

THIS AGREEMENT dated the 1st day of **January 2024** (the "Agreement").

BETWEEN

MISSISSIPPI VALLEY CONSERVATION AUTHORITY

a conservation authority under the *Conservation Authorities Act*, R.S.O. 1990 c. C-27

(hereinafter "MVCA")

- and -

CITY OF OTTAWA

(hereinafter the "City")

WHEREAS MVCA has delivered Programs and Services that further the conservation, restoration, development, and management of natural resources within its jurisdiction in consultation with participating municipalities since 1968;

AND WHEREAS the *Conservation Authorities Act* permits the MVCA 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 pursuant to the provisions of this Agreement, the City wishes that MVCA continue to deliver certain non-mandatory programs and services and agrees to apportion a percentage of its municipal levy for said programs and services;

AND WHEREAS the *Conservation Authorities Act* and Ontario Regulation 687/21 permits MVCA to establish and charge user fees for Programs and Services;

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. Definitions

1.1. In this Agreement:

1.1.1. "Act" means the *Conservation Authorities Act*, R.S.O. 1990, c. C.27

1.1.2. "Agreement" means this agreement entered into between the City and MVCA and has the same meaning as "memorandum of understanding" or "agreement" in the *Conservation Authorities Act* and "cost apportioning agreement" in Ontario Regulation 687/21.

1.1.3. "business day" means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day; and any other day on which MVCA has elected to be closed for business.

1.1.4. "municipal levy" has the same meaning as "apportionment" in sections 25 and 27 of the *Conservation Authorities Act* and Ontario Regulation 402/22.

- 1.1.5. "notice" means any communication given or required to be given pursuant to the Agreement.
- 1.1.6. "Programs and Services" are the programs and services identified in Schedule A and Schedule B described as "Category 2 programs and services" and "Category 3 programs and services" and "other programs and services" in the Act and Ontario Regulation 687/21.

2. Apportionment

- 2.1. The Municipality agrees to apportion a maximum of fourteen percent (14%) of its annual operating municipal levy for the delivery of Programs and Services set out in Schedule A in accordance with section 27 of the Act.
- 2.2. The Municipality agrees to apportion a maximum of two percent (2%) of its annual capital municipal levy for implementation of capital works set out in Schedule B in accordance with section 25 of the Act.
- 2.3. Municipal levy apportionment is determined annually from assessment data provided by the province. Schedule C references 2023 municipal levy apportionment.

3. Programs and Services

The MVCA agrees to provide the City with the Programs and Services identified in Schedule A and the capital renewal of structures at the Mill of Kintail Conservation Area identified in the Mill of Kintail 10-year Capital Plan attached hereto as Schedule B and that may be amended from time to time at the sole discretion of MVCA.

4. Fees

- 4.1. The City permits MVCA to establish and charge user fees for the Programs and Services.
- 4.2. MVCA shall set user fees on an annual basis.
- 4.3. MVCA shall provide a minimum thirty (30) days' notice to the City of changes to Programs and Services user fees.

5. Term of Agreement

- 5.1. The term of the Agreement is five (5) years commencing on the date of the date set out above and end on December 31, 2028, subject to the renewal provisions of this Agreement.
- 5.2. The Agreement shall be automatically renewed for a five (5) year term from January 1, 2029, on the same terms and conditions contained herein, unless the Agreement has been terminated early in accordance with the terms or conditions of this Agreement.

6. Review

- 6.1. The Parties shall review the Agreement every five (5) years.
- 6.2. The Agreement shall be reviewed a minimum of six (6) months prior to the termination date for the purposes of determining whether the Agreement is to be renewed by the Parties.

7. Amendment

- 7.1. This Agreement shall not be amended except by instrument in writing signed by the Parties preceded by six (6) months written notice to all Parties.

8. Termination

- 8.1. A party may terminate their participation in this Agreement upon delivering a minimum six (6) months written notice to all parties prior to July 31 in a calendar year of the Agreement.
- 8.2. The municipal levy commitment of the City shall remain in effect until December 31 of the year in which the termination takes effect.

9. Notice

Notice must be in writing and shall be delivered by email, postage-prepaid mail, personal delivery or fax and shall be addressed to each Party listed below:

- (a) in the case of the City of Ottawa, to:
Don Herweyer, Interim General Manager, Planning, Real Estate and Economic Development don.herweyer@ottawa.ca
City of Ottawa
110 Laurier Avenue West, Ottawa, ON K1P 1J1
- (b) in the case of the MVCA, to:
Sally McIntyre, General Manager smcintyre@mvc.on.ca
Mississippi Valley Conservation Authority
No. 10970 Highway No. 7, Carleton Place ON, K7C 3P1

9.1. Notice shall be deemed to have been given:

- 9.1.1. in the case of postage-prepaid mail, five (5) business days after the notice is mailed; or
- 9.1.2. in the case of email, personal delivery, or fax, one (1) business day after the notice is delivered.

10. Dispute Resolution

10.1. If a dispute arises between the parties relating to any matter in this Agreement, the parties agree to resolve the dispute in strict compliance with the following procedures:

- 10.1.1. To meet – with each party in attendance represented by legal counsel – within a period of fifteen (15) days from the date a notice of dispute is filed by a party to participate in good faith in negotiating a resolution of the dispute.
- 10.1.2. To negotiate in good faith, personally and through counsel, for a period of thirty (30) days after the meeting.
- 10.1.3. If, within the thirty (30) day period after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, the parties may agree to submit the dispute to arbitration or they proceed to litigation in the Superior Court of Justice in Ottawa.
- 10.1.4. If the parties select arbitration, they shall meet and appoint a single arbitrator. If they are unable to agree on a single arbitrator within fifteen (15) days, then upon written notice by any party to the other the matter shall be settled by arbitration in accordance with the Arbitrations Act, 1991, by delivery of a notice of arbitration to the other party.
- 10.1.5. The costs of the arbitrator shall be split equally between the Parties.

11. Force majeure

11.1. The Parties shall not be considered in default in performance of their obligations under the Agreement to the extent that the performance of such obligations is delayed, hindered, or prevented by force majeure. Force majeure includes, acts of God, floods, tornadoes, significant weather events, strikes, lockouts, pandemics, fires, riots, incendiarism, interference by civil or military authorities, and acts of war (declared or undeclared) and occurrences similar to the foregoing provided such cause could not have been reasonably foreseen and guarded against.

11.2. The time for performance of the obligations delayed due to force majeure shall be extended for a period of time equal to the time lost due to such delays, at no cost or penalty to the City. No time extension shall be granted for delays unless written notice of the delay is given to the City within three (3) business days of its commencement.

12. Severability

12.1. The invalidity or unenforceability of any provision of the Agreement shall not affect the validity or enforceability of any other provision of the Agreement. Any invalid or unenforceable provision shall be deemed to be severed.

13. Counter Parts

13.1. The Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

13.2. This Agreement may be executed in any number of counterparts with the same effect as if all parties hereto had all signed the same document. All counterparts shall be construed together and shall constitute one and the same original agreement notwithstanding their date of actual execution, it is further understood and agreed that such executed copies of this Agreement may be exchanged electronically and that said electronic copies shall be deemed as authoritative as an original signed copy.

14. Assignment

14.1. This Agreement shall not be assignable by the parties hereto without the written consent of the other parties being first obtained.

15. Relationship of the Parties

15.1. It is expressly agreed that this Agreement shall not be construed as a partnership or joint venture between MVCA and the City. MVCA shall have no authority to bind the City for the performance of any contract or otherwise obligate the City.

16. Governing Law

16.1. This agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.

16.2. The City and MVCA agree the venue for any litigation shall be Ottawa, Ontario.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF the Municipality and the MVCA have signed this Agreement.

CITY OF OTTAWA:



[Handwritten signature]

Don Herweyer, Interim General Manager, Date
Planning, Real Estate and Economic Development

MISSISSIPPI VALLEY CONSERVATION AUTHORITY:

[Handwritten signature] *[Handwritten date: Nov '23]*

Sally McIntyre, General Manager Date

[Handwritten signature] *[Handwritten date: Dec 12/2023]*

Paul Kehoe, Board Chair Date

I / We have authority to bind MVCA.

Schedule A

Mississippi Valley Conservation Authority Programs and Services

1.0 Watershed/Subwatershed Studies & Plans

In accordance with the *Mississippi River Watershed Plan, 2021* and the *Carp River Subwatershed Plan, 2004*, and the *MVCA Corporate Strategic Plan, 2021*:

- carry out technical studies to inform preparation and update of a watershed/subwatershed plan;
- review and assess watershed/subwatershed plan implementation and effectiveness;
- conduct quality assurance and quality control (QA/QC) reviews of natural heritage technical studies prepared by or submitted to the City (e.g. OWES reports); and
- provide advisory support in the preparation and review of City documents, programs and services that are not subject to the *Planning Act*¹.

The municipal levy supports staff resources for this Category 2 program.

2.0 Watershed Monitoring and Reporting Program

Deliver a watershed monitoring and reporting program as set out in MVCA's [Natural Systems Monitoring & Reporting Strategy, 2023](#).

The municipal levy supports staff resources and laboratory fees for this Category 2 program.

3.0 Stewardship Program

Implement actions set out for the Lower Watershed in MVCA's [Stewardship Plan, 2021](#) including but not limited to:

- City Stream Watch Program
- Agricultural land management programs
- Naturalization/Restoration Programs

The municipal levy supports staff resources and cost sharing grants for this Category 3 program

4.0 Visitor Services at Conservation Areas (CA)

Continue to operate the Mill of Kintail (MOK) Conservation Area with a combination of natural and cultural heritage programs and services including but not limited to operation of an education centre, a small playground, some smaller structures, and including the rental and display of exhibits at two designated heritage structures: the Gate House and Grist Mill.

The municipal levy supports staff resources and the capital renewal of structures for these Category 3 programs and services.

¹ Per O.Reg. 596/22.

5.0 Nature Education Program

Deliver an education program that provides children with the opportunity to explore plants, wildlife, insects, habitats and aquatics and learn about conservation and stewardship.

The municipal levy supports staff resources to deliver a summer program for this Category 3 program.

Schedule B

MVCA Mill of Kintail Conservation Area Capital Plan

Table 1: Excerpt of 10-year Capital Plan approved April 2023.

| Conservation Areas | | | | | | | | | | | | |
|--|----------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|-------------|---------------------|-------------------|
| Mill of Kintail Conservation Area | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 10 Yr. Total | Category 3 |
| Grist Mill | | | | | | | | | | | | |
| Balcony repairs | | | | 28,941 | | | | | | | 28,941 | √ |
| Replace wooden shingle roof | 48,000 | | | | | | | | | | 48,000 | √ |
| Repoint stone work | 10,000 | | | | | | | | | | 10,000 | √ |
| Replace septic system | | | | | 60,775 | | | | | | 60,775 | √ |
| Building Condition Assessment | | | 22,050 | | | | | | | | 22,050 | √ |
| Gatehouse | | | | | | | | | | | | |
| Repoint stone work | 24,000 | | | | | 31,907 | | | | | 55,907 | √ |
| Replace veranda joists and flooring | 5,000 | | | | | | | | | | 5,000 | √ |
| Security and accessibility upgrades | 6,500 | | | | | | | | | | 6,500 | √ |
| Replace windows | 20000 | | | | | | | | | | 20,000 | √ |
| Septic replacement | | | | | | | | 84,426 | | | 84,426 | √ |
| Ed Center | | | | | | | | | | | | |
| Accessibility doors and ramps | | | | | | | | | | | - | √ |
| Replace siding | | | | | | | 13,401 | | | | 13,401 | √ |
| MOK - Visitor Services Subtotal | 113,500 | - | 22,050 | - | 60,775 | 31,907 | 13,401 | 84,426 | - | - | 326,059 | √ |
| Site General | | | | | | | | | | | | |
| Parking Upgrades | | 5,250 | | | | | | | | | 5,250 | |
| Pedestrian bridge deck replacement | | | 16,538 | | | | | | | | 16,538 | |
| Resurface roadway and parking lot | | | | 11,576 | | | | | 14,775 | | 26,351 | |
| Signage | | 2,100 | | | | | | | | | 2,100 | |
| Construct flush washrooms | 30,000 | 90000 | | | | | | | | | 120,000 | |
| Develop site work shop | | | | | | | | | | | - | |
| MOK- CA Subtotal | 30,000 | 97,350 | 16,538 | 11,576 | - | - | - | - | 14,775 | - | 170,238 | |

The 10-year Capital Plan is updated by the MVCA Board of Directors as needs and priorities change. Category 3 capital works subject to this Agreement are identified in the final column. The average annual amount of municipal capital levy allocated to Category 3 works at the Mill of Kintail Conservation Area is approximately 2%.

Schedule C

MVCA - Municipal Levy Apportionment

Apportionment follows the modified current value assessment method levy apportionment calculation set by provincial regulation. Table 2 includes a reference summary of the 2023 municipal levy percentage breakdown by municipality.

Table 2: Mississippi Valley Conservation Authority's 2023 municipal levy breakdown.

| Municipality | CVA-based apportionment² |
|-----------------------------|--|
| Addington Highlands, Twp | 0.1551 |
| Beckwith, Twp | 0.6922 |
| Carleton Place, Town | 2.6709 |
| Central Frontenac, Twp | 0.4303 |
| Drummond/North Elmsley, Twp | 0.4870 |
| Greater Madawaska, Twp | 0.0351 |
| Lanark Highlands, Twp | 1.1084 |
| Mississippi Mills, Town | 2.7838 |
| North Frontenac, Twp | 0.9116 |
| Ottawa, City | 90.1030 |
| Tay Valley, Twp | 0.6226 |
| | 100.00 |

² Municipal levy apportionment is determined on an annual basis as per assessment data provided by the Ministry of Natural Resources and Forestry.