

**Cost Apportionment Agreement** for Category 3 Programs and Services (“Agreement”) dated this 2<sup>nd</sup> day of July 2023.

**Between:**

**Otonabee Region Conservation Authority**  
(the “Authority”)

and

**The Corporation of the City of Peterborough**  
(the “Municipality”)

**Whereas** pursuant to the Conservation Authorities Act, RSO 1990, c C.27 and Ontario Regulation 687/21, the Authority is required to enter into a cost apportioning agreement in order for the Authority to apportion Category 3 Programs and Services to a Municipality to fund other services and programs that the Authority 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, the Authority may establish a fee to be charged by the Authority for other services and programs;

**And whereas** the Municipality wishes to avail itself of the Category 3 Programs and Services and to pay the Authority for same;

**Now therefore**, in consideration of the terms of this Agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. The Authority agrees to provide the Municipality with the Category 3 Programs and Services outlined in Schedule “A”.
2. The Municipality agrees to be assessed an apportionment of the costs for the Category 3 Programs and Services in accordance with the following: formula:
  - The Municipality will pay the Authority three percent (3%) of the apportioned value the Municipality is required to pay the Authority 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.
3. The Municipality agrees that the Authority may establish and charge a user fee for the Category 3 Programs and Services outlined in Schedule “A”. A user fee will be based on cost recovery. Concurrently and in accordance with the Act, the Authority will establish its user fees on a yearly basis and consult with the Municipality regarding same.
4. The Authority will not add to or delete from the Category Programs and Services to be provided in Schedule “A” without first consulting with the Municipality. Any such change would require a written amendment to this Agreement.

5. The Municipality will continue to support the Category 3 Programs and Services set out in Schedule "A" throughout the term of this Agreement.

#### **Term of Agreement**

6. The Agreement will be for a term of five (5) years commencing on the date of the signature by the last of the parties.
7. The Agreement shall terminate on the fifth anniversary from the date of the signature of the last of the parties ("Termination Date") unless the parties agree to renew the Agreement before the Termination Date.
8. The Agreement shall be reviewed by the parties at least six (6) months before the Termination Date, for the purpose of determining whether the Agreement is to be renewed by the parties.
9. Either party may terminate this Agreement at any time upon delivering six (6) months written notice of termination.
10. Any notice to be given pursuant to this Agreement shall be delivered in writing to the parties at the following addresses:

Otonabee Region Conservation Authority 250 Milroy Drive Peterborough, ON K9H 7M9 Attn: Chief Administrative Officer	Address for Municipality  City Hall  500 George Street North  Peterborough, ON K9H 3R9  Attention: City Clerk
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11. The Agreement will terminate six (6) months after the date on which written notice of early termination is delivered to the parties.

#### **Dispute Resolution**

12. The Authority and the Municipality shall negotiate in good faith in an attempt to settle any dispute between the parties in connection with this Agreement in a timely manner.

Should the Authority and the 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), to be held in Peterborough.

A party desiring arbitration shall give written notice of arbitration to the other party, in accordance with section 10, 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 the Authority and the Municipality, is qualified to make a determination in respect of such dispute, the Authority and the 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 the Authority and the Municipality.

The costs of the Arbitrator shall be split equally between the Authority and Municipality.

**Signed Sealed and Delivered this 2<sup>nd</sup> day of July 2023**

**Otonabee Region Conservation Authority**

Per: Janette Loveys Smith  
Chief Administrative Officer/Secretary-Treasurer – Janette Loveys Smith  
I/we have the authority to bind the Authority

Per: Ryan Huntley  
Chair, Board of Directors – Ryan Huntley  
I/we have the authority to bind the Authority

**The Corporation of the City of Peterborough**

Per: R. Frymnd Acting CAO  
Chief Administrative Officer – Jasbir Raina  
I/we have the authority to bind the Corporation

Per: John Kennedy  
City Clerk – John Kennedy  
I/we have the authority to bind the Corporation

## **Schedule “A” - Inventory of Category 3 Programs and Services**

### **Local Water Monitoring Programs**

- Supplemental stream water quality monitoring at 4 other sites and benthic monitoring at 8-10 sites annually across the watershed.
- Periodically produce the Watershed Report Card.

### **Climate Change Initiatives**

- Maintain and implement the Authority’s Climate Change Strategy focusing on adaptation, mitigation and education.

### **Land Stewardship Services**

- Provide advice and technical support that supports private and public land restoration and stewardship activities that contribute to a healthy/functioning watershed.
- Deliver a Tree Seedling Sales Program.
- With municipalities, schools, public agencies, and community service groups plan and undertake land restoration and stewardship projects (i.e., tree planting, habitat enhancement, shoreline naturalization. These activities typically occur on municipal owned lands or lands owned by public agencies/institutions (i.e., schools, hospitals, etc.).









# ORCA - Cost Apportioning Agreement - final

Final Audit Report

2023-10-13

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