

Bill No. 582  
2018

By-law No. A.-\_\_\_\_\_-\_\_\_\_

A by-law to approve an Agreement between The Corporation of The City of London and the Upper Thames River Conservation Authority; and to authorize the Mayor and City Clerk to execute the Agreement.

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 provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purposes of exercising its authority under this or any other Act;

AND WHEREAS it is deemed expedient for The Corporation of The City of London (the "City") to enter into an Agreement with the Upper Thames River Conservation Authority, for the management of certain lands within the City of London (the "Agreement");

AND WHEREAS it is appropriate to authorize the Mayor and City Clerk to execute the Agreement on behalf of the City;

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

1. The Agreement attached as Schedule "A" to this by-law, being the Agreement between The Corporation of the City of London and the Upper Thames River Conservation Authority is hereby AUTHORIZED AND APPROVED.
2. The Mayor and City Clerk are authorized to execute the Agreement authorized and approved under section 1 of this by-law.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on October 16, 2018

Matt Brown  
Mayor

Catherine Saunders  
City Clerk

First Reading – October 16, 2018  
Second Reading – October 16, 2018  
Third Reading – October 16, 2018

## SCHEDULE "A"

**THIS AGREEMENT** dated as of the 1st day of January, 2019,

**BETWEEN:**

**UPPER THAMES RIVER CONSERVATION AUTHORITY**

(the "Authority")

OF THE FIRST PART

and

**THE CORPORATION OF THE CITY OF LONDON**

(the "City")

OF THE SECOND PART

**WHEREAS** the Authority and/or the City are the owners of the Environmentally Significant Natural

Areas (ESAs) located within the City of London, in the County of Middlesex, known as the Westminster Pond/Pond Mills, Kilally Meadows, Medway Valley Heritage Forest, Sifton Bog, Warbler Woods, Meadowlilly Woods, Kains Woods, The Coves, Lower Dingman, Kelly Stanton, and Pottersburg Valley which for the purposes of the City's Parks and Recreation By-law are considered to be ESAs under their joint management (hereinafter referred to as the "ESAs");

**AND WHEREAS** the Authority approves of the use of its ESA lands for public access as long as such public access is in compliance with the City's Parks and Recreation By-law;

**AND WHEREAS** the City desires the Authority to provide Management Activities for all of the ESAs under this agreement whether owned by the City or owned by the Authority;

**AND WHEREAS** the existing location and demarcation of the ESAs and their respective management areas are more particularly identified in the maps shown as Appendix #1 attached hereto;

**AND WHEREAS** the City and the Authority have previously entered into agreements dated the 2<sup>nd</sup> day of July, 1976 and the 15<sup>th</sup> day of March, 2002 and the 18<sup>th</sup> day of August 2008 and the 1<sup>st</sup> of January 2013 with respect to the creation, development and management of environmentally significant natural areas in the City of London;

**AND WHEREAS** the City and the Authority have agreed to enter into this Agreement in replacement to all previous management agreements as set out in the paragraph above and to provide for the maintenance, repair, service, development and operation of the ESAs and their respective management areas on the terms and conditions contained herein;

**AND WHEREAS** the Authority is governed by the *Conservation Authorities Act*, R.S.O. 1990, c. C.27, and s. 21 of that Act provides that, for the purpose of accomplishing its objects, an authority has power and may enter into a memorandum of understanding with a municipality situated in whole or in part within its area of jurisdiction in respect of programs and services that the authority will provide on behalf of the municipality; and further in s. 20 that the objects of an authority are to provide, in the area over which it has jurisdiction, programs and services designed to further the conservation, restoration, development and management of natural resources other than gas, oil, coal and minerals;

**AND WHEREAS** the City is governed by the *Municipal Act, 2001*, S.O. 2006, c. 11, Sch. A. as amended, and s. 9 of that Act 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 further in section 10(2) to pass by-laws respecting the “economic, social and environmental well-being of the municipality; health safety and well-being of persons; protection of persons and property; public assets of the municipality acquired for the purpose of exercising its authority under this or any other Act; providing services that the municipality considers necessary or desirable for the public; and animals;

**AND WHEREAS** the parties intend that the Authority’s costs of providing its services to the City will not form part of the Authority’s annual levy to the City for carrying out the Authority’s regulatory services under the *Conservation Authorities Act*;

**AND WHEREAS** the City intends to identify within the City’s annual operating budget the annual costs of this Agreement;

**NOW THEREFORE THIS AGREEMENT WITNESSETH** that in consideration of the premises and the mutual covenants and agreements herein contained, the parties hereto agree as follows:

### 1. Management Activities

(a) The Authority shall carry out the management activities described in Appendix #2, attached hereto (“Management Activities”) for the ESAs and other lands according to objectives established in the Conservation Master Plans for the ESAs, and as directed by the joint ESA Management Committee and as otherwise directed by the City;

(b) It is understood and agreed between the parties that the scheduling and timing of Management Activities as set forth in paragraph 1 (a) will be completed at the discretion of the Authority on the basis of regular consultation with the City and to the City’s satisfaction;

(c) The parties shall from time to time develop risk management and hazard tree management policies applicable to all lands within the ESAs and their respective management areas, whether owned by the City or the Authority;

(d) In performing its Management Activities under this Agreement, the Authority shall comply with all applicable policies as provided by the City, or as otherwise directed in writing by the City.

(e) The Authority shall provide a minimum of 6900 hours of service per year carrying out the Management Activities; and,

(f) The Authority shall provide quarterly reports to the City in a form acceptable to the City outlining progress on all Management Activities.

### 2. Term of Agreement

This agreement shall be for a term of five (5) years commencing on the 1st day of January, 2019 and shall expire on the 31st day of December, 2023.

### 3. Land Acquisition

Except as hereinafter provided, the parties hereto agree that the title to all lands within the ESAs shall remain in the name of the registered owner as of the date of the signing of this Agreement. As one of the methods of acquiring land necessary for implementation of the ESA Master Plans the Authority may, from time to time and when sums become available from the Province of Ontario, Ontario Ministry of Natural Resources and Forestry, obtain and register property in its own name. Any such land acquisitions shall only be done with the approval of the City.

The City may at any time acquire on behalf of itself or the Authority any land which may become available with respect to the ESAs or surrounding lands. It is hereby agreed between the parties that, with respect to any lands so purchased by the City, that the City

may apply through the Authority, to the Ministry of Natural Resources and Forestry or any other municipal, provincial or federal agencies, for such grants as may be available, and the Authority shall assist to ensure that such application is in fact made to the proper body.

#### 4. Payments to the Authority

(a) The Authority's costs to provide the Management Activities to the City as defined in subparagraph (b) below, are separate and distinct from the Authority's annual levy to the City for carrying out its regulatory services under the *Conservation Authorities Act*. The Authority shall not include in its annual levy to the City under the *Conservation Authorities Act* the costs for its Management Activities under this Agreement.

(b) In the first year of the term of this Agreement, the City shall pay the Authority seven hundred dollars (\$700.44) per hectare for the management of ESAs. As of January 1, 2019, the total area under management will be 735.6 ha. In each subsequent year of the term, the annual payment shall be increased by an amount equal to the annual increase in the Cost of Living Index, to a maximum of 2% on an annual basis, except as otherwise agreed by the parties.

The Authority shall use the payments provided by the City pursuant to this Agreement only for the specific purpose for which the payment is provided.

Notwithstanding anything in this Agreement, the Authority shall immediately refund to the City any payments made by the City that are in excess of the amount to which the Authority is entitled.

(c) The parties agree that a minimum of one (1) years notice will be given to the other party if any change to the payment formula described in paragraph 4 (b) is anticipated. In the event of a termination notice under section 11, the City's payment obligations for the following year shall be modified *pro rata*.

(d) As new ESA lands are acquired, the City shall pay the corresponding increase in the contract amount in accordance with the formula established in paragraph 4 (b) commencing in the next year. Program costs and management activities will be adjusted with the agreement of the parties in order that newly acquired ESA lands can be managed in accordance with this Agreement.

(e) The Authority shall submit its proposed expenses and revenues for providing the Management Activities for subsequent years to the City for its approval by May 30<sup>th</sup> in a format acceptable to the City and in accordance with generally accepted accounting and budgeting practices. The revenues shall include the value of any in kind services or donations received to offset the costs of maintenance, repair, development, operation and management of the ESAs.

(f) Payment by the City in each year shall be in accordance with procedures agreed upon by the parties, but such payments shall not be less than one twelfth of the sum owing in each year payable monthly by the City.

#### 5. Indemnification and Waiver

The Authority undertakes and agrees to defend and indemnify the City and hold the City harmless, at the Authority's sole expense, from and against all claims, demands, suits, losses, costs, damages and expenses that the City may sustain or incur by reason of:

- (a) any breach of this Agreement by any of the Authority, the Authority's employees, any subcontractor of the Authority, or persons for whom the Authority is at law responsible;
- (b) any loss or misuse of funds held by the Authority, the Authority's employees, subcontractor of the Authority, or persons for whom the Authority is at law responsible, under this Agreement;
- (c) the acts or omissions of the Authority, the Authority's employees, subcontractor of the Authority, or any person for whom the Authority is at law responsible in performing the services or otherwise carrying on the Authority's business, including any damage to

- any and all persons or property, whether deliberate, accidental or through negligence, and all tickets, fines or penalties;
- (d) any claim or finding that any of the Authority, the Authority's employees, subcontractor of the Authority, or persons for whom the Authority is at law responsible are employees of, or are in any employment relationship with, the City or are entitled to any Employment Benefits of any kind; and,
  - (e) any liability on the part of the City, under the *Income Tax Act* (Canada) or any other statute (including, without limitation, any Employment Benefits statute), to make contributions, withhold or remit any monies or make any deductions from payments, or to pay any related interest or penalties, by virtue of any of the following being considered to be an employee of the City, from Authority: Authority's employees or others for whom Authority is at law responsible in connection with the performance of services or otherwise in connection with Authority's business.

## 6. Responsibility for Damage

If the said lands, or any property installed thereon by the City shall become damaged by an act, omission or negligence of the Authority, the Authority shall promptly remedy the damage or pay such reasonable amount as may be required to restore the property to its pre-damage condition.

## 7. Insurance

The Authority agrees to purchase and maintain during the term of the agreement at its own expense obtain and maintain until the termination of the contract, and provide the City with evidence of:

- a) Comprehensive general liability insurance on an occurrence basis for an amount not less than five million (\$5,000,000) dollars and shall include the City as an additional insured with respect to the successful bidder(s) operations, acts and omissions relating to its obligations under this Agreement, such policy to include non-owned automobile liability, personal injury, broad form property damage, contractual liability, owners' and contractors' protective, products and completed operations, contingent employers liability, cross liability and severability of interest clauses;
- b) Automobile liability insurance for an amount not less than five million (\$5,000,000) dollars on forms meeting statutory requirements covering all vehicles used in any manner in connection with the performance of the terms of this Agreement;
- c) The policies shown above will not be cancelled or permitted to lapse unless the Authority ensures that the insurer notifies the City in writing at least thirty (30) days prior to the effective date of cancellation or expiry. The City reserves the right to request such higher limits of insurance or other types of policies appropriate to the work as the City may reasonable require; and
- d) Evidence that the insurance described above is in force shall be provided to the City on commencement of the program and thereafter at least once annually prior to the renewal date of the policy. The City reserves the right to request such higher limits of insurance or other types of insurance policies appropriate to program as it may reasonably require.

## 8. Licenses

The Authority shall have the right to licence the use of any lands within the ESAs that the Authority owns for the purposes consistent with the Master Plans, provided that the term of any such licence(s) shall not exceed one (1) year in duration. With respect to all licences having a term in excess of one (1) year, the Authority shall obtain the approval of the City regarding the terms and conditions of such licence prior to the issuance of the same. Any fees received by the Authority for such licensing hereunder shall be applied to and offset any costs, fees, charges, or other sums the City is responsible for pursuant to this agreement so as to so reduce such payments by the City.

## 9. Compliance

All parties shall at all times comply with all provisions of the Conservation Authorities Act and any amendments thereto and any regulations, by-laws and amendments in force from time to time and all rules and regulations pertaining to ESAs as may be enacted from time to time.

The Authority shall comply with all applicable federal, provincial and municipal legislation, regulations and by-laws.

The Authority shall ensure that it and all of its volunteers, employees or agents, if they deal with members of the public under this Agreement, receive training about the provision of services to persons with disabilities, in compliance with the *Accessibility for Ontarians with Disabilities Act, 2005* and its Regulations

## 10. Development

In accordance with the *Conservation Authorities Act*, and for greater certainty only, the City shall comply with all regulations of the Authority concerning the placement of fill, construction of buildings, alteration of waterways for any development on any lands within the ESA's unless the written consent of the Authority shall have been first obtained.

## 11. Termination

Either party may terminate this Agreement for any reason by giving one (1) year written notice to the other party.

## 12. The Authority's Contractual Status

(1) The Authority acknowledges and agrees this Agreement shall in no way be deemed or construed to be an Agreement of Employment. Specifically, the parties agree that it is not intended by this Agreement that the Authority nor any person employed by or associated with the Authority (including but not limited to its agents, officers, subcontractors) is an employee of, or has an employment relationship of any kind with the City or is in any way entitled to employment benefits of any kind whatsoever from the City whether under internal policies and programs of the City, the *Income Tax Act*, R.S.C. 1985 c.1 (1st Supp); the *Canada Pension Act*, R.S.C. 1985, c.C-8; the *Employment Insurance Act*, S.O. 1996,c.23; the *Workplace Safety and Insurance Act*, 1997 S.O. 1997, c.26 (Schedule "A"); the *Occupational Health and Safety Act*, R.S.O. 1990, c.o.1; the *Pay Equity Act*, R. S. O. 1990, c.P.7; the *Health Insurance Act*, R.S.O. 1990, c.H.6; or any other employment related legislation, all as may be amended from time to time, or otherwise.

(2) Notwithstanding subparagraph (1) above, it is the sole and exclusive responsibility of the Authority to make its own determination as to its status under the Acts referred to above and, in particular, to comply with the provisions of any of the aforesaid Acts, and to make any payments required thereunder.

(3) The parties are each independent of the other and this Agreement shall not operate to create a partnership, joint venture, employment arrangement, master servant relationship or any other similar relationship between the City and the Authority or between the City and any employees, agent or contractor of the Authority.

## 13. Assignment

Neither this Agreement nor any part or interest may be assigned, subcontracted or otherwise transferred by the Authority without the prior written consent of the City, which consent may be withheld.

## 14. Execution

The Authority acknowledges that it has read this Agreement, understands it and agrees to be bound by its terms and conditions.

**IN WITNESS WHEREOF** the parties hereto have duly executed this Agreement, under the hands of their duly authorized officers in that behalf.

**SIGNED, SEALED AND DELIVERED**

**UPPER THAMES RIVER CONSERVATION AUTHORITY**

\_\_\_\_\_  
Per:

\_\_\_\_\_  
Per:

\*We have the authority to bind the Upper Thames River Conservation Authority

**THE CORPORATION OF THE CITY OF LONDON**

\_\_\_\_\_  
Mayor

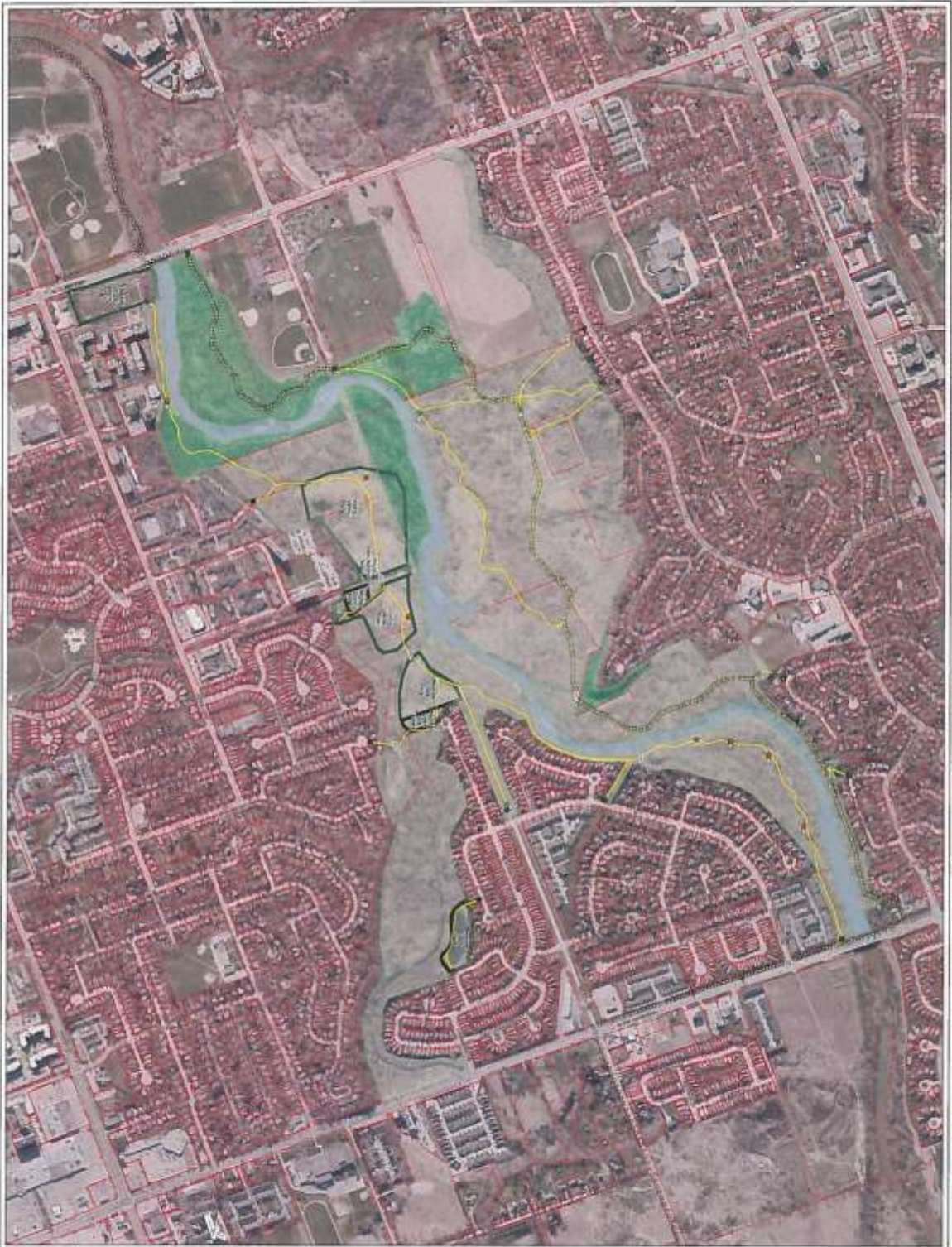
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City Clerk

# Appendix "1"

## ESA Management Area Maps







**Kiality Meadows  
2018 Management Area**

- Legend**
- Storage Structure**
- 1. Storage Structure
  - 2. Storage Structure
  - 3. Storage Structure
  - 4. Storage Structure
- Access Point**
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**UPPER THAMES RIVER**  
 2018 Management Area  
 Prepared by the City of London  
 Planning & Engineering  
 January 18, 2018

**Medway Valley  
Heritage Forest**  
2018 Management Area



**Legend**

**Managed Structures**

- Barrow (Blue)
- Barrow (Green)
- Bench
- Bridge
- Bunting
- Staircase
- Viewing Platform

**Access Point**

- 1 Woodford Road Foot
- 2 Abchurch Lane
- 3 Abchurch Road (West)
- 4 Abchurch Road (West)
- 5 Fairview Park Road West (West)
- 6 Fairview Park Road West (West)
- 7 Hickmidge Common
- 8 Sandgate Road West
- 9 Valley Road (West)
- 10 Greenway Common
- 11 Abchurch Park
- 12 Abchurch Road
- 13 Waterway Road (West)
- 14 Oak Farm Wilms Estate
- 15 Railway Road (North - Hovey College)
- 16 Railway Road (South - Green College)
- 17 Millers Common
- 18 Waterway Park
- 19 Denmark Gate (East)
- 20 Piccadilly Common
- 21 Valley Road (East)
- 22 Crossbridge Road

- Parking
- Management Trail (UTRCA) (H)
- Management Area (UTRCA) (H)
- City of London (WLB) (H)
- UTRCA (UTR) (H)

**Location Map**



**UPPER THAMES RIVER**  
CONSERVATION SOCIETY

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**Sifton Bog**  
2025 Management Area

**Legend**

- Managed Structures**
- Service Drive
  - Stormwater
  - Utility Structure
- Access Point**
- 1 Color Street (Bog Road)
  - 2 Hyde Park Road (Bog)
  - 3 Oak Ridge Park Street
  - 4 Maple Point
  - 5 (unlabeled)
  - 6 Silver Birch Road
  - 7 (unlabeled)
  - 8 (unlabeled)
  - 9 (unlabeled)
  - 10 (unlabeled)
- Phasing**
- Light Green: Phasing 1 (2025-2026)
  - Medium Green: Phasing 2 (2027-2028)
  - Dark Green: City will fund all of the UTILITY (2025)

**Location Map**



**UPPER THAMES RIVER**

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City of Victoria  
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**Warbler Woods**  
2018 Management Area

**Legend**

- Managed Structures**
- Barricade (Open)
  - Barricade (Closed)
  - Boardwalk
  - ≡ Bridge
  - ⊗ Railing
- Access Point**
- ① Commissioners Road West
  - ② Chestnut Court
  - ③ Springfield Crescent
  - ④ Tinker Drive
  - ⑤ Woodgate Place
  - ⑥ Cooler Place
  - ⑦ Baseline Road East
  - ⑧ Baseline Road West
  - ⑨ Warbler Woods Walk (North)
  - ⑩ Warbler Woods Walk (South)
  - ⑪ Upper West Avenue
  - ⑫ Beanhelm Way
  - Ⓟ Parking
- Managed Trail (5375 m)
  - ⋯ Thames Valley Trail
  - Management Area (40 ha)
  - City of London (40 ha)

**Location Map**



**UPPER THAMES RIVER**  
CONSERVATION TRUST

Map produced by UTCTCA with data  
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**Meadowlark Woods  
2016 Remediation Area**

**Legend**

- Damaged Structures**
- Baseline (Brown)
  - Baseline (Green)
  - Baseline (Red)
  - Baseline (Yellow)
- Access Point**
- ① Commissioner Blvd / Spring Ln
  - ② Meadowlark Road / Spring Ln
  - ③ Meadowlark Road / Spring Ln
  - ④ Springwater Road
- Phase**
- Management Area 1 (Light Blue)
  - Management Area 2 (Dark Blue)
  - City of Denver 151.9 (Red)

**Location Map**



**UPPER THAMES RIVER**  
 Map provided by UTRCA with data  
 provided by the City of Denver  
 on 10/13/2016. Page 13 of 13



**Cairns Woods**  
2018 Management Area

- Legend**
- Managed Structures
    - American Club
    - American Club
    - Club
    - Barbecue
    - Bridge
  - Access Point
    - Sign/Post
    - Sign/Post
    - Sign/Post
    - Sign/Post
    - Sign/Post
    - Sign/Post
  - Water Source
    - Water Source
    - Water Source
    - Water Source
  - Management Area
    - Management Area 1 (18)
    - Management Area 2 (18)
    - City of Cairns (18)



**UPPER THAMES RIVER**  
Cairns Woods 2018 Management Area

Map produced by Upper Thames River  
Prepared by the City of Cairns  
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**The Coves**  
2018 Management Area

**Legend**

- Managed Structures**
- Bridge
  - Railway
- Access Point**
- ① Springbank Drive
  - ② Brookdale Avenue
  - ③ MacAlpine Avenue
  - ④ Cove Road
  - ⑤ Elmwood Avenue
  - ⑥ Southeast Drive
  - ⑦ Phyllis Street
  - ⑧ Centre Crescent
  - ⑨ Baseline Road West
  - ⑩ Beachwood Avenue
  - ⑪ Rachel Street
  - ⑫ Emory Street
  - ⑬ Weston Avenue
  - ⑭ Mackay Avenue
  - ⑮ Strickon Street West
- Managed Trail (5842 m)
  - ⋯⋯⋯ Thames Valley Trail
  - Management Area (47.4 ha)
  - City of London (47.4 ha)

**Location Map**



**UPPER THAMES RIVER**  
CONSERVATION AUTHORITY

Map prepared by UTCA with data provided by the City of London. Copyright © UTCA 2018.



**Lower Dingman  
2016 Management Area**

**Legend**

- Access Point
- Homeowner
- Pipeline
- Management Area
- Management Area 2016
- City of Cambridge

**Location Map**





**UPPER THAMES RIVER  
WATER TREATMENT PLANT**

Map prepared by TITCO and the  
City of Cambridge, 2016  
Copyright © 2016





Kelly Stanton  
2018 Management Area

Legend	
	Managed (5 mi)
	Unmanaged Area (2.5 Mi)
	City of Laramie (5 Mi)



Location Map



**UPPER THAMES RIVER**  
This watershed is 100% unmanaged  
and is located in the City of Laramie  
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Potterburg Valley  
2018 Management Area

**Legend**

- Access point
- Trunkline Road
- Property
- Management Area (2018)
- Management Area (2016)
- City of Potterburg (2018)

Location Map



UPPER THAMES RIVER

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## Appendix “2”

### **Management Activities:**

The Management Activities to be performed by the Authority under this Agreement are:

- 1. Monitoring and enhancing the natural resource – Approximately 40% of total hours:**
  - a. Wildlife and habitat protection
  - b. Invasive species management, ecological restoration, and, monitoring
  - c. Native tree planting
  - d. Coordinate research initiatives
  
- 2. Enforcing applicable provincial statutes, regulations, and municipal bylaws – 20%:**
  - a. City Parks and Recreation By-laws, including encroachments into City ESA lands
  - b. Trespass to Property Act
  - c. Conservation Authority Act
  
- 3. Overseeing and implementing risk management and hazard tree policies – 5%:**
  - a. City Hazard Tree Risk Management Policy and Procedure Manual
  - b. Annual inspection of built structures (ex. stairs, boardwalks, docks, railings etc.)
  
- 4. Maintaining trail systems – 30%:**
  - a. Maintenance and upkeep of built structures (boardwalks, bridges, stairs, docks etc.)
  - b. Maintenance and upkeep of ESA entrances, and existing trail system
  - c. Maintenance and upkeep of all required signage
  - d. Garbage pick-up
  
- 5. Coordinating educational programs, events and community projects – 5%:**
  - a. Public meetings and presentations
  - b. Community projects and volunteer groups
  - c. Provide quarterly and annual reports to the City
  
- 6. Other management activities as agreed to in writing by the parties.**

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