

Agreement to Provide Services

THIS AGREEMENT made the 20th day of September, 2018, between

Crowe Valley Conservation Authority, a Conservation Authority established by or under the *Conservation Authorities Act* of Ontario, (the "CA"), and having its business office at: 70 Hughes Lane, Marmora, Ontario K0K 2M0 ;
email: info@crowevalley.com ; facsimile: 613-472-3137 ;

and

Crowe Valley Source Protection Authority, a Source Protection Authority carrying out the powers and duties of a drinking water source protection authority under the provisions of the *Clean Water Act* (the "Act") of Ontario, (the "SPA") and having its business office at: 70 Hughes Lane, Marmora, Ontario K0K 2M0 ;
email: info@crowevalley.com ; facsimile: 613-472-3137 ;

Witnesses That Whereas:

1. The CA engages employees which may be of assistance to the SPA in carrying out the powers and duties of the SPA pursuant to the provisions of the Act, as the same may be amended from time to time;
2. The CA has office facilities at 70 Hughes Lane, Marmora, Ontario K0K 2M0 (the "Premises");
3. The CA is willing to provide services to the SPA, through employees of the CA, pursuant to the terms of this agreement;
4. The SPA wishes to obtain services to be provided by employees of the CA in order to enable the SPA to carrying out its powers and duties under the Act;

Now therefore, for good and valuable consideration, the receipt and sufficiency of which is acknowledged by each of the parties, and the mutual covenants contained in this agreement, the parties covenant and agree with each other as follows:

1. Schedules

Schedules A, B, and C attached hereto form part of this Agreement and are incorporated by reference herein.

2. Defined Terms

Any word or phrase used herein which is a defined term pursuant to the provisions of the Act shall, wherever used herein, shall have the same meaning as that defined in the Act.

3. Provision of Services

The CA shall provide to the SPA as required by the SPA the services (the "Services") as described on Schedule "A" hereto, of those employees (the "Employees"), of the CA, and such other services

as may be reasonably required by the SPA and which the parties may from time to time agree in writing shall be provided by the CA to the SPA. The CA may provide these services directly or, where the CA is part of a Source Protection Region as established under the Clean Water Act, the services may be provided on the CA's behalf by the lead Conservation Authority of the Source Protection Region.

The CA agrees to provide these services subject to the following conditions:

- (a) Activities of the CA staff shall at all times be in conformity with the requirements of the Conservation Authorities Act and regulations thereunder; provided further that such activities shall at all times also be undertaken in compliance with the requirements of the Clean Water Act and all regulations enacted thereunder and in a manner consistent with the goals and purposes of that Act and those regulations.
- (b) At all times during the term of this Agreement, the administrative, accounting and human resource, facilities and operational and other management policies pertaining to the Employees or the delivery of the Services shall be those policies of the CA.
- (c) All staff or employees working in whole or in part on Source Protection pursuant to the provisions of this agreement shall remain staff and employees of the CA, and be and remain part of the organizational structure and reporting structure of that CA staff.
- (d) All facilities, land, buildings infrastructure, equipment etc, whether purchased or in whole or in part for the Source Protection Program shall be and remain the property of the CA.
- (e) The CA being satisfied that funds available to provide the staff support, services and resources requested are sufficient and adequate.

4. Fees for Service

In consideration of the CA providing the Services hereunder, the SPA agrees to pay to the CA those fees set out in Schedule B hereto, at the times and in the manner required by the CA. If the SPA shall require additional or other services at any time during the term, and the CA is willing and able to provide the same (the determination of which shall be in the sole discretion of the CA) the cost of such shall be determined by the CA, acting reasonably, and shall be paid by the SPA to the CA at the times and in the manner required by the CA. Any such additional services provided by the CA shall be deemed to be Services hereunder.

5. Payment of HST

Unless otherwise provided in this agreement, all amounts payable by the SPA to the CA for services provided hereunder (the "Fees") shall be exclusive of any Harmonized Sales Tax (HST) or any other tax payable thereon and the SPA shall, in addition to the Fees payable, pay to the CA all amounts of HST or other tax imposed on the CA with respect to the Fees.

6. Relationship of the Parties

The CA shall pay all expenditures necessary to engage the Employees who shall provide the Services, and at all times shall have control and authority over the Employees. The parties

acknowledge and agree that the provision of the Services by the CA to the SPA shall be on the basis that the CA shall act as agent of the SPA, and neither party shall represent or hold itself out as being in a partnership, joint venture or other legal relationship with the other.

7. Management of Funds

The parties acknowledge and agree that from time to time during the term of this agreement, the CA shall, on behalf of the SPA, request funding from the Province of Ontario (the "Province") for the cost of the Services and any tax exigible thereon, and shall enter such funding agreements with the Province as the CA may approve. The CA shall maintain appropriate records pertaining to any funds received from any source for the purpose of payment of the Services and any tax exigible thereon, including, without limiting the generality of the foregoing, a record of all funds received, with specification as to amount, date and payor; a record of all interest earned on the funds; and a record of all payments out of the said funds, and otherwise shall maintain records in accordance with the provisions of any such agreement with the Province or pursuant to the Act or the regulations thereunder. The CA agrees to hold and disburse all such funds in accordance with the provisions of any funding agreement with the Province. The parties acknowledge and agree that the CA shall deliver invoices for the cost of the Services, and any tax exigible thereon, to the SPA from time to time during the term of this agreement, and may apply funds held by it to the costs specified in such invoices, upon delivery of the invoice.

8. No Warranties

The CA has made no representation or warranty with respect to the qualifications or suitability of any Employee engaged in whole or in part to provide Services, or that the Services shall be suitable for the purposes or uses of the SPA, or any other representation or warranty, express or implied.

9. Indemnity by SPA

The SPA acknowledges and agrees that its obligations pursuant hereto are enforceable by the CA regardless of the provisions of the Act, and specifically without limiting the generality of the foregoing Section 98 thereof, and that the subject matter of this agreement is the provision of Services to allow the SPA to carry out its obligations pursuant to the Act, and not the carrying out of those obligations *per se*. The SPA agrees to save harmless and indemnify the CA, its directors, officers, agents and employees from and against any costs, claims, compensation or damages which may arise, directly or indirectly, at any time, from any act or omission of the CA or any of its directors, officers, agents and employees in carrying out their duties hereunder, or in connection with the provision of the Services, or any failure or neglect in so doing; provided that this indemnity shall not extend to any grossly negligent or deliberate wrongful act of the CA. The parties acknowledge and agree that nothing in this agreement shall impose upon or delegate to the CA any of the SPA's powers, duties or obligations pursuant to the Act or the regulations thereunder.

10. Insurance

In recognition of the limited organizational powers and capabilities of the SPA, the CA shall arrange for extension and maintenance of its then current insurance coverages, including Commercial General Liability Insurance, Directors and Officers Liability Insurance, and Errors and Omissions Insurance, to the SPA and in respect of its operations and activities for which assistance is provided by the CA, provided that the SPA shall at all times reimburse the CA for all costs and expenses associated with the extension and maintenance of such insurance coverages as set forth above.

11. Supervision of Employees

The CA shall at all times have supervision and instruction of the Employees, and sole authority for the hiring, training, discipline, and discharge of Employees. The CA shall be solely responsible for all costs in connection with such Employees, including without limitation, all wages, salary, benefits and source deductions. The SPA shall not, without the prior consent of the CA in writing, directly contact any of the Employees, and shall provide all requests or instructions with respect to the Services, to the Representative (as hereinafter defined) of the CA. The SPA shall not interfere with the work of the Employees, and shall take all actions as may be reasonable or necessary to facilitate the carrying out of such work.

12. Compliance with Law

The CA shall comply with all laws, ordinances, regulations and by-laws present or future, in any way relating to the engagement of the Employees or the performance by them of their duties.

13. Confidential Information

The SPA and CA hereby acknowledge that each may acquire information about certain matters which are confidential to the other in the course of the provision of the Services, and each agrees to treat any such information as confidential and to use it only for the purposes of complying with its obligations hereunder, and not to disclose any such information to any third party or to use it for any purpose inconsistent with the provisions of this agreement or the rights of the other party.

14. Non-solicitation of Employees

The SPA agrees that it shall not, for any reason whatsoever, directly or indirectly, solicit or hire or entice any employee or agent of the CA to terminate his or her employment or agency relationship with the CA, or enter into employment or service or agency with any other person.

15. Appointment of Representatives

- (a) Each of the parties shall appoint a representative (“the “Representative”) for the purpose of communicating information to the other for the purposes of this agreement. At the commencement of the term of this agreement, the Representatives shall be those persons identified on Schedule C hereto. Either party may by notice in writing to the other replace such Representative, and such replacement shall be effective upon receipt of such notice by the other; provided that any instructions or communications given by the Representative being replaced prior to the effective time of replacement shall be effective and binding on the party making such replacement.
- (b) Notwithstanding the provisions of paragraph 14(a) hereof, the SPA may request services or any specific service to be provided by the CA hereunder, at any time during the term of this agreement, and such request shall specify: the nature of the services required; the time in which such services are to be delivered; the requested manner of delivery of such services; and any other details pertaining to the services, including without limitation the anticipated cost, expected staffing requirements, and performance milestones. Such requests may be in such form as the parties may agree from time to time including, without limitation, in the form of a resolution of the SPA provided by notice in writing to the CA.

16. Notices

Any notice required or permitted to be given to a party hereunder shall be sufficiently given if delivered to a Representative personally or if mailed, by registered mail to the office address of a party indicated above, or by email at the email address indicated above, or by facsimile at the facsimile number indicated above (unless any of such addresses or number is changed by notice pursuant hereto). Any notice delivered personally shall be effective when delivered. Any notice delivered by mail shall be effective the fifth date after mailing, except in the event of any mail disruption, in which event it shall be effective the fifth date after such disruption ends. Any notice delivered by email or facsimile shall be deemed effective on the next business day after the sending of such notice.

17. Events of Default

The following shall each constitute an "event of default":

- (a) the failure of the SPA to pay any fee when due;
- (b) the breach by the SPA of any covenant or condition contained in this agreement;
- (c) the SPA files any proposal or notice of intention to file a proposal, or makes any assignment for the benefit of creditors or any arrangement or compromise, or is dissolved or, if, in the opinion of the CA, the SPA becomes dysfunctional;
- (d) the admission by the SPA in writing of its inability to pay its debts generally as they become due;
- (e) the appointment of a receiver, trustee, or similar official for the SPA or for any of the SPA's property;
- (f) the filing by or against the SPA of a petition in bankruptcy (or a petition for the reorganization or liquidation of the SPA under any federal or provincial laws if the SPA is a corporation);
- (g) any other act of bankruptcy or other act or omission by the SPA in furtherance of any of the above purposes.

18. Remedies on Default

On the occurrence of any event of default the CA may, at its option, terminate this agreement by written notice to the SPA whereupon the SPA shall be liable to the CA for the payment of all fees outstanding and for all damages which the CA may sustain by reason of the SPA's breach including, without limitation, all legal and other professional fees and other expenses incurred by the CA in attempting to enforce this agreement or to recover damages for breach.

19. Arbitration and Mediation

Despite anything contained in this agreement to the contrary, in the event that a dispute or difference arises with respect to this agreement that cannot be resolved by negotiation between the parties and the parties agree that they do not wish to terminate this agreement, then in such event the parties agree to use the services of an experienced, qualified mediator to attempt to resolve their dispute or difference and, failing agreement on the procedure to be followed, the mediation shall be conducted in accordance with the "Rules of Procedure for the Conduct of Mediations" of the Arbitration and Mediation Institute of Ontario pursuant to the *Arbitration Act, 1991* (Ontario).

In the event that mediation does not result in a resolution of the dispute or difference and the parties agree that they do not wish to terminate this agreement, then in such event any unresolved issue may be taken to any other appropriate dispute resolution process agreed to by the parties, including arbitration or an appropriate court process. Should arbitration be agreed upon, the arbitration will be conducted in accordance with the "Rules of Procedure for the Conduct of Arbitrations" of the Arbitration and Mediation Institute of Ontario.

20. Duration of Agreement

This agreement shall commence upon the date first written above and continue for a period of 4 years, subject to written consent by both parties to the prior termination or variation of this agreement. On the expiration of the 4 year period the agreement shall continue on a monthly basis upon the same terms and conditions as are contained herein, to the extent that the same are not amended in writing by the parties, and may after the expiration of such initial period, be terminated by either party on one month's written notice to the other party.

21. Assignment

This agreement may not be assigned by either party without the prior written consent of the other.

22. Headings

Descriptive headings are inserted solely for convenience of reference. They do not form a part of this agreement and are not to be used as an aid in interpreting this agreement.

23. Enurement

This agreement shall enure to the benefit of and be binding on the successors and assigns of the parties.

24. Entire Agreement

This agreement embodies the entire agreement of the parties with regard to the matters contained herein, and no other agreement, representation or warranty shall be deemed to exist except as entered into in writing by both parties to this agreement. Any modification of this agreement shall be in writing signed by both parties by their duly authorized signing officers.

25. Jurisdiction

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

26. Partial Severability

If any part of this agreement is held or rendered invalid or illegal, the remainder of this agreement continues to apply.

27. Time of Essence

Time is of the essence of this agreement and of all provisions of it.

IN WITNESS WHEREOF the parties have affixed their respective corporate seals, attested by the hands of their respective officers duly authorized in that behalf on the date first written above.

Per: Crowe Valley Conservation Authority

Name: Tim Pidduck

Title: General Manager / Secretary-Treasurer

I have authority to bind the corporation

Per: Crowe Valley Source Protection Authority

Name: Catherine Redden

Title: Chair

I have authority to bind the corporation

Schedule A

The Services

The Crowe Valley Conservation Authority will provide the following services to the Crowe Valley Source Protection Authority:

1. Employ the necessary staff to complete the tasks required by the Crowe Valley SPA to meet it's obligations under the Clean Water Act and associated regulations.
2. Provide office and administrative support for the Crowe Valley SPA as required.
3. Provide for management of the funds received from the province including day to day accounting and annual audit.
4. Prepare and submit to the SPA and the Province any reports required by the Clean Water Act.
5. **Issue notices pursuant to section 48(1.1)(b) of Ontario Regulation 287/07.**

Schedule B

Fees Paid

The Crowe Valley SPA agrees that the Lower Trent Region Conservation Authority will apply to the province for 100% of the costs of the source protection planning program and that the CVCA will use the approved funds to provide the services outlined in schedule A.

Schedule C

Representatives of the Parties

For the purpose of this agreement:

The Crowe Valley Conservation Authority will be represented by the General Manager/Secretary-Treasurer of the CVCA.

The Crowe Valley Source Protection Authority will be represented by the Chair of the Source Protection Authority.