

The Corporation of the Township of Huron-Kinloss



BY-LAW No.

2023 - 118

Being a By-Law to Authorize the Signing of an Agreement with the Saugeen Valley Conservation Authority for Cost Apportioning for Category 3 Programs in the Township of Huron-Kinloss

WHEREAS Section 8(1) and 9 of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, provide that the powers of a municipality under this or any other Act shall be interpreted broadly so as to confer broad authority on the municipality to enable the municipality to govern its affairs as it considers appropriate and to enhance the municipality's ability to respond to municipal issues and has the capacity, rights, powers and privileges of a natural person for the purposes of exercising its authority under this or any other Act;

AND WHEREAS the Saugeen Valley Conservation Authority (SVCA) is prepared to provide certain non-mandatory Category 3 programs and services to and/or on behalf of and/or within the boundaries of the Township of Huron-Kinloss;

AND WHEREAS pursuant to Sections 25 and 27 of the *Conservation Authorities Act, R.S.O. 1990 c. C.27* conservation authorities may enter into an Agreement to allow for the apportionment of costs to municipalities for programs and services provided, other than mandatory programs and services;

AND WHEREAS The Council for The Corporation of the Township of Huron-Kinloss deems it expedient to enter an agreement with Saugeen Valley Conservation Authority for cost apportioning for the delivery of Category 3 Programs per Report CLK-2023-10-60;

NOW THEREFORE the Council of The Corporation of the Township of Huron-Kinloss **ENACTS** as follows;

1. That the Corporation of the Township of Huron-Kinloss Council hereby enters into an Agreement with the Saugeen Valley Conservation Authority which is attached as Schedule "A" and forms part of this by-law.
2. That the Mayor and Clerk are hereby authorized to sign on behalf of the Council for The Corporation of the Township of Huron-Kinloss, any contracts and other documents required to authorize the agreement, and to affix the corporate seal of the Township of Huron-Kinloss.
3. That this by-law shall come into full force and effect upon its final passage.
4. That this by-law may be cited as the "SVCA Category 3 Services Agreement By-law".

READ a FIRST and SECOND TIME this 20th day of November, 2023.

READ a THIRD TIME and FINALLY PASSED this 20th day of November, 2023

Mayor

Clerk

Cost Apportioning Agreement

(hereafter, "Agreement")

THIS AGREEMENT is made on the _____ day of _____, 2023 (the "**Effective Date**").

BETWEEN:

THE TOWNSHIP OF HURON-KINLOSS

(hereinafter, "Participating Municipality")

AND:

SAUGEEN VALLEY CONSERVATION AUTHORITY

(hereinafter, "SVCA")

WHEREAS SVCA is a conservation authority established under the *Conservation Authorities Act* (the "Act") and is governed by its participating municipalities in accordance with the Act,

AND WHEREAS the Participating Municipality is a lower-tier municipality, located wholly or partly within the area under the jurisdiction of SVCA,

AND WHEREAS under the Act, Category 3 programs and services deemed advisable by the SVCA Board of Directors may be provided with municipal funding subject to a memorandum of understanding ("MOU") or such other agreement in respect of the programs and services,

AND WHEREAS SVCA is prepared to provide certain non-mandatory Category 3 programs and services to and/or on behalf of and/or within the boundaries of the Participating Municipality,

AND WHEREAS pursuant to Sections 25 and 27 of the Act, conservation authorities are authorized to apportion costs to municipalities for delivery of mandatory programs and services and general operating expenses,

AND WHEREAS pursuant to Section 25 and 27 of the Act and Ontario Regulation 687/21, conservation authorities and municipalities may enter into an Agreement to allow for the apportionment of costs to municipalities for programs and services provided, other than mandatory programs and services,

AND WHEREAS the Participating Municipality wishes to avail themselves of the non-mandatory Category 3 programs and services attached hereto as Schedule 'A',

AND WHEREAS the Council of the Participating Municipality has authorized the Participating Municipality to enter into this Agreement with SVCA for the delivery of Category 3 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. This Agreement shall commence on the Effective Date and shall continue for five (5) years (the "**Initial Term**"). Thereafter, this Agreement shall continue for additional five-year periods (each a "**Renewal Term**") unless either party provides written notice of termination to the other party at least ninety (90) days prior to the expiry of the Initial Term or Renewal Term, as the case may be.
2. This Agreement shall be reviewed by the parties at least six (6) months prior to the expiry of the Initial Term and each Renewal Term.
3. SVCA agrees to provide the Category 3 programs and services outlined in Schedule 'A' to this Agreement.
4. Notwithstanding the foregoing, the Participating Municipality acknowledges and agrees that all Category 3 programs and services identified in Schedule 'A' shall also be included in a Watershed-Based Resource Management Strategy that the SVCA is required to develop and implement under the Act.
5. SVCA will not add to or delete from the list of Category 3 programs and services funded through municipal apportionment without first consulting with all participating municipalities. Any such change would require an amendment to this Agreement agreed to in writing by all participating municipalities.
6. The costs associated with the Category 3 programs and services subject to this Agreement shall be reviewed by the participating municipalities on an annual basis as part of the SVCA budget and apportionment process.

7. When preparing its annual budget, SVCA shall follow the prescribed budgetary process in accordance with the requirements of the applicable regulations under the Act, including preparation of a draft budget, consultations with participating municipalities, rules for voting to approve the apportionment, and preparation of the final budget.
8. SVCA's final approved budget shall be appended annually as Schedule 'B' to the Agreement.
9. SVCA and the Participating Municipality shall identify and agree upon the cost of relevant Category 3 programs and services in the annual budget, and shall comply with the prescribed methods of apportionment, including the Modified Current Value Assessment (MCVA) apportionment method (the ratio that the Participating Municipality's modified current value assessment bears to SVCA's modified current value assessment) and/or the benefit-based apportionment method (the benefit that each Participating Municipality obtains from the program or service to which the operating expense or capital cost is related), or where permitted in accordance with the applicable regulations, by agreement.
10. Where Category 3 programs and services are included in the budget process and apportionment, SVCA shall apportion the operating expenses and capital costs, as presented in the annual budget, to the Participating Municipality. The Participating Municipality's share of the total apportionment shall be appended annually as Schedule 'C' to this Agreement.
11. The Participating Municipality agrees to be apportioned costs as identified in Schedule 'C' to the Agreement.
12. Through this Agreement, the parties agree that the SVCA may, where applicable, charge a fee (user fee) for a Category 3 program or service provided under this Agreement by the SVCA. Any such fees collected for the programs and services identified in Schedule 'A' shall be used to offset the municipal apportionment costs associated with providing the Category 3 program and/or service for which the fee is collected.
13. Where Category 3 programs and services funded, in whole or in part, by the Participating Municipality involve user fees, such user fees shall only be imposed in accordance with SVCA's 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 SVCA and the Participating Municipality.
14. SVCA and the Participating Municipality will strive to facilitate open and timely communication at all levels.

15. Unless otherwise provided for within the Act, if a dispute arises between the parties, including in respect of the content or interpretation of this Agreement, and which has not been resolved within sixty (60) days, such dispute may be submitted to a third party mediator, the choice of mediator to be agreed upon by the parties, and failing agreement to choose a mediator within an additional sixty (60) days, the mediator to be appointed by a judge of the Superior Court, for resolution via non-binding mediation conducted pursuant to the National Mediation Rules of the ADR.
16. Neither party shall be in default with respect to the performance or non-performance of the terms of the Agreement 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 should not relieve the Participating Municipality of its obligation to pay fees and costs when due.
17. If any provision of this Agreement is invalid, unenforceable, or unlawful, such provision shall be deemed to be deleted from this Agreement and all other provisions of this Agreement shall remain in full force and effect and shall be binding in all respects between the parties hereto.
18. The Participating Municipality and SVCA will continue to work together to identify opportunities for further collaboration to the benefit of both parties and ensure efficiency, transparency, and accountability in the use of public sector resources.
19. The resolution of the SVCA Board of Directors to execute this Agreement shall be included as Schedule 'D' to this Agreement.
20. The resolution of Council from the Participating Municipality to execute this Agreement shall be included as Schedule 'E' to this Agreement.
21. This Agreement shall be made available to the public in accordance with the Act and any applicable regulations.
22. This Agreement may be executed in counterparts and when each party has executed a counterpart, each of such counterparts shall be deemed to be an original and all such counterparts, when taken together, shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the Effective Date.

SAUGEEN VALLEY CONSERVATION AUTHORITY

Per: _____

Name: Erik Downing

Title: General Manager/Secretary-Treasurer (Acting)

Per: _____

Name: Barbara Dobreen

Title: Chair, SVCA Board of Directors

THE TOWNSHIP OF HURON-KINLOSS

Per: _____

Name:

Title:

Per: _____

Name:

Title:

Schedule 'A' – Category 3 Programs and Services Requiring Apportionment

Service Area 1 – Water Quality Program

SVCA diligently conducts stream water quality monitoring at 14 locations within the watershed through the Provincial Water Quality Monitoring Network. Given the extensive expanse of the watershed and the constrained number of sampling locations under the Provincial Water Quality Monitoring Network, there were information voids. To ameliorate these deficits, SVCA instituted an in-house monitoring program in 2012, augmenting the network with an additional 15 monitoring sites distributed throughout the watershed. In concert, these programs yield the fundamental data indispensable for understanding the water quality status across the watershed.

Furthermore, SVCA has instituted a biomonitoring network encompassing twenty (20) water quality monitoring sites. Biomonitoring entails the utilization of organisms to evaluate environmental conditions, specifically water quality in this context. By monitoring benthic organisms, those that reside at the bottom of rivers and streams and possess specific tolerance thresholds for water quality conditions, SVCA can validate water chemistry findings through the biological data amassed at various locations throughout the watershed, thereby depicting a comprehensive characterization of water quality conditions.

Watershed Report Cards are developed every five (5) years using guidelines from Conservation Ontario. The Watershed Report Card is an excellent tool for conservation authorities to inform watershed residents about the health of their watershed in an easy-to-understand format. These Watershed Report Cards are a Category 3 Program using information collected directly from the two water quality monitoring programs described above.

The annual operating funds allocated for sustaining these water quality programs amount to \$119,050 for the year 2023. A business case, substantiating the perpetuation of these water quality programs, accompanies this Agreement.

Service Area 2 – Public Awareness and Communications for Non-Mandatory Programs and Services

SVCA's Communications, Community Outreach, and Public Awareness programming serve as instrumental tools in disseminating awareness pertaining to SVCA's array of programs and services. A considerable portion of this programming is financed in its entirety through the municipal levy, as it is primarily oriented towards mandatory programs and services (Category 1). However, an allocation of time and resources will be dedicated to buttress the non-mandatory components of the water quality monitoring program. For the year 2023, the operating funding budgeted for sustaining public awareness and communications specific to water quality monitoring programming stands at \$7,100.