




CITY OF HAMILTON
CORPORATE SERVICES DEPARTMENT
Financial Planning, Administration and Policy Division

TO:	Mayor and Members General Issues Committee
COMMITTEE DATE:	October 18, 2023
SUBJECT/REPORT NO:	Conservation Authority Agreements for Non-Mandatory Programs and Services (FCS23081) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Kirk Weaver (905) 546-2424 Ext. 2878
SUBMITTED BY:	Brian McMullen Director, Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	

RECOMMENDATION

That the Mayor and City Clerk be authorized to execute agreements for Non-Mandatory Programs and Services with the Hamilton Region Conservation Authority, Halton Region Conservation Authority, Niagara Peninsula Conservation Authority and Grand River Conservation Authority based substantially on the Term Sheet attached as Appendix "A" to Report FCS23081 and in a form satisfactory to the City Solicitor.

EXECUTIVE SUMMARY

In 2022, each Conservation Authority completed an inventory of all of their programs and services. These programs and services were categorized into three categories as follows:

- Category 1: Mandatory Programs and Services
- Category 2: Municipally requested programs and services
- Category 3: Other programs and services deemed advisable

Category 2 and 3 programs and services require an agreement to be entered into between the Conservation Authority and the Municipality. Agreements need to be in place by January 1, 2024.

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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.

The term of the Agreement for Services is proposed for a period of up to five years commencing on January 1, 2024 and running until December 31, 2028. The Agreement would be reviewed by the parties within six months of the end date of the Initial Term to determine whether or not it is to be renewed by the parties, including whether any changes will be made to the non-mandatory programs and services. Upon successfully completing this review, the agreement may be renewed for an additional five-year term.

The programs and services provided by each of the four Conservation Authorities within the City of Hamilton will vary somewhat between Conservation Authority. The specific services will be detailed within a schedule in each agreement. Generally, the types of programs and services provided will include service areas that are core components of integrated watershed management or are for cultural heritage or conservation lands and have been provided to the City for many years.

Alternatives for Consideration – Not Applicable

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial: There are no direct financial implications from approval of Report FCS23081. The specific costs for the Category 2 and 3 services provided by each Conservation Authority will be outlined in annual budget submissions presented to Council for consideration.

Staffing: There are no staffing implications as a result of the recommendations in Report FCS23081.

Legal: Draft agreements with all four Conservation Authorities have been reviewed by the Legal Services Division and will be finalized upon the approval of Report FCS23081 by Council.

HISTORICAL BACKGROUND

On October 7, 2021, three (3) new regulations were instituted under the *Conservation Authorities Act*:

- Ontario Regulation 686/21: Mandatory Programs and Services. This regulation prescribes the mandatory programs and services conservation authorities would be required to provide, including core watershed-based resource management strategies.

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- Ontario Regulation 687/21: Transition Plans and Agreements for Programs and Services Under Section 21.1.2 of the Act. This regulation requires each authority to have a ‘transition plan’ that would outline the steps to be taken to develop an inventory of programs and services and to enter into agreements with participating municipalities to fund non-mandatory programs and services through a municipal levy, among other things. It also establishes the transition period to enter into those agreements.
- Ontario Regulation 688/21: Rules of Conduct in Conservation Areas. This regulation consolidates the current individual conservation authority ‘Conservation Area’ regulations made under Section 29 of the *Conservation Authorities Act* into one Minister’s regulation that regulates the public use of authority owned land.

In 2022, each Conservation Authority completed an inventory of all of their programs and services. These programs and services were categorized into three categories as follows:

- Category 1: Mandatory Programs and Services
- Category 2: Municipally requested programs and services
- Category 3: Other programs and services deemed advisable

Category 2 and 3 programs and services require an agreement to be entered into between the Conservation Authority and the Municipality. Agreements need to be in place by January 1, 2024. Conservation Authorities had until October 1, 2023 to request an extension to this deadline. It is not anticipated that an extension would be needed with respect to the City of Hamilton agreements.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Ontario Regulation 687/21: Transition Plans and Agreements for Programs and Services Under Section 21.1.2 of the Act. This regulation requires each authority to have a ‘transition plan’ that would outline the steps to be taken to develop an inventory of programs and services and to enter into agreements with participating municipalities to fund non-mandatory programs and services through a municipal levy, among other things. It also establishes the transition period to enter into those agreements.

RELEVANT CONSULTATION

Senior staff of the Hamilton Region Conservation Authority, Grand River Conservation Authority, Niagara Peninsula Conservation Authority and Conservation Halton have been consulted throughout the development of the draft agreements.

Corporate Services staff in the Legal Services Division have reviewed draft agreements.

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Public Works staff in various divisions have been consulted in the development of Report FCS23081 and review of draft agreements.

ANALYSIS AND RATIONALE FOR RECOMMENDATION

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.

The term of the Agreement for Services is proposed for a period of up to five years commencing on January 1, 2024 and running until December 31, 2028. The Agreement would be reviewed by the parties within six months of the end date of the Initial Term to determine whether or not it is to be renewed by the parties, including whether any changes will be made to the non-mandatory programs and services. Upon successfully completing this review, the agreement may be renewed for an additional five-year term.

Service Areas

The programs and services provided by each of the four Conservation Authorities within the City of Hamilton will vary between Conservation Authority. The specific services will be detailed within a schedule in each agreement. Generally, the types of programs and services provided will include service areas that are core components of integrated watershed management or are for cultural heritage or conservation lands and have been provided to the City for many years.

- Management, operation and maintenance of Conservation Authority owned lands for active recreation in order to connect communities and residents with active outdoor recreation opportunities such as camp sites, marina, pavilions, boat rentals, concessions and other assets that can be provided with the direct support or supervision of staff employed by the authority or by another person or body.
- Cultural Heritage Education and Experiences (e.g., program development and delivery at Westfield Heritage Village).
- Sub-watershed planning such as a plan which identifies streams, wetlands, forests, groundwater recharge areas and other natural areas. It includes an inventory of plants, animals, birds and other species. Information on stream flows, water quality, groundwater movement and other natural features is also included.
- Watershed Monitoring Program which includes planning and undertaking an ecological monitoring program on a watershed basis. In addition, this could include the collection, storage, assessment and distribution of ecological data and information regarding watershed conditions and health and participation on any working group.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

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- Watershed Stewardship and Restoration (urban, rural and agriculture) such as applying for and managing external funding, promoting private land stewardship, outreach and providing advice and design assistance to property owners. Implementation of watershed plan stewardship recommendations, climate change impact assessment, identification of vulnerability or risk and the development of mitigation and adaption policies and plans.
- Aquatic Monitoring Program – non-Conservation Authority lands.
- Water Quality Monitoring – Water quality and erosion site monitoring for the City of Hamilton. City of Hamilton groundwater monitoring well inspections, well water quality sampling, surface water monitoring and E. coli sampling. This would also include water quality monitoring associated with tributaries to Cootes Paradise as part of Conservation Authority Ontario and Hamilton Harbour Remedial Action Plan monitoring.

Funding

The costs associated with non-mandatory programs and services falling within Category 2 and / or 3 under the Act and / or its regulations will be reviewed by the parties on an annual basis as part of the annual budget (operating / capital) approval process, in line with budget guidelines. The fees apportioned to the Participating Municipality shall be calculated annually using the Modified Current Value Apportionment method in the watershed, unless otherwise noted as being attributable directly to the Participating Municipality as a special benefiting levy.

Conservation Authorities may charge a user fee in the delivery of any programs and services listed, as appropriate, to assist with costs of Conservation Authority programs or services provided under the Agreement for Services. Such user fees shall only be imposed in accordance with Conservation Authorities 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 Conservation Authority and the Participating Municipality.

An “Annual Notice to Pay”, including the Modified Current Value Apportionment fee calculations, will be sent to the Participating Municipality following annual Conservation Authority 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. This process is consistent with how the City currently pays the four Conservation Authorities.

ALTERNATIVES FOR CONSIDERATION

Not Applicable

APPENDICES AND SCHEDULES ATTACHED

Appendix “A” to Report FCS23081 – Conservation Authority Agreements For
Category 2 and 3 Programs and Services – Term Sheet

KW/dt