

Attachment 5 – Template Service Level Agreement

THIS SERVICE LEVEL AGREEMENT made the day of , 20__.

B E T W E E N:

REGION/CITY/TOWN/TOWNSHIP OF _____

(“Municipality”)

OF THE FIRST PART

- and -

TORONTO AND REGION CONSERVATION AUTHORITY

(“TRCA”)

OF THE SECOND PART

RECITALS

WHEREAS TRCA is a conservation authority established under the Conservation Authorities Act (“Act”) and is governed by its partner municipalities in accordance with the Act;

AND WHEREAS a Partner Municipality is located wholly or in part within the area under the jurisdiction of TRCA;

AND WHEREAS the Act permits TRCA to provide non-mandatory programs and services on behalf of a Municipality under a memorandum of understanding or such other agreement as may be entered into with the Municipality;

AND WHEREAS a Municipality is requesting TRCA to deliver programs and services on behalf of the Municipality, within TRCA’s areas of expertise and jurisdiction, that fall within the Service Areas attached hereto as **Schedule “A”**;

AND WHEREAS the Council of the Municipality has authorized the Municipality to enter into this service level agreement with TRCA for the delivery of municipal programs and services;

AND WHEREAS the Municipality and TRCA wish to enter into this Agreement to document the terms and conditions for the municipal programs and services to be performed by the TRCA on behalf of the Municipality;

AND WHEREAS where it is mutually desirable to further specify the details of programs or services, such details shall be set out in separate Letter Agreements to be signed by authorized staff of each Party, from time to time;

NOW THEREFORE the parties hereto agree and covenant with one another as follows:

PART I – INTERPRETATION

Definitions

1. For the purposes of this Agreement, including the preceding recitals:

- a) “**Agreement**” means this Service Level Agreement, including the Schedules attached hereto;
- b) “**Completion Date**”, in relation to a time-limited Program or Service, such as a Construction Project, shall mean the date it is completed, as agreed to by the parties and set out in the applicable Letter Agreement;
- c) “**Construction Project**” means any program or services involving construction or restoration works;
- d) “**Consulting and Design Project**” means any program or services involving construction or restoration works;
- e) “**Contractor**” means any contractor or consultant retained by the TRCA in relation to any specific Program or Service, and includes professional consultant, including any architect, engineers, landscape consultant, project or construction manager, and any other consultants or entities retained by TRCA;
- f) “**Force Majeure**” has the meaning set out in section 12 of this Agreement;
- g) “**Letter Agreement**” and “**Memorandum of Understanding**” means a separate agreement to be entered into by the TRCA and the Municipality in relation to certain Programs and Services setting out further details and specific requirements, including roles and responsibilities, workplans, payment terms and timelines for deliverables;
- h) “**Programs and Services**” means work within a Service Area to be provided by the TRCA on behalf of the Municipality, and “**Program**” and “**Service**” has a corresponding meaning;
- i) “**Responsible Municipal Official**” means the Municipality’s Senior Manager or Manager responsible for a particular Project, and includes his or her designate or successor;
- j) “**Service Area**” means any Program or Service area identified in Schedule “A”;

2. (1) In this Agreement:

- a) grammatical variations of any terms defined herein have similar meanings to such defined terms;
- b) words in the singular include the plural and vice-versa; and
- c) the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement, or be used to explain or clarify the clauses or paragraphs below which they appear.

3. The attached Schedules form part of this Agreement.

PART II – GENERAL TERMS

Term of Agreement

4. (1) The term of this Agreement will be for a period of four (4) years commencing on the date the Agreement is made (“**Initial Term**”).

(2) The parties may extend this Agreement for additional four (4) year terms (“**Extension Term**”), provided the Agreement is reviewed prior to any extension of the Agreement.

Review of Agreement at Regular Intervals

5. (1) This Agreement shall be reviewed by the Parties on an annual basis.

(2) It shall be TRCA’s responsibility to initiate the annual review with the Municipality.

Agreement Available to the Public

6. This Agreement shall be made available to the public on request.

Communications Protocol

7. As applicable, the Parties shall establish a communications protocol in respect of the programs and services governed by this Agreement.

Service Delivery Standards

8. Each Letter Agreement and Memorandum of Understanding will set out service delivery standards that TRCA is required to meet.

Municipality Responsibility to Consult on Budget Changes

9. The Municipality shall consult with TRCA 180 days, or as soon as reasonably possible, in advance of a proposed change to approved budgets related to this Agreement.

Records

10. (1) The TRCA shall prepare and maintain proper and accurate books and records respecting Programs and Services provided under this Agreement and any Letter Agreement.

(2) In order to provide data for the calculation of fees on a time basis (where applicable), the TRCA shall keep a detailed record of the (where applicable) time spent by and the salaries paid to its staff working on the Programs and Services.

(3) The Municipality at its own cost may audit all financial and related records associated with the terms of this Agreement and the Letter Agreement including timesheets, reimbursable out of pocket expenses, materials, goods, and equipment claimed by the TRCA. The TRCA shall at all times during the term of this Agreement and any Letter Agreement, and for a period of seven (7) years following completion or termination, keep and maintain records of the Programs and Services performed. The TRCA shall at its

own expense make such records available for inspection and audit by the Municipality at all reasonable times.

Release and Indemnity

11. (1) The TRCA hereby releases and shall indemnify, defend and hold harmless the Municipality, its agents, officers, employees, contractors and elected and appointed officials of, from and against all losses, costs, liens, proceedings, actions, suits, claims and demands whatsoever in any way arising out of the failure of the TRCA to fulfill its obligations under this Agreement or a Letter Agreement, however, the TRCA's obligation to indemnify, defend and hold harmless the Municipality shall not extend to the Municipality's negligence, or that of any of its employees, servants, agents or persons for whom it is responsible.

Insurance

12. (1) As required by the Municipality, acting reasonably, the TRCA shall obtain, maintain and provide to the Municipality, Certificates of Insurance of the following insurance policies issued by an insurance company licensed to write in the Province of Ontario, and shall ensure that the following insurance policies are maintained and kept in force at all times during the currency hereof, unless otherwise set out in the Letter Agreement:

(a) Commercial General Liability Insurance as follows:

(i) is in the amount of not less than Five Million Dollars (\$5,000,000.00) per occurrence;

(ii) adds the Municipality, its boards, agencies and commissions and subsidiary operations, as applicable, as additional insured(s) but only with respect to liability arising out of the operations of the TRCA;

(iii) has provisions for cross-liability and severability of interests, blanket form contractual liability, owners' and contractors' protective liability, broad form property damage, products and completed operations, non-owned automobile liability and any other provision relevant as detailed in the Letter Agreement or this Agreement, and if applicable, coverage for blasting, shoring, pile driving and collapse;

(b) Standard Automobile Liability Insurance for all owned or leased/licensed vehicles used in connection with the Project, in the amount of not less than Two Million Dollars (\$2,000,000.00) per occurrence;

(c) Professional liability (errors & omissions) insurance in the amount of One Million Dollars (\$1,000,000.00) and/or cause the Contractor in relation to any services, where such Contractor is under a professional obligation to maintain the same, and with proof of such insurance to be provided to the Municipality no later than the execution of this agreement with the vendor. Notwithstanding anything to the contrary contained in the Letter Agreement, the policy will be kept in full force and effect for a period of time ending no sooner than two (2) years after the termination or expiry of the Letter Agreement or completion of the work, as the case may be; and

(d) Pollution liability insurance with a limit of two million (\$2,000,000) for sudden and accidental and gradual pollution claim incidents associated with the Project.

(2) All policies of insurance required to be provided pursuant to this section shall contain or be subject to the following terms and conditions:

(a) each Certificate shall contain provision requiring the insurers to notify the Municipality in writing at least thirty (30) days before any cancellation of the insurance required under this clause;

(b) the parties agree that insurance policies may be subject to deductible amounts, which deductible amounts shall be borne by the TRCA;

(c) before the expiry of the policies of insurance, original signed certificates evidencing renewal will be provided to the Municipality without notice or demand.

Notice

13. Any notice in respect of this Agreement shall be in writing and shall be sufficiently given or made if made in writing and either delivered in person during normal business hours of the recipient on a business day to the party for whom it is intended to the address as set out below, or sent by registered mail or by email addressed to such party as follows:

(1) in the case of Municipality, to:

Attention:

(2) in the case of the TRCA, to:

Toronto and Region Conservation Authority
101 Exchange Avenue Concord ON L4K 5R6

Attention: John MacKenzie, Chief Executive Officer

Email: John.MacKenzie@trca.ca

or to such other addresses as the parties may from time to time notify in writing, and any notice so made or given shall be deemed to have been duly and properly made or given and received on the day on which it shall have been so delivered or, if mailed, then, in the absence of any interruption of postal service affecting the delivery or handling thereof, on the third business day after the date of mailing.

Force Majeure

14. (1) Neither party shall be in default with respect to the performance or non-performance of the terms of the Letter Agreement or this Agreement resulting directly or indirectly from causes beyond its reasonable control (other than for financial inability) including, without limitation, any delay caused by strike, lock-out, inability to procure material, restrictive laws or governmental regulations or other cause beyond the reasonable control of such party and not caused by the act or omission of such party and the Completion Date shall be extended by any such period of delay.

(2) The TRCA acknowledges and agrees that it shall not receive any compensation whatsoever in the event that a strike, lock-out or other labour disruption prevents, delays or otherwise interferes with the TRCA's ability to deliver the Programs and Services, and the Municipality shall not be liable for any loss whatsoever suffered as a result thereof.

Governing Law

15. This Agreements and any Letter Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, and shall be treated in all respects as an Ontario contract.

Approvals in Writing

16. Any approval or consent required of the Municipality under a Letter Agreement may be given by the Responsible Municipal Official or any person specifically authorized by them in writing to do so.

No Agency

17. Nothing herein contained shall make, or be construed to make the Municipality or the TRCA a partner of one another nor shall this Agreement or a Letter Agreement be construed to create a partnership, joint venture or employment relationship between any of the parties hereto or referred to herein.

Invalidity of any Provision

18. If any provision of this Agreement or any Letter 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.

Dispute Resolution

19. In the event any dispute that arises in respect of the implementation of this Agreement, the Parties will endeavour to resolve the matter through negotiation without the use of formal mediation or adjudication.

Further Assurances

20. The Parties agree to execute and deliver to each other such further written documents and assurances from time to time as may be reasonably necessary to give full effect to the provisions of this Agreement.

Entire Agreement

21. This Agreement embodies and constitutes the sole and entire Agreement between the Parties. This Agreement cannot be altered, amended, changed, modified or abandoned, in whole or in part, except by written agreement executed by the parties, and no subsequent oral agreement shall have any validity whatsoever.

Acknowledgement

22. Each party hereto acknowledges that it and its legal counsel have reviewed and participated in settling the terms and this Agreement.

Binding Agreement

22. This Agreement shall enure to the benefit and be binding upon the parties hereto and their respective heirs, executors, representatives and successors permitted hereunder.

<< SIGNATURE LINES ON NEXT PAGE >>

Draft for comment

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

MUNICIPALITY

Name
Position

Name
Position

I / We have authority to bind the Municipality.

TORONTO AND REGION CONSERVATION AUTHORITY

John MacKenzie
Chief Executive Officer

I have authority to bind the TRCA.

Draft for comment

LIST OF SCHEDULES

Schedule “A”

TRCA Service Areas

Schedule “B”

Specific Programs and Services to be Provided by TRCA &
Approved Scope of Work and Budget

Schedule “C”

Additional Terms of Agreement for Construction Projects
Form of Letter Agreement for Construction Projects

Schedule “D”

Additional Terms of Agreement for Construction Consulting and Design Projects
Form of Letter Agreement for Consulting and Design Projects

Schedule “E”

Additional Terms of Agreement for Environmental Assessment Review Services
Form of Letter Agreement for Environmental Assessment Review Services

Schedule “F”

Additional Terms of Agreement for Development and Engineering Services
Form of Letter Agreement for Development and Engineering Services

Schedule "A"

TRCA Service Areas

- Service Area 1 – Watershed Studies and Strategies
- Service Area 2 – Water Risk Management
- Service Area 3 – Regional Biodiversity
- Service Area 4 – Greenspace Securement and Management
- Service Area 5 – Tourism and Recreation
- Service Area 6 – Planning and Development Review
- Service Area 7 – Education and Outreach
- Service Area 8 – Sustainable Communities

Scope of Work Available for each Service Area

- Service Area 1 – Watershed Studies and Strategies
 - Watershed Plans and Strategies
 - Report Cards
 - Emerging and Integrative Climate Science
- Service Area 2 – Water Risk Management
 - Groundwater Strategies
 - Source Protection Strategies
 - Regional Monitoring – Water
 - Hydrology
 - Flood Plain Mapping
 - Flood Forecasting and Warning
 - Flood Risk Management
 - Flood Infrastructure and Operations
 - Erosion Management Capital Works
 - Hazard Monitoring
- Service Area 3 – Regional Biodiversity

Aquatic System Priority Planning
Terrestrial (and Integrated) Ecosystem Planning
Nature Channel Design
Restorations Opportunities Bank
Regional Monitoring – Biodiversity
Activity Based Monitoring
Terrestrial Inventory and Assessment
Watershed Restoration
Shoreline Restoration
Wetlands Restoration
Riparian and Flood Plain Restoration
Natural Channel and Stream Restoration
Wildlife Habitat Management
Inland and Lakefill Soil Management
Compensation Restoration
Forest Management Planning
Forest Management Operations
Managed Forest Tax Incentive Planning
Invasive Species Management
Hazard Tree Management

- Service Area 4 – Greenspace Securement and Management
 - Greenspace Planning
 - Greenspace Land Acquisition
 - Resource Management Planning
 - Inventory and Audit
 - Implementation
 - Hazard Management
 - Archaeology
 - Property Taxes and Insurance

- Service Area 5 – Tourism and Recreation
 - Conservation Parks
 - Waterfront Parks
 - Trail Planning, Development and Management
 - Events and Festivals

- Service Area 6 – Planning and Development Review
 - Policy Development and Review
 - Development Planning and Regulation Permitting
 - Environmental Assessment Planning and permitting

- Service Area 7 – Education and Outreach
 - School Programs
 - Family and Community Programs
 - Newcomer Employment and Education

- Service Area 8 – Sustainable Communities
 - Living City Transition Program
 - Sustainable Neighbourhoods
 - Community Transformation
 - Partners in Project Green
 - Urban Agriculture
 - Sustainable Technology Evaluation Program
 - Climate Consortium
 - Green Infrastructure Ontario
 - Community Engagement
 - Citizen Based Regeneration
 - Stewardship
 - Watershed Engagement