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**REPORT TITLE: Update on Memoranda of Understanding (MOU) Related to the Conservation Authorities 2024 Budget**

**FROM: Kealy Dedman, Commissioner of Public Works**

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## **RECOMMENDATION**

- 1. That the separate Memoranda of Understanding (MOU) to be entered into between the Region of Peel and Toronto and Region Conservation Authority, Credit Valley Conservation Authority and Halton Region Conservation Authority attached as Appendices I, II and III to the report of the Commissioner of Public Works, listed on the October 26, 2023 Regional Council agenda titled “Update on Memoranda of Understanding (MOU) Related to the Conservation Authorities 2024 Budget”, be approved; and**
- 2. That the Commissioner of Public Works or designate be authorized to execute the MOUs between Peel Region and Conservation Halton, Credit Valley Conservation and Toronto and Region Conservation Authority, including any future amendments, on business terms satisfactory to the Chief Financial Officer and on legal terms satisfactory to the Regional Solicitor and Commissioner of Legislative Services; and**
- 3. That a copy of the subject report be forwarded to the Ministry of Municipal Affairs and Housing, Ministry of Natural Resources and Forestry, the Cities of Brampton and Mississauga, the Town of Caledon and Conservation Halton, Credit Valley Conservation and Toronto and Region Conservation Authority.**

## **REPORT HIGHLIGHTS**

- The legislative and regulatory changes to the *Conservation Authorities Act* (the “Act”) will result in a new Conservation Authority (“CA”) municipal budgetary framework to be effective January 1, 2024.
- Legislative changes now require that the CA programs and services be classified into three categories: Category 1 (mandatory programs and services every conservation authority is required to provide); Category 2 (programs and services a municipality requests a CA to provide on their behalf); and Category 3 (programs and services a CA determines are advisable to deliver to further the purposes of the Act).
- Non-mandatory programs and services (Category 2 and 3) are discretionary and require a memorandum of understanding (MOU) or apportionment agreement respectively to be entered into between the municipality and conservation authority.
- MOUs and agreements for Category 2 and 3 programs and services must be in place by January 1, 2024, in order for CAs to levy for these programs and services.

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- There are no Category 3 programs and services identified by the CAs in the 2024 Budget.
- Regional staff has been working with the conservation authorities and local municipalities to ensure that the legislative and regulatory changes will not adversely impact program and services deemed important to the Region and the local municipalities.
- Draft MOUs had been submitted earlier in the year by the three CAs to which the Region provide budgetary support.
- These MOUs have been shared with local municipal staff as well as well as being reviewed by Region of Peel staff, including Legal Services and are attached as appendices with a recommendation for approval by Regional Council.

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## DISCUSSION

### 1. Background

The Region of Peel like other participating municipalities are key funders of the Conservation Authorities (CAs) through the approval of CA levy funding under the Act. CAs play an important role in managing natural resources and the prevention of flooding and erosion hazards, delivering a broad range of watershed management programs and services addressing both provincial and municipal needs.

There are five CAs with watershed areas in Peel Region. These are Conservation Halton (CH), Credit Valley Conservation (CVC), Lake Simcoe Region Conservation Authority (LSRCA), Nottawasaga Valley Conservation Authority Conservation (NVCA) and Toronto and Region Conservation Authority (TRCA). Of these five CAs, the Region is designated as a participating municipality under the Act to provide budget support to CH, CVC and TRCA, which together comprise approximately 99 per cent of the total CA watersheds geographically in Peel Region.

The Province initiated a review of the Act in 2015 with the purpose of modernizing CA governance, oversight, and the way in which CA programs and services are funded as well as clarifying their mandate, roles and responsibilities.

As a result of the review, amendments to the Act have been made through the following Bills:

- Bill 139, the *Building Better Communities and Conserving Watersheds Act, 2017*
- Bill 108, the *More Homes, More Choice Act, 2019* as part of the Province's Housing Supply Action Plan in 2019
- Bill 229, the *Protect, Support and Recover from COVID 19 Act, (Budget Measures), 2020*
- Bill 23, the *More Homes Built Faster Act 2022*

Details of the legislative changes relating to the submission and format of CA budgets as highlighted below were provided to Council in a report on April 27, 2023, Agenda item 13.1 (Resolution 2023-327), indicating that MOUs for non-mandatory programs and services provided on behalf of municipalities would be submitted to Regional Council for consideration and approval. Final draft MOUs have now been developed and are included in this report for Council's consideration.

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### **2. Legislative Changes**

Under the Act, CAs have the ability to levy municipalities for their operating (General Levy) and Capital (Special Levy) costs. Recent changes to the Act establish a new framework for the submission of CA budgets for approval by participating municipalities. Legislative changes now require that the conservation authority programs and services be classified into three categories:

- Category 1 (mandatory programs and services every conservation authority is required to provide);
- Category 2 (non-mandatory programs and services a municipality requests a CA to provide on their behalf); and
- Category 3 (non-mandatory programs and services a CA determines are advisable to deliver to further the purposes of the Act).

Regional staff requested that the CAs 2024 budget submissions, categorizations and funding agreements are clear and aligned to regulatory requirements under the Act.

Costs for mandatory programs and services that are not covered through grants or self-generated revenue by the CAs are required to be funded by participating municipalities through municipal levies in accordance with cost apportionment requirements prescribed under the Act.

Funding of non-mandatory programs and services (Category 2) is discretionary and requires a MOU or agreement to be entered into between the participating municipality and the conservation authority. Category 2 programs and services could continue to be funded through existing Special Levy project funding provided by the Region, user fees, or other means as may be specified in the agreement. The Category 2 programs and services that CH, CVC and TRCA will deliver during the 2024 Budget year are included as Schedules in Appendices I, II and III respectively.

Category 3 programs and services require a cost apportioning agreement to be entered into between the participating municipalities and CA. There are no Category 3 programs and services identified by the CAs in the 2024 Budget.

The legislative and regulatory changes to the Act require MOUs for Category 2 programs and services to be in place by January 1, 2024, in order for CAs to levy for these programs and services.

In the most recent changes to the Act in Bill 23, the CAs permitting authority and commenting role under prescribed legislation has been further scoped to focus on the management of natural hazard risks. These changes and the scoping of the roles have been taken into consideration in the development of the MOUs.

### **3. Memoranda of Understanding**

Prior to the finalization of the draft MOUs Regional staff worked with CA staff in consultation with the local municipalities to identify CA programs and services that were considered to be priorities for the 2024 budget. These priority programs and services were further classified

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as either Category 1 (mandatory programs and services every conservation authority is required to provide) and Category 2 (non-mandatory programs and services a municipality requests a CA to provide on their behalf).

In addition to meeting with the local municipalities to discuss draft lists of programs and services, and priority areas for future funding, Regional staff had also met with Durham, York and City of Toronto staff to discuss the inventory and categorization of mandatory and non-mandatory program and services provided by the TRCA which has watershed areas in all three regions and city.

Draft Memoranda of Understanding had been submitted by the three Conservation Authorities to which the Region provides financial support through the 2024 budget process. These have been shared with local municipal staff, as well as being reviewed by Region of Peel staff, including Legal Counsel. The draft MOUs are attached as Appendices I, II, and III.

The proposed MOUs with CH, CVC and TRCA have been structured as enabling agreements that will allow for the Category 2 program and services to be provided by each CA with funding through their annual levy apportionment with the ability for the CAs to enter into more detailed service level agreements to clarify the details of the deliverables to be provided. Council will have an opportunity through the annual budget approval process to confirm the continued relevance and value of non-mandatory program and services to the Region.

Historically, agreements between the Region and the CAs included the CAs reviewing and commenting on planning applications, data sharing agreements and other Service Level Agreements (SLAs). These programs and services will be reviewed and revised as needed, to comply with the new regulatory requirements.

In some cases, local municipalities partner with CAs on programs and services directly benefitting their municipalities that go beyond the scope of the regular conservation authority programs or services funded by the Region. CVC and TRCA have over the years developed MOUs with local municipalities and these are expected to continue notwithstanding the MOUs that the Region will be entering for the provision and funding of non-mandatory programs and services beginning January 1, 2024.

The attached MOUs for the 2024 budget address the Region's regulatory obligations under the Act and will ensure the funding and continued delivery of a range of non-mandatory watershed-based programs and services, including delivery of watershed science, restoration, public education and stewardship which are critical to meeting local municipal and Regional needs.

The proposed MOUs will be in effect for approximately one year after which renewal will be dependent on the dissolution of Peel and the continuation of CA funding arrangements.

### **RISK CONSIDERATIONS**

The proposed MOUs with CH, CVC and TRCA align with the new regulatory framework under the Act for the provision of non-mandatory program and services. Mandatory programs and services will be provided as required under the Act and will be funded through the annual

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budget and apportionment process. It is assumed that there will be no further legislative or regulatory changes to the Act that will impact the budget and budget submission for 2024.

### **BILL 112 RISKS AND IMPLICATIONS**

The proposed dissolution of Peel under Bill 112 requires a determination going forward (in the absence of the Region) as to which municipalities would be identified as participating municipalities for the purposes of funding the CAs annual budget beyond 2024.

### **FINANCIAL IMPLICATIONS**

The proposed budgets for each of the three conservation authorities will be provided to Council for approval through the 2024 Budget process.

### **NEXT STEPS**

The CAs will present their 2024 budget to Regional Council in November. The budget format remains the same with funding requested for General Levy, Special Levy and Climate Change Special Levy programs and services. Programs and services included within the levies will now be categorized and funded as Category 1 and 2 depending on whether the program and service is mandatory (Category 1) or non-mandatory (Category 2) as requested by Regional or local municipal staff.

### **APPENDICES**

Appendix I – Conservation Halton MOU

Appendix II – Credit Valley Conservation MOU

Appendix III – Toronto and Region Conservation Authority MOU

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Kealy Dedman, Commissioner of Public Works

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