

## Section III – Items for the Information of the Board

**TO:** Chair and Members of the Board of Directors  
Friday, September 24, 2021 Meeting

**FROM:** John MacKenzie, Chief Executive Officer

**RE: UPDATE ON MEMORANDUMS OF UNDERSTANDING AND SERVICE LEVEL AGREEMENTS WITH MUNICIPALITIES**

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### KEY ISSUE

To provide an update to the Board of Directors on work underway to update and achieve Memorandums of Understanding (MOUs) and Service Level Agreements (SLAs) with partner municipalities in the context of the updated *Conservation Authorities Act* (CA Act) and relevant regulations.

### RECOMMENDATION

**IT IS RECOMMENDED THAT this progress report be received;**

**THAT staff report back to the Board of Directors on the progress of Memorandum of Understanding and Service Level Agreements once the *Conservation Authorities Act* regulations are released;**

**AND FURTHER THAT the Clerk and Manager, Policy, circulate this report to TRCA's municipal partners, Conservation Ontario, neighbouring conservation authorities, and the Province, including the Ministry of Environment, Conservation and Parks, Ministry of Northern Development, Mines, Natural Resources and Forestry, and Ministry of Municipal Affairs and Housing.**

### BACKGROUND

Since 2015, the *Conservation Authorities Act* (CA Act) has been amended several times in order to introduce measures that provide further clarity and transparency surrounding the various types of services that conservation authorities provide to, and on behalf of, municipalities. These amendments were undertaken through the *Building Better Communities and Conserving Watersheds Act, 2017* (Bill 139) in 2017, the *More Homes, More Choice Act* (Bill 108) in 2019, and the *Protect, Support and Recover from COVID-19 Act (Budget Measures), 2020* (Bill 229) in 2020. As a result of these amendments to the CA Act, conservation authorities will need to execute Memorandums of Understanding (MOUs) and Service Level Agreements (SLAs) with partner municipalities to deliver services deemed to be municipal (non-mandatory). Background on the resulting CA Act amendments and implications for the provision of municipal (non-mandatory) services to partner municipalities, as well as a full description of related Board resolutions directing TRCA staff to undertake discussions with municipal partners to develop and execute MOUs and SLAs, can be found in Item 12.7 (Update on Municipal Memorandums of Understanding and Service Level Agreements) from Board of Directors meeting held on February 26, 2021. The most recent update on MOU and SLA discussions with municipalities can be found in Item 8.1 from Board of Directors Meeting held on June 24, 2021.

TRCA staff also continues to participate in the Province's Conservation Authorities Working Group, announced December 16, 2020. TRCA has representation on the Working Group, with

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additional representation from other conservation authorities (CAs), Conservation Ontario, the Association of Municipalities of Ontario, and municipal, development and agriculture sectors.

Furthermore, the Ministry of Environment, Conservation and Parks posted a document, entitled a “Regulatory Proposal Consultation Guide: Regulations Defining Core Mandate and Improving Governance, Oversight and Accountability of Conservation Authorities” (“the Guide”) on the [Environmental Registry of Ontario](#) on May 13, 2021. While the Guide does not include draft regulations, it does lay out proposed associated details, including which CA programs and services may be considered mandatory, requirements for municipal MOUs and SLAs, timelines, and the requirements for a Transition Plan and community advisory boards.

In response, TRCA staff drafted and shared a submission on the ERO posting, with input from the Board of Directors. Further information on TRCA’s submission, additional details in the Guide, and potential implications, can be found in June 25, 2021 Board of Directors meeting minutes (RES.#A142/21, TRCA Draft Comments to Environmental Registry of Ontario Posting (ERO #019-2986) – Regulatory Proposals (Phase 1) Under the Conservation Authorities Act). TRCA also posted a news release on our website on May 18, 2021 in response to the ERO posting.

### **RATIONALE**

Staff have been undertaking discussions with partner municipalities since June 2019, with discussions increasing in frequency and productivity over the last year. The productivity of MOU/SLA discussions has been supported by the resources developed by staff and described in the Board reports noted above. TRCA staff are also undertaking regular review and updating of the resources developed to ensure that the information provided remains current.

In addition, new resources have been developed. This includes a draft Letter Agreement template (**Attachment 1**). The Letter Agreement template lays out the expected structure and content of a Letter Agreement, which would be appended to the SLA for each specific service, program or project that TRCA undertakes on behalf on a municipality.

TRCA continues to participate in the Province’s Conservation Authorities Working Group. Based on TRCA’s direct experience with developing MOUs with partner municipalities, staff have provided input related to the principles on which MOUs and SLAs could be based and the mandatory programs and services that conservation authorities would be required to provide. TRCA is encouraged that the direction laid out in the Consultation Guide, including for both the MOU transition plan and the development and execution of MOUs and SLAs themselves, aligns with the approach that TRCA has been taking in both discussions with partner municipalities and in the development of MOU-related resources. In many cases, TRCA is already meeting or exceeding many of the potential requirements of CAs, including having multi-stakeholder advisory committees to TRCA’s Board (such as the Regional Watershed Alliance), already delivering mandatory CA services, and undertaking MOUs, SLAs and/or other agreements for the delivery of other individual services, programs and/or projects for municipalities.

Since the last update to the Board of Directors on the MOU-SLA process (June 24, 2021 meeting), discussions with many partner municipalities have continued to progress (**Attachment 2**). This progress includes the following:

- Discussions on MOUs and SLAs have progressed to a more detailed stage with many municipalities. This includes interest from, and discussions with, municipalities that were previously waiting on a release of the regulations associated with the CA Act

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amendments. Detailed discussions include developing a municipality-specific process for developing and executing MOUs and SLAs, municipal staff review and discussion of TRCA's list of services, considering which services they currently utilize or might utilize, and municipal staff utilizing the template MOU and SLA drafted by TRCA in the development of MOUs and SLAs for execution. This may also include municipal staff review of the template or adapted MOU and SLA with their legal counsel and/or conferring with their procurement/purchasing staff to understand any limitations and whether amendments may be required to current municipal procurement mechanisms.

- The execution of MOUs and/or MOUs moving to an advanced stage of development or approval. This includes where an MOU and the associated list of services has been drafted and is under review.
- Where relevant, staff have undertaken some joint meetings with municipal staff and neighbouring conservation authorities in order to better coordinate the development of MOUs and SLAs to ensure consistent services across a municipal jurisdiction.

Many municipalities continue to wait until finalized regulations are released prior to bringing MOUs and SLAs to Council for approval and execution, even in cases where there is strong support for this process. Where the municipality has indicated that they would like to wait for the finalized CA Act regulations to be released prior to execution of the agreements, TRCA staff continue to work with partner municipalities to move the MOUs and SLAs forward to an advanced stage so that can easily be brought forward for endorsement. TRCA staff are working towards the proposed Provincial deadline of December 31, 2022 for having MOUs and SLAs in place with partner municipalities. However, recognizing that municipal elections will occur in October 2022, staff are targeting Q1/Q2 2022 as the preferred timeline for executing MOUs and SLAs.

TRCA staff have also begun work on an MOU transition plan, in accordance with the proposed requirements set out by the Province in the Regulatory Proposal Consultation Guide. Staff expect to meet the December 31, 2021 deadline set out by the Province and will bring the MOU Transition Plan to a future Board meeting for review and approval.

### **Relationship to Building the Living City, the TRCA 2013-2022 Strategic Plan**

This report supports the following strategy set forth in the TRCA 2013-2022 Strategic Plan:

#### **Strategy 7 – Build partnerships and new business models**

### **FINANCIAL DETAILS**

There is no immediate financial impact due to carrying out the recommendations above. The process of undertaking agreements with municipalities related to non-mandatory municipal programs and services provided by TRCA under the amended *Conservation Authorities Act*, as well as with other external organizations, is expected to have positive financial impacts for TRCA based on the interest from most municipalities in providing funding and or jointly seeking funding for a selection of TRCA service areas that support areas of need for the municipalities in question and shared municipal and TRCA interests.

### **DETAILS OF WORK TO BE DONE**

- Continue to communicate implications of the Consultation Guide to TRCA Board of Directors, municipal partners and relevant stakeholders, as well as information related to the enabling regulations, once released;
- Continue to meet with municipal partners in order to continue development and execution of MOUs based on municipal preferences and needs;

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- Continue working with municipalities, where required, to address any potential procurement policy approvals or required by-law amendments to support updated MOUs and SLAs;
- Continue working with neighbouring Conservation Authorities in order to coordinate MOU development;
- Develop the Provincially required MOU transition plan, and bring to TRCA Board of Directors in Q4 2021 for approval; and
- Update existing, and finalize new MOUs and SLAs, as appropriate.

**Report prepared by: Nancy Gaffney, extension 5313, Victoria Kramkowski, extension 5707**

**Emails: [nancy.gaffney@trca.ca](mailto:nancy.gaffney@trca.ca), [victoria.kramkowski@trca.ca](mailto:victoria.kramkowski@trca.ca),**

**For Information contact: Nancy Gaffney, extension 5313, Victoria Kramkowski, extension 5707**

**Emails: [nancy.gaffney@trca.ca](mailto:nancy.gaffney@trca.ca), [victoria.kramkowski@trca.ca](mailto:victoria.kramkowski@trca.ca)**

**Attachments: 2**

Attachment 1: Template Letter Agreements

Attachment 2: Municipal MOU/SLA Status Progress Table