Conservation and the Participating Municipality shall negotiate in good faith in an attempt to settle any dispute between the parties in connection with this MOU in a timely manner.

Should Ganaraska Conservation and the Participating Municipality be unable to settle the dispute through negotiation, both parties acting reasonably and in good faith, then the determination of such dispute shall be resolved by arbitration, pursuant to the *Arbitration Act* (Ontario).

A party desiring arbitration shall give written notice of arbitration to the other party containing a concise description of the matter referred to arbitration ("Notice of Arbitration").

Within ten (10) business days after a party delivers a Notice of Arbitration, the parties shall jointly appoint a single arbitrator (the "Arbitrator"). If the parties fail to appoint an Arbitrator within such time, the Arbitrator shall be designated by a judge of the Ontario Superior Court of Justice upon application by either party.

The decision of such Arbitrator shall be final and binding as between the parties and shall not be subject to appeal.

Whenever a dispute is in respect of a matter within the expertise of an architect, engineer, land surveyor or other professional consultant who, in the opinion of both Ganaraska Conservation and the Participating Municipality, is qualified to make a determination in respect of such dispute, Ganaraska Conservation and the Participating Municipality may jointly stipulate at any time prior to the selection or appointment of the Arbitrator hereunder, that the Arbitrator shall be an independent consultant with such expertise as may be determined jointly by Ganaraska Conservation and the Participating Municipality.

The costs of the Arbitrator shall be split equally between Ganaraska Conservation and Participating Municipality.

SIGNED AND DELIVERED THIS ____ DAY OF _____ 2023

GANARASKA REGION CONSERVATION AUTHORITY

Per: _____

CAO/Secretary-Treasurer

I/we have the authority to bind the Corporation

SIGNED AND DELIVERED THIS ____ DAY OF _____ 2023.

Participating Municipality

Per: _____

Chief Administrative Officer/Clerk

I/we have the authority to bind the Corporation

Schedule "A"
Based on 2024 Proposed Preliminary Budget
Subject to Change Upon Approval of the Municipality's Budget

City of Kawartha Lakes

Category 3

Maximum 3% Category 1 Transfer

3% of Proposed 2024 General Levy of \$3,440.45

\$ 103.00