

--	--

TO:	CHAIR AND MEMBERS CIVIC WORKS COMMITTEE MEETING ON AUGUST 25, 2014
FROM:	JOHN M. BRAAM MANAGING DIRECTOR, ENVIRONMENTAL & ENGINEERING SERVICES AND CITY ENGINEER
SUBJECT	THAMES SYDENHAM REGION SOURCE WATER PROTECTION PLAN RISK MANAGEMENT SERVICES AGREEMENT

RECOMMENDATION

That, on the recommendation of the Managing Director, Engineering Services and City Engineer, the following actions **BE TAKEN** with respect to the Thames Sydenham Region Source Protection Plan and the Risk Management Services Agreement with the Upper Thames River Conservation Authority:

- a) the attached proposed agreements for the transfer of responsibility (Municipal Transfer Agreement) and the risk management services (Joint Risk Management Services Agreement) associated with the Source Water Protection Plan **BE APPROVED**;
- b) the attached by-law **BE INTRODUCED** at the Municipal Council meeting on September 2, 2014 to authorize the Agreements noted in a), above, on behalf of The Corporation of the City of London, in order to transfer the responsibility of risk management to the Upper Thames River Conservation Authority and to secure the services of staff at the Upper Thames River Conservation Authority in order to perform risk management duties, and to authorize the Mayor and City Clerk to execute the Agreements noted on a) above substantially in the form attached and to the satisfaction of the City Solicitor.

IT BEING NOTED: that these measures are necessary to fulfill a “standard of care” for our drinking water system and that all costs are able to be accommodated within existing budgets.

PREVIOUS REPORTS PERTINENT TO THIS MATTER
--

Some relevant reports that can be found at www.london.ca under City Hall (Meetings) include:

- Environmental Programs Update: Thames Sydenham Region Source Water Protection (April 8, 2013 meeting of the Civic Works Committee, Item # 2)
- Environmental Programs Update: Thames Sydenham Region Source Water Protection (May 14, 2012 meeting of the Civic Works Committee, Item # 9)
- Update on Source Water Protection Process: Thames Sydenham Region Source Water Protection (August 15, 2011 meeting of the Built and Natural Environment Committee, Item #9)
- Update on Source Water Protection Process: Thames Sydenham Source Water Protection Region (August 25, 2010 meeting of the Environment and Transportation Committee, Agenda Item #10)

--	--

BACKGROUND

PURPOSE

The purpose of this report is to provide an update on this multi-year initiative called the Thames Sydenham Source Water Protection Plan (herein referred to as the “Plan”), and to seek the necessary approvals via the proposed by-law (**Appendix A**) to authorize the approval of two agreements, being the “Enforcement Transfer Agreement” (herein referred to as the “Transfer Agreement”) and the Joint Risk Management Service Agreement (herein referred to as the “Service Agreement”). These Agreements allow the City to utilize the expertise of staff at the Upper Thames River Conservation Authority (UTRCA) in completing risk management duties on behalf of the City and as required by approval of the Plan by the Province. The Agreements are attached (Schedule A and B).

CONTEXT

Source Water Protection Plans have been prepared across the Province as a result of provincial legislation that came into effect after the drinking water tragedy in Walkerton in 2000. The City of London is required to implement a plan which will protect the standby wells at Fanshawe and Hyde Park. The Joint Water Boards are required to implement plans as they relate to the surface water supply systems from Lake Huron and Lake Erie.

The plan for the City identified as the Thames Sydenham Region Source Protection Plan is now awaiting approval by the Minister of the Environment. Once approved, new risk management duties need to be fulfilled to safeguard drinking water resources and prevent future risks. Enabling legislation provides the option of these duties to be fulfilled by trained staff at the municipality or to be contracted out to trained staff at the conservation authorities or health units.

In anticipation of implementation, City staff assessed our needs and requested a proposal from the UTRCA in conjunction with a number of adjacent municipalities, to contract out the services to fulfill these new duties. The budget for these services exists in the approved City of London 2014 budget and it was determined that these duties could not be provided at a similar cost by existing City or Health Unit staff. Given the experience and expertise that exists with staff at the UTRCA on this topic, it was determined that transferring the responsibility and securing their services is an overall cost-benefit to the City. Water resource management is a core mandate of the UTRCA and their staff has the knowledge and expertise gained from leading the Source Water Protection initiative for the past 8 years. Expertise needed to complete the tasks of Risk Management including hydrogeology and flow modelling as well as negotiation skills, is contained within the UTRCA office located in London.

DISCUSSION

Source Water Protection has reached the final stage of development and approval of the Plan is forthcoming. Upon approval by the Province, implementation will be the next step. It is anticipated that Ministry of the Environment approval is likely to occur in early 2015 and a portion of the implementation involves risk management of existing threats to drinking water.

Early in the process of drafting the Source Water Protection Plan, the multi-agency committee tasked with completing the Plan, determined that a basic principle be established and followed being;

Existing threats to drinking water resources should be managed through “risk management” to reduce the severity of the threat (from high threat to a medium or to a low threat) and ultimately to eliminate the threat altogether. The alternative approach would be to “ban” the land use or the activity. Note: There were no situations found in the Region identified as imminent threats that required the need for banning the activity. Risk management was therefore deemed to be most suitable and least onerous to the landowner.

Future threats to drinking water resources were deemed appropriate to be handled by the use of existing provincial approval instruments (e.g. Certificates of Approval) and using municipal land use planning tools (e.g. official plans and zoning by-laws). Steps are being taken to ensure the necessary policies are included in the draft London Plan.

The basis of the Source Water Protection Plan was to safeguard drinking water resources and to identify potential threats. In London, these water resources include the groundwater aquifers

--	--

that provide back-up, emergency drinking water through the operation of two well fields in the City:

- the Hyde Park well (a single well) is located near the intersection of Oxford and Hyde Park and
- the Fanshawe Well Field (six wells) are located near Sunnydale and Clark Road.

Each well has a Well Head Protection Area (WHPA) identified that provides the geographic area where risk management will be focused. In London, these areas include lands zoned for residential, commercial and industrial uses and have a variety of activities that occur on them.

The proposed Joint Municipal Service Agreement is between the UTRCA and 5 municipalities including London, City of Stratford, and 3 rural municipalities of Perth East, Perth South and West Perth. Common to all five municipalities are the use of municipal groundwater wells for drinking water purposes. The costs associated with the service agreement are distributed amongst the 5 parties based in part, on the number of properties that have been identified with possible threats to drinking water that need management. The number of properties in London is relatively low compared to the other municipalities and our cost is therefore also relatively low being less than \$35,000 per year for 3 years (or approximately 20% of the total service agreement).

NEXT STEPS

Environmental and Engineering Services staff will ensure the City Solicitor’s office approves the final wording of the Agreements and will continue to participate on the Steering Committee for the Source Water Protection Plan regarding any future amendments. They will continue to represent the City’s interests within the Plan and will liaise with UTRCA on matters pertaining to Risk Management.

PREPARED BY:	SUBMITTED BY:
PATRICK DONNELLY, M.SC, MCIP WATERSHED PROGRAM MANAGER	ROLAND WELKER, P.ENG MANAGER, WATER ENGINEERING
REVIEWED & CONCURRED BY:	RECOMMENDED BY:
JOHN LUCAS, P.ENG. DIRECTOR, WATER & WASTEWATER	JOHN BRAAM, P. ENG. MANAGING DIRECTOR - ENVIRONMENTAL & ENGINEERING SERVICES & CITY ENGINEER

Y:\Shared\SolWaste\watershed\Source Water Protection\Committee Reporting\Committee Report August 2014.docx

- Appendix A By-law to approve and authorize the Agreements
- Schedule A Source Protection Enforcement Transfer Agreement - draft
- Schedule B Joint Risk Management Services Agreement - draft



APPENDIX A

Bill No.

By-law No.

A by-law to approve and authorize Agreements between The Corporation of the City of London and the Upper Thames River Conservation Authority, in order to transfer the responsibility of risk management to the Upper Thames River Conservation Authority and to secure the services of staff at the Upper Thames River Conservation Authority in order to perform risk management duties with respect to the Thames Sydenham Region Source Protection Plan; and to authorize the Mayor and City Clerk to execute the Agreements

WHEREAS section 5(3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS it is deemed appropriate for The Corporation of the City of London (the "City") to approve and authorize Agreements with The Upper Thames River Conservation Authority (the "Authority") with respect to the transfer of risk management responsibilities concerning the Thames Sydenham Region Source Protection Plan in collaboration with other municipal partners, to obtain and share information and utilize the services of the Authority for the purposes of negotiating Risk Management Plans for properties identified as a potential threat to municipal drinking water systems;

AND WHEREAS it is appropriate to authorize the Managing Director, Environmental and Engineering Services and City Engineer to endorse the Agreements on behalf of the City;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The agreements between the City and the Authority for the transfer of responsibility for risk management and for a joint agreement for services along with a number of municipalities with respect to obtaining the services of the Authority for the purposes of negotiating Risk Management Plans with affected landowners for the purpose of safeguarding drinking water quality and quantity, substantially in the form attached as Schedule A and B to this By-law, are hereby approved and authorized.

--	--

2. The Mayor and City Clerk are authorized to execute the Agreements authorized in section 1 of this by-law, substantially in the forms attached and to the satisfaction of the City Solicitor.

3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council XXX, 2014

Joni Baechler
Mayor

Catharine Saunders
City Clerk

First reading – XXXX, 2014
Second reading – XXXX, 2014
Third reading – XXXX, 2014

--	--

SCHEDULE A

Source Protection Part IV Enforcement Transfer Agreement

THIS AGREEMENT made effective the first day of September, 2014.

BETWEEN:

The Corporation of the City of London

(hereinafter called “the Municipality”)

OF THE FIRST PART

- and -

UPPER THAMES RIVER CONSERVATION AUTHORITY

(hereinafter called “the Authority”)

OF THE SECOND PART

PREAMBLE:

WHEREAS this Agreement is being entered into pursuant to the *Clean Water Act, 2006* (hereinafter called the “*Act*”) for the purpose of appointing the Authority as agent of the Municipality with respect to the enforcement and jurisdictional rights under Part IV of the *Act* as part of implementation of the Thames-Sydenham and Region Source Protection Plan.

And Whereas the Authority is a Source Protection Authority for purposes of the *Act* and of this Agreement;

And Whereas the Municipality is located wholly or partially within the Thames Sydenham and Region Source Protection Region as set out in Ontario Regulation 284/07.

IN CONSIDERATION of the mutual covenants herein contained, the parties hereby agree as follows:

**ARTICLE ONE
GENERAL**

Section 1.01: Source Protection Authority

Under section 4 of the *Act*, the Upper Thames River Conservation Authority (UTRCA) serves as the Source Protection Authority for the Upper Thames River Source Protection Area. Ontario Regulation 284/07 under the *Act* designates the participating municipalities for UTRCA when it acts as the Source Protection Authority under the *Act*.

Section 1.02: Part IV Requirements under the Act

The *Act*, provides that municipalities are responsible for Part IV enforcement of Source Protection Plans. The *Act* further provides that a municipality may enter into an

--	--

agreement for the enforcement of Part IV by a board of health, a planning board, or a Source Protection Authority.

The Municipality hereby appoints the Authority as agent of the Municipality to carry out enforcement under Part IV of the Act within the Municipality.

Section 1.03: Application

This Agreement shall be applicable to all lands located in the Municipality that are subject to Part IV of the Act.

The Authority hereby accepts the appointment and agrees to act as Agent of the Municipality for the duties and enforcement responsibilities of Part IV of the Act for the lands located within the Municipality.

Section 1.04: Duties

The Authority shall faithfully carry out their duties hereunder on a fee for service basis in accordance with the Act, the Thames-Sydenham and Region Source Protection Plan (as amended from time to time), this Agreement, and any other applicable legislation.

**ARTICLE TWO
DEFINITIONS**

Section 2.01: Definitions

Unless otherwise expressly provided in this Agreement, the words, phrases and expressions in this Agreement shall have the meanings attributed to them as follows:

1. In this Agreement:
 - a) "Act" means the Ontario *Clean Water Act, 2006*, as amended;
 - b) "Agreement" means this document;
 - c) "parties" means the Authority and the Municipality;
 - d) "the Regulation" means *Clean Water Act Regulation 287/07*
 - e) "Risk Management Inspector" means a Risk Management Inspector appointed under Part IV of the Act;
 - f) "Risk Management Official" means the Risk Management Official appointed under Part IV of the Act;
 - g) "Source Protection Authority" means a Conservation Authority or other person or body that, under subsection 4 (2) or section 5 of the Act, is required to exercise and perform the powers and duties of a drinking water Source Protection Authority under the Act;
 - h) "Source Protection Plan" means a drinking water source protection plan prepared under the Act.

**ARTICLE THREE
RESPONSIBILITIES**

Section 3.01: Responsibilities of the Authority

The Authority is responsible for all the powers and duties of an enforcement body under Part IV of the Act. The duties and powers include, but are not limited to, those listed in this Section.

--	--

The Authority shall:

- (i) Appoint such Risk Management Officials and Risk Management Inspectors as are necessary for the enforcement of Part IV of the *Act*.
- (ii) Provide mapping to the Municipality and establish protocols in consultation with the Municipality to ensure Part IV requirements are incorporated into the review of applications under the *Planning Act* and *Building Code Act*.
- (iii) Review applications under the *Planning Act* and *Building Code Act* as deemed necessary under the protocols referred to in (ii) and issue notices with respect to Restricted Land Use policies as required by section 59 of the *Act*.
- (iv) Negotiate or, if negotiations fail, establish risk management plans with persons (business owners, landowners, tenants, and others) engaged or proposing to engage in an activity and at a location subject to Part IV of the *Act*.
- (v) Review and accept risk assessments under the *Act*.
- (vi) Conduct inspections and use powers of entry on properties where reasonable and obtain inspection warrants from a court where required.
- (vii) Issue orders and notices, prosecute any offences under Part IV of the *Act* and exercise any other powers set out under Part IV of the *Act* to ensure compliance with the Part IV policies in the Thames-Sydenham and Region Source Protection Plan.
- (viii) Maintain records in accordance with the *Act* and make records available to the public when required to do so and to the Municipality upon request.
- (ix) Prepare documentation and make provisions for staff to attend Environmental Review Tribunal Hearings.
- (x) Report annually on activities as required under the *Act* and provide a copy of the annual report to the Municipality.

Section 3.02: Responsibilities of the Municipality

The Municipality shall adhere to agreed upon protocols (including circulating certain applications to the Risk Management Official) to ensure Part IV requirements are incorporated into the review of:

- (i) building permit applications;
- (ii) applications under provisions of the *Planning Act* that are prescribed in section 62 of the Regulation; and

generally cooperate with and assist the Authority with the protection of drinking water sources.

--	--

Section 3.03: Information and Data Sharing

To facilitate implementation of this Agreement:

- (i) The Municipality shall provide information and data required by the Authority to carry out their powers and duties under Part IV of the *Act*.
- (ii) The Authority shall provide records related to their powers and duties under Part IV of the *Act* to the Municipality, upon request. In the event of termination of this Agreement, records will be transferred to the Municipality.

**ARTICLE FOUR
COSTS**

Section 4.01: Responsibility for Cost of Service Delivery

The Municipality is responsible for the costs of the enforcement of Part IV of the *Act* where costs are not recovered through user fees. The Municipality shall pay the Authority as per Schedule A of this agreement.

Section 4.02: Fee Schedule

The Authority may, following consultation with the Municipality, make a regulation pursuant to Section 55 of the *Act* to establish a fee schedule. The fees will be for the purpose of cost recovery of aspects of the program included in this agreement agreed to collectively with the Municipality. In accordance with sub-section 55 (2) of the *Act*, the fees will not exceed the anticipated reasonable costs of the enforcement of Part IV of the *Act*. The Authority will establish, review, and if necessary amend the fees annually, in consultation with the Municipality and with approval from the Authority’s Board of Directors. Notification and consultation will occur in accordance with the Authority board approved guidelines for cost recovery as amended from time to time or any applicable requirements under the *Act*.

Section 4.03: Collection of Fees

The Authority will collect and retain all fees payable by any person for work performed by the Authority under this Agreement. Fees collected by the Authority related to applications or other submissions pertaining to property or properties within a municipality will be used by the Authority to reduce the subsequent municipal payment identified in the payment schedule in Schedule A.

The Municipality will cooperate with the Authority to the extent possible to facilitate and assist with the collection of Fees. This shall include, but is not limited to, the addition of fees to the tax roll as provided for by section 55(4) of the *Act*.

Section 4.04: Recovery of Extraordinary Costs

The Authority, through consultation with the Municipality, will recover from the Municipality costs incurred as a result of legal actions initiated by or against the Authority associated with executing its duties and powers under this Agreement and for costs associated with non-routine work including but not limited to enforcement orders, warrants, appeals and Environmental Review Tribunal Hearings. These costs are in addition to those outlined in Schedule A and are defined as “extraordinary costs”.

**ARTICLE FIVE
OFFICIALS AND INSPECTORS**

Section 5.01: Appointment

The Authority will appoint pursuant to subsection 48 (2) of the *Act* such Risk Management Officials and Risk Management Inspectors as are necessary and shall issue a certificate of appointment to the Risk Management Officials and Risk Management Inspectors as per subsection 48 (3) of the *Act*.

--	--

Section 5.02: Qualifications

The Risk Management Officials and Risk Management Inspectors will be qualified as prescribed by the Regulation.

**ARTICLE SIX
LIABILITIES AND INSURANCE**

Section 6.01: Insurance

The Authority shall provide and maintain Commercial/Comprehensive General Liability and Errors and Omissions insurance as identified in the Joint Risk Management Services Agreement to which this is a schedule.

Section 6.02: Workplace Safety and Insurance Board (WSIB)

The Authority will provide upon request, verification of WSIB coverage.

Section 6.03 Save Harmless and Indemnify

The Municipality agrees to save harmless and indemnify the Authority, and their employees, agents, directors and officers (collectively, the ‘indemnified parties’) from and against any losses, damages or expenses of every nature and kind whatsoever which the indemnified parties, or any of them, might suffer or incur in connection with or arising out of: this Agreement; any enforcement duties or responsibilities; or otherwise in connection with the *Act* or any regulations thereunder.

The Authority agrees to save harmless and indemnify the City, and their employees, agents, directors and officers (collectively, the ‘indemnified parties’) from and against any losses, damages or expenses of every nature and kind whatsoever which the indemnified parties, or any of them, might suffer or incur in connection with or arising out of the Authority failing to perform its duties or responsibilities under this Agreement.

**ARTICLE SEVEN
TERM, RENEWAL, TERMINATION AND AMENDMENT OF AGREEMENT**

Section 7.01: Initial Term

This Agreement shall continue in force for a period of 3 years, commencing on the first day of September, 2014 and ending the 31st day of August, 2017.

Section 7.02: Deemed Renewal

This Agreement will automatically continue following the expiry of the term set out in Section 7.01 until it is:

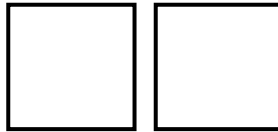
- a. Superseded or replaced by a subsequent agreement; or
- b. Terminated in its entirety by either party by giving 90 days written notice.

Section 7.03: Termination

The Agreement may be terminated by either party with a minimum of 180 days written notice. Termination of this agreement shall also result in the requirement to amend the parties of the Joint Risk Management Services Agreement to remove the municipality.

Section 7.04: Amendment

This Agreement may be amended by mutual agreement from time to time to reflect changes in programs, funding and personnel in both parties, or changes in provincial policy.



**ARTICLE EIGHT
MISCELLANEOUS**

Section 8.01: Preamble

The preamble hereto shall be deemed to form an integral part hereof.

Section 8.02: Instrument in Writing

This Agreement shall not be changed, modified, terminated or discharged in whole or in part except by instrument in writing signed by the parties hereto, or their respective successors or permitted assigns, or otherwise as provided herein.

Section 8.03: Assignment

This Agreement shall not be assignable by either party.

Section 8.04: Force Majeure

Any delay or failure of either party to perform its obligations under this Agreement shall be excused and this Agreement is suspended if, and to the extent that, a delay or failure is caused by an event or occurrence beyond the reasonable control of the party and without its fault or negligence, such as, by way of example and not by way of limitation, acts of God, fires, floods, wind storms, riots, labour problems (including lock-outs, strikes and slow-downs) or court injunction or order.

Section 8.05: Notices

Any notice, report or other communication required or permitted to be given hereunder shall be in writing unless some other method of giving such notice, report or other communication is expressly accepted by the party to whom it is given and shall be given by being delivered or mailed to the following addresses of the parties respectively:

- (a) To the Authority:

*Ian Wilcox
1424 Clarke Rd, London, ON, N5V 5B9
wilcoxi@thamesriver.on.ca*

Attention: General Manager / Secretary-Treasurer

- (b) To the Municipality:

*John Lucas
The Corporation of the City of London
300 Dufferin Avenue
PO BOX 5035
London ON N6A 4L9
Phone 519-661-2500 Ext. 5537
Email JLucas@london.ca*

Attention: Director - Water and Wastewater

Any notice, report or other written communication, if delivered, shall be deemed to have been given or made on the date on which it was delivered to any employee of such party, or if mailed, postage prepaid, shall be deemed to have been given or made on the third business day following the day on which it was mailed (unless at the time of mailing or within forty-eight hours thereof there shall be a strike, interruption or lock-out in the Canadian postal service in which case service shall be by way of delivery only).

--	--

Either party may at any time give notice in writing to the other party of the change of its address for the purpose of this Agreement.

Section 8.06: Headings

The Section headings hereof have been inserted for the convenience of reference only and shall not be construed to affect the meaning, construction or effect of this Agreement.

Section 8.07: Governing Law

The provisions of this Agreement shall be construed and interpreted in accordance with the laws of the Province of Ontario as at the time in effect.

Section 8.08: Counterparts

The Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 8.09: Execution of Agreement

The parties represent and warrant that they have:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first written above.

UPPER THAMES RIVER CONSERVATION AUTHORITY

Chair	Date

General Manager/Secretary-Treasurer	Date

THE CORPORATION OF THE CITY OF LONDON

Mayor	Date

City Clerk	Date

--	--

SCHEDULE B

SOURCE PROTECTION JOINT RISK MANAGEMENT SERVICES AGREEMENT

THIS AGREEMENT made effective the first day of September, 2014.

BETWEEN:

Upper Thames River Conservation Authority,
(hereinafter called “the Authority”)

OF THE FIRST PART
- and -

The Corporation of the City of London,
OF THE SECOND PART
- and -

The Corporation of the City of Stratford,
OF THE THIRD PART
- and -

Municipality of Perth East,
OF THE FORTH PART
- and -

Municipality of Perth South,
OF THE FIFTH PART
- and -

Municipality of West Perth
OF THE SIXTH PART

(hereinafter called “the Municipalities”)

PREAMBLE:

WHEREAS this Agreement is being entered into pursuant to the *Clean Water Act, 2006* (hereinafter called the “*Act*”) for the purpose of developing and implementing a joint program for the enforcement and jurisdictional rights under Part IV of the *Act* as part of implementation of the Thames-Sydenham and Region Source Protection Plan.

And Whereas the Authority is a Source Protection Authority for purposes of the Act and of this Agreement;

And Whereas the Municipalities are located, wholly or partially, within the Thames-Sydenham and Region Source Protection Region as set out in Ontario Regulation 284/07.

And Whereas the Municipalities have each appointed the Authority as their agent to carry out enforcement under Part IV of the *Act* within the Municipality through separate Municipal Part IV Transfer Agreements.

--	--

IN CONSIDERATION of the mutual covenants herein contained, the parties hereby agree as follows:

ARTICLE ONE GENERAL

Section 1.01: Source Protection Authority

Under section 4 of the *Act*, the Upper Thames River Conservation Authority (UTRCA) serves as the Source Protection Authority for the Upper Thames River Source Protection Area. Ontario Regulation 284/07 under the *Act* designates the participating municipalities for UTRCA when it acts as the Source Protection Authority under the *Act*.

Section 1.02: Part IV Requirements under the Act

The *Act*, provides that municipalities are responsible for Part IV enforcement of Source Protection Plans. The *Act* further provides that a municipality may enter into an agreement for the enforcement of Part IV by a board of health, a planning board, or a Source Protection Authority. Through individual Municipal Part IV Transfer Agreements, each municipality has appointed the Authority as their agent to carry out enforcement under Part IV of the *Act* within said Municipality.

ARTICLE TWO DEFINITIONS

Section 2.01: Definitions

Unless otherwise expressly provided in this Agreement, the words, phrases and expressions in this Agreement shall have the meanings attributed to them as follows:

2. In this Agreement:

- a) “*Act*” means the Ontario *Clean Water Act, 2006*, as amended;
- b) “Agreement” means this document;
- c) “parties” means the Authority and the Municipalities;
- d) “the Regulation” means *Clean Water Act Regulation 287/07*
- e) “Risk Management Inspector” means a Risk Management Inspector appointed under Part IV of the *Act*;
- f) “Risk Management Official” means the Risk Management Official appointed under Part IV of the *Act*;
- g) “Source Protection Authority” means a Conservation Authority or other person or body that, under subsection 4 (2) or section 5 of the *Act*, is required to exercise and perform the powers and duties of a drinking water Source Protection Authority under the *Act*;
- h) “Source Protection Plan” means a drinking water source protection plan prepared under the *Act*.
- i) “Municipal Part IV Transfer Agreement” means individual agreements between the Authority and each municipality as included in schedule D of this agreement.

--	--

ARTICLE THREE RESPONSIBILITIES

Section 3.01: Responsibilities of the Authority

The Authority is responsible for all the powers and duties of an enforcement body under Part IV of the *Act* as transferred through Municipal Part IV Transfer Agreements. Further the Authority is responsible for development and implementation of a program to carry out those responsibilities. The program includes:

- (i) Program Development and Administration;
- (ii) Risk Management Plan Negotiation;
- (iii) Restricted Land Use and Land Use Planning Support;
- (iv) Education, Outreach and Stewardship Support;
- (v) Site Specific Risk Assessment Review and Acceptance;
- (vi) Compliance and Enforcement; and
- (vii) Monitoring and Reporting

The scope of each of these program areas is described further in Schedule A of this agreement.

Section 3.02: Responsibilities of the Municipality

The Municipality shall adhere to agreed upon protocols (including circulating appropriate applications to the Risk Management Official) to ensure Part IV requirements are incorporated into the review of:

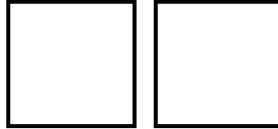
- (i) building permit applications; and
- (ii) applications under provisions of the *Planning Act* that are prescribed in section 62 of the Regulation.

Further the municipalities shall generally cooperate with and assist the Authority with the protection of drinking water sources.

Section 3.03: Information and Data Sharing

To facilitate implementation of this Agreement:

- (i) The Municipalities shall provide information and data required by the Authority to carry out their powers and duties under Part IV of the *Act*.
- (ii) The Authority shall provide records related to their powers and duties under Part IV of the *Act* to the Municipality, upon request. In the event of termination of this Agreement, records will be transferred to the Municipalities.
- (iii) The Authority will provide routine reports to the Municipalities as outlined in Schedule C of this agreement.



**ARTICLE FOUR
COSTS**

Section 4.01: Responsibility for Cost of Service Delivery

The Municipalities are responsible for the costs of the enforcement of Part IV of the Act where costs are not recovered through user fees. These costs are identified in the appropriate Municipal Part IV Transfer Agreement which also allow for the Authority to collect Fees to offset the costs to the municipalities.

Section 4.02: Recovery of Extraordinary Costs

The Authority, through consultation with the Municipalities, will recover from the Municipalities costs incurred as a result of legal actions initiated by or against the Authority associated with executing its duties and powers under this Agreement and for costs associated with non-routine work including but not limited to enforcement orders, warrants, appeals and Environmental Review Tribunal hearings. These costs are in addition to those outlined in Schedule A and are defined as “extraordinary costs”.

**ARTICLE FIVE
LIABILITIES AND INSURANCE**

Section 5.01: Insurance

The Authority shall provide and maintain Commercial/Comprehensive General Liability insurance subject to limits of not less than Five Million Dollars (\$5,000,000.00) inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof.

The Authority shall provide and maintain Errors and Omissions insurance subject to limits of not less than an annual aggregate of Five Million Dollars (\$5,000,000.00). Such insurance shall provide coverage for all errors and omissions made by the Authority, their officers, directors and employees in regard to the obligations of the Authority under this Agreement. Such insurance shall be kept in force for the two years following termination of this Agreement.

Such insurance shall be in the name of the Authority and shall name the Municipalities as an additional insured there under. Evidence of insurance satisfactory to the Municipalities shall be provided to the Municipalities prior to the commencement of work. The Authority shall annually provide the Municipality with Certificate(s) of Insurance confirming that the said insurance policies are in good standing.

Section 5.02: Workplace Safety and Insurance Board (WSIB)

The Authority will provide, upon request, verification of WSIB coverage.

**ARTICLE SIX
TERM, RENEWAL, TERMINATION AND AMENDMENT OF AGREEMENT**

Section 6.01: Initial Term

This Agreement shall continue in force for a period of 3 years, commencing on the first day of September, 2014 and ending the 31st day of August, 2017.

Section 6.02: Deemed Renewal

This Agreement will automatically continue following the expiry of the term set out in Section 7.01 until it is:

--	--

- a. Superseded or replaced by a subsequent agreement; or
- b. Terminated in its entirety by any party by giving 180 days written notice to all parties of the agreement.

Such automatic renewal shall be subject to an annual cost of living adjustment based on the Consumer Price Index (CPI) as published annually by Statistics Canada compounded annually since the execution of the agreement or such other cost adjustment as mutually agreed to and reflected in an amendment to this agreement pursuant to section 7.04.

Section 6.03: Termination

The Agreement may be terminated by any party with a minimum of 180 days written notice. Following the notification of the parties of the termination of the agreement, the remaining parties may choose to amend the agreement to remove the notifying party and otherwise modify the terms and conditions as allowed for by Section 6.04.

Section 6.04: Amendment

This Agreement may be amended by mutual agreement from time to time to reflect changes in programs, funding and personnel in both parties, or changes in provincial policy. Such amendments may include, but are not limited to, changes to the parties of this agreement.

**ARTICLE SEVEN
MISCELLANEOUS**

Section 7.01: Preamble

The preamble hereto shall be deemed to form an integral part hereof.

Section 7.02: Instrument in Writing

This Agreement shall not be changed, modified, terminated or discharged in whole or in part except by instrument in writing signed by the parties hereto, or their respective successors or permitted assigns, or otherwise as provided herein.

Section 7.03: Assignment

This Agreement shall not be assignable by any party. However, the Authority may, in consultation with the other parties, contract the services of others, including other Conservation Authorities, in the provision of this program.

Section 7.04: Force Majeure

Any delay or failure of either party to perform its obligations under this Agreement shall be excused and this Agreement is suspended if, and to the extent that, a delay or failure is caused by an event or occurrence beyond the reasonable control of the party and without its fault or negligence, such as, by way of example and not by way of limitation, acts of God, fires, floods, wind storms, riots, labour problems (including lock-outs, strikes and slow-downs) or court injunction or order.

Section 7.05: Notices

Any notice, report or other communication required or permitted to be given hereunder shall be in writing unless some other method of giving such notice, report or other communication is expressly accepted by the party to whom it is given and shall be given by being delivered or mailed to the addresses of the parties identified in Schedule B:

Any notice, report or other written communication, if delivered, shall be deemed to have been given or made on the date on which it was delivered to any employee of such party, or if mailed, postage prepaid, shall be deemed to have been given or made on the third business day following the day on which it was mailed (unless at the time of

--	--

mailing or within forty-eight hours thereof there shall be a strike, interruption or lock-out in the Canadian postal service in which case service shall be by way of delivery only).

Either party may at any time give notice in writing to the other party of the change of its address or contacts for the purpose of this Agreement. Such notice shall be provided with an update to Schedule B which shall not require an amendment to the Agreement.

Section 7.06: Headings

The Section headings hereof have been inserted for the convenience of reference only and shall not be construed to affect the meaning, construction or effect of this Agreement.

Section 7.07: Governing Law

The provisions of this Agreement shall be construed and interpreted in accordance with the laws of the Province of Ontario as at the time in effect.

Section 7.08: Counterparts

The Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Section 7.09: Schedules

The agreement includes the following schedules:

- (a) Schedule A – Project Description and Timelines
- (b) Schedule B – Notification Contacts
- (c) Schedule C – Reports; and
- (d) Schedule D – Municipal Part IV Transfer Agreements

Section 7.10: Execution of Agreement

The parties represent and warrant that they have:

- (a) the full power and authority to enter into the Agreement; and
- (b) taken all necessary actions to authorize the execution of the Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the day and year first written above.

UPPER THAMES RIVER CONSERVATION AUTHORITY

Chair	Date

General Manager/Secretary-Treasurer	Date

THE CORPORATION OF

Mayor	Date

City Clerk	Date