

Cost Apportioning Agreement (“Agreement”)

THIS COST APPORTIONING AGREEMENT made the ____ day of _____, 2023.

BETWEEN:

MUNICIPALITY/TOWNSHIP/TOWN/CITY OF

(hereinafter, “Municipality”)

- and -

ESSEX REGION CONSERVATION AUTHORITY

(hereinafter, “ERCA”)

WHEREAS the ERCA is a conservation authority established under the Conservation Authorities Act (“Act”) and is governed by members appointed by its participating municipalities in accordance with the [Act](#);

AND WHEREAS a Participating Municipality, as defined under the Act, is located wholly or in part within the area under the jurisdiction of ERCA;

AND WHEREAS Section 21.1.2 of the Act permits ERCA to provide other non-mandatory programs and services, as it deems advisable, to further the purposes of the Act;

AND WHEREAS pursuant to Subsection 21.1.2 (2), if financing under [Section 25](#) (capital costs) or [27](#) (operating costs) by a participating municipality is necessary in order to provide a non-mandatory program or service, the program or service shall not be provided by ERCA unless a cost apportioning agreement has been entered into between ERCA and the participating municipality in respect of the program or service;

AND WHEREAS [O. Reg 687/21](#) Section 8 prescribes the minimum provisions to be included in municipal cost apportioning agreements;

NOW THEREFORE in consideration of the terms of this agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Term of Agreement

1. Initial Term of the Agreement is January 1, 2024, through December 31, 2027.
2. Thereafter, the Agreement shall continue for additional four-year periods (each “Renewal Term”) unless either party provides written notice of their intention to terminate this Agreement in accordance with paragraph 7.

Agreement Principles

3. The following principles shall guide the implementation of the Agreement between ERCA and the Municipality:
 - a. The Agreement will provide the overarching terms and conditions for the delivery of non-mandatory programs and services by ERCA that ERCA deems advisable to further the purpose of the Act.
 - b. ERCA wishes to continue to provide beneficial non-mandatory programs and services which support environmental sustainability and cultural heritage in the watershed, as outlined in Schedule A, and collectively described as the ‘funding envelope’.

- c. The Municipality agrees to financially support the programs and services outlined in Schedule A and for such support to be apportioned among the participating municipalities using the Modified Current Value Assessment method, as estimated in Schedule B.
- d. ERCA will not add to or delete from the funding envelope, without identifying such changes in the draft budget, circulated for municipal consultation as required by [O Reg 402/22](#). Any approved changes to the funding envelope shall be reflected in an updated Schedule A and Schedule B to be circulated and posted publicly.
- e. Estimates of required total municipal support as presented in Schedule B, are provided as guidance only, to facilitate municipal budgeting, and are subject to ERCA's annual budgeting process.
- f. ERCA's Board of Directors, through the annual budget process as specified in O. Reg 402/22, shall approve the allocation of resources, to the funding envelope, which may vary annually. The requirement for municipal financial support may fluctuate within the funding envelope but is approximately \$900,000, based on the average cost of program and services delivery as presented in Schedule A.
- g. ERCA may charge a user fee for the delivery of any of the programs and services outlined in Schedule A, where appropriate, to reduce the cost apportioned to the Municipality. User fees are reviewed and revised annually in accordance with the Authority's Fee Policy, which includes a provision for municipal consultation.
- h. Municipal cost apportioning revenues associated with this Agreement will be considered 'last dollar' funding and any unspent program funds or surpluses will enure to this Agreement and successor Agreements. ERCA will maintain appropriate deferred revenue accounts to hold unspent funds, at its discretion, and will not reallocate funds to Category 1 or 2 programs, without municipal approvals.

Review of Agreement

4. This Agreement shall be reviewed by the parties:
 - a. Prior to the expiry of the Initial Term and each Renewal Term. It shall be the ERCA's responsibility to initiate the review with the Municipality no less than one hundred and eighty (180) days prior to the expiry of the Initial Term or the Renewal Term, as the case may be.

Dispute Resolution

5. The Municipality and the ERCA will strive to facilitate open and timely communication at all levels.
6. Where a dispute arises between two or more parties, the parties agree that dispute resolution practices will be implemented using the following principles:
 - a. Agree to a fair process for mediating issues;
 - b. Utilize and equally share the costs of a neutral facilitator as agreed upon by the parties, if required;
 - c. Identify common agreement / ground, in the best interest of the parties;
 - d. Identify all options to resolve;
 - e. Select best option.

Early Termination

7. This Agreement may be terminated early by either party and:
 - a. Effective termination date shall be no earlier than December 31st of the termination year to provide continuity and stability of operations for a full fiscal year and/or to provide sufficient time to discontinue and/or revise programs or services;
 - b. A party wishing to provide notice of early termination shall provide written notice no later

than July 1st of the termination year.

Accountability and Transparency

8. This Cost Apportioning Agreement shall be made available on ERCA's website.

Execution

9. The Agreement may be executed in counterparts in writing or by electronic signature and delivered by mail, facsimile, or other electronic means, including in Portable Document Format (PDF); no one copy needs to be executed by all parties. When each party has executed a counterpart, each of such counterparts shall be deemed to be an original and all such counterparts, when taken together, shall constitute one and the same agreement.

Other Agreements

10. The Agreement does not preclude parties from identifying opportunities for further collaboration to benefit both parties, and ensure efficiency, transparency, and accountability in the use of resources, including in-kind services and assistance, coordination of complementary policy and program initiatives, and projects involving third parties. If additional programs and services are requested from ERCA to be delivered on behalf of the Municipality, a separate Category 2 Agreement will be established with the Municipality.

Watershed-based Resource Management Strategy

11. The Municipality acknowledges and agrees that certain programs and services identified in Schedule A shall also be included in a Watershed-based Resource Management Strategy that ERCA is required to develop and implement, in accordance with the Act.

IN WITNESS WHEREOF the Municipality and the ERCA have signed this Cost Apportioning Agreement.

MUNICIPALITY

Name
Position

Name
Position
I / We have authority to bind the Municipality.

ESSEX REGION CONSERVATION AUTHORITY

Tim Byrne
CAO/Secretary-Treasurer

I have authority to bind the ERCA.

Schedule A – Category 3 Funding Envelope of Programs and Services Requiring Municipal Financial Support Through Cost Apportioning Agreements

The funding envelope of Category 3 programs and services includes:

Non-Mandatory Program/Service	Program Cost Estimates	Sources of Funding	Budgeted 2023 Municipal Funding Requirement	User Fees
Land acquisition & protection	\$1,819,274	Levy, Gov't grants**	\$40,000	No
Tree planting – private lands	\$644,471	Grants, fees, levy	\$75,000	Yes
Holiday Beach site management & operations	\$336,925	Fees, levy	\$-	Yes
Holiday Beach infrastructure maintenance/repairs	\$1.8 million has been spent on replacing park infrastructure since 2015 using the infrastructure reserve	Levy	\$-	Limited to above
Water quality research & monitoring	\$24,394	Levy	\$-	No
Watershed stewardship & Ag outreach – private lands	\$45,049	Levy, fees, grants	\$73,000	Yes
John R Park Museum/Visitor's Centre operations & programming	\$284,682	Levy, fees, grants	\$135,962	Yes
JRPH museum maintenance & preservation reserve	\$110,190	ERCF(Foundation)/ Levy	\$515,000	Limited to above
Curriculum-based outdoor education	\$62,511	Grants, fees	\$-	Yes
Outreach & community engagement	\$64,522	Levy, grants	\$34,150	No
			\$873,112	

The majority of the non-mandatory service areas are core components of integrated watershed management that have been provided for decades. They are funded by a variety of sources as noted above and the program description for each service area is provided below:

Land Acquisition & Securement

Each year ERCA works towards the strategic purchase of lands that have the highest biological value, as indicated by the Land Securement Strategy, and that will have the greatest impact on improving the biological health of the region. While potential acquisitions are evaluated on a case-by-case basis, securement can address flood/erosion issues and potentially ensure the long-term protection of natural heritage links between existing fragmented forests and wetlands.

The land acquisition fund was initiated in 2003 through the Clean Water~Green Spaces Levy and the land acquisition component has comprised the majority of the historical CW~GS levy funding. Once purchased, restoration and management of these lands would be categorized as a mandatory activity.

In 2012, ERCA approved its Land Securement Strategy to provide a guideline for future ERCA land securement efforts. This Strategy aims to provide for the permanent protection of existing natural features through land securement procedures. It is important to note that the Land Securement Strategy focuses on natural heritage features and not on recreational opportunities.

The Land Securement Priority Areas (LSPA) are identified by examining a number of environmental features, through ERCA's Geographic Information System (GIS) analysis. This is addressed in consideration of the following information:

- Priority Existing Natural Areas – including Areas of Scientific or Natural Interest (ANSI), Environmentally Significant Areas (ESA), existing natural areas (both wetland and terrestrial), floodplain, interior woodland, significant woodland, Nature Conservancy of Canada (NCC) Natural Areas.
- Priority Restoration Opportunities – including NCC Natural Areas Conservation Plan priority lands, public lands, physiography, and restoration opportunities (e.g., woodlot, prairie, wetland, riparian/wetland buffers, etc.).
- Connections to Public Lands – areas that are adjacent to, or part of a larger feature (i.e., existing natural area, riparian or wetland buffer restoration) are identified as higher priorities. Similarly, potential to create interior forest by 'rounding edges' and filling in gaps between parcels are also identified.

The recent historical annual levy allocation for land acquisition and protection has been ~\$500,000 and comprises approximately 55% of the levies which are currently associated with non-mandatory programs and services. Government and other grants have been received periodically which have enabled the Authority to acquire significant and important parcels of property, which will remain in the public trust in perpetuity. Funds accumulate until an acquisition is approved by the Board of Directors.

The fund currently exceeds \$1.9 million and is expected to be maintained at that level throughout 2023. Due to the extensive remediation and repairs that are required at the John R Park Homestead museum, the Board of Directors re-directed \$500,000 from land acquisition funding to the JRPH maintenance/preservation reserve fund.

While currently there is no active acquisition that has been brought forward to the Board of Directors, there are many at-risk properties in the region and landowners often indicate an interest in selling a property with no advance indication. The Authority is periodically contacted by landowners with donations of real property that require consideration for the potential to significantly benefit watershed sustainability in our region that would also have financial impacts. In addition, Holiday Beach Conservation Area ownership remains with Infrastructure Ontario and would be an attractive and beneficial property, vis-a-vis Authority ownership.

Land acquisition is supported by the Board of Directors and will be included in the cost apportioning agreement and is included as a range between \$40,000 and ~\$512,000 in the Category 3 funding envelope.

Tree-Planting (Private Lands/Non-ERCA owned properties)

To achieve a sustainable future, mitigate climate impacts, expand existing remnant tree canopy cover, improve water quality, and keep endangered species from extinction in Canada, collaborative relationships must continue with private landowners to grow the amount of habitat restored in the region. The regional tree canopy cover in 1992 was at 3.71%, the lowest percentage of any county in Ontario. A study conducted by the United Nations established a minimum sustainability target of 12%. Despite recent efforts by ERCA, municipal partners and private landowners, currently the Windsor-Essex Region is estimated to be at approximately 8% forest cover. ERCA has restored over 330 acres of land on private property since 2016. These privately owned restoration sites are an invaluable contribution from our community as they further the rehabilitation of our region. Many member municipal councils have identified tree canopy restoration as a priority for a healthy, sustainable region.

Tree planting and restoration is not only supported by the Board of Directors but widely supported by the region's residents and accordingly, included in the cost apportioning agreement and is included as a range between \$70,000 and ~\$75,000 in the Category 3 funding envelope.

Holiday Beach Management/Operations

Holiday Beach Conservation Area is operated by the Authority under a thirty-year management agreement with the Province of Ontario, that expires in 2031, and can be cancelled with 120 days of notice. The Province of Ontario is the owner of the property and the Management Agreement currently in place has been authorized by the Ministry of Northern Development, Mines, Natural Resources and Forestry (previously MNR). Currently, Infrastructure Ontario holds title on behalf of the Province of Ontario. The Authority has no legal interest in the lands, buildings, or infrastructure on this site, which precludes the ability to levy for this property, as part of Category 1, (mandatory) conservation of lands.

The majority of expenses associated with this site are funded through user fees related to camping, hunting and cottage rentals, however, a minimal amount of levy (\$6,000) was allocated to support the day use in 2022, but not utilized. At the present time, it appears that the site may experience an unbudgeted operating deficit in 2023, primarily due to the ice storm in March 2023. In terms of managing a property for another agency, there should be a reasonable expectation of surplus or minimally, break-even results, however, this expectation may not be realistic, given the issues and risks associated with seasonal camping and the costs to reasonably mitigate risks.

Historically, site operations (without consideration of capital investment), were not profitable, but break-even results were experienced in 2021 and 2022. Administration continues to effect operational changes and evaluation. The site is widely used by the region's residents and will

be included in the cost apportioning agreement, however, may not require municipal contributions on a consistent basis during the term of the agreement.

Holiday Beach Infrastructure/Asset Maintenance & Replacement

\$1.8 million has been spent on replacing park infrastructure since 2015, and funded by the infrastructure reserve, which is supported through levy. While there have been significant repairs and replacements of assets, going back to 2006, failing infrastructure at this site is potentially the single largest source of financial risk to the Authority, due to linear infrastructure including roads, electrical supply, and sewers.

Administration is exploring the feasibility of ownership, which would need to include a consultant's assessment of assets and a comprehensive asset management plan to account for the infrastructure and guide future replacement and investment. Until ownership is addressed, the cost-apportioning agreement would not include a provision for capital asset replacement, however a reasonable provision of \$10,000 for certain emergency repairs related to electrical, sewer and road surfaces, should be contemplated and has been included in the funding envelope.

The operation of Holiday Beach is supported by the Board of Directors and will be included in the cost apportioning agreement and is included as a range between \$NIL and ~\$10,000 in the Category 3 funding envelope.

Watershed Stewardship and Agricultural Outreach (private lands)

Within the Essex region, water health is inextricably linked to farming practices. Because of this, ERCA continues to support the Essex Soil and Crop Improvement Association to facilitate knowledge transfer opportunities. In collaboration with the Ontario Ministry of Agriculture and Rural Affairs and Environment Canada, ERCA provides financial inducements to producers. These incentives to undertake Best Management Practices on local farms can reduce fertilizer applications, mitigate erosion, improve soils, and decrease nutrient and soil runoff that leads to toxic algae blooms in Lake Erie. The extent of lands currently in agricultural production in the Essex Region is approximately 74.1% of the overall watershed. This percentage of land obviously can have a significant impact on the capability of the watershed to respond to flood threats and the impact on erosion associated with problems resulting from the movement of sediment.

As authorized by the Board of Directors, the Demonstration Farm will wind down operations at the end of 2023 in order to more effectively utilize available funding and to provide greater opportunities for staff to engage the agricultural community in these beneficial activities.

Given the prominence of agriculture in the region, agricultural land stewardship and outreach is supported by the Board of Directors, will be included in the cost apportioning agreement, and is included as a range between ~\$35,000 and ~\$73,000 in the Category 3 funding envelope.

Water Quality Research & Monitoring

Healthy rivers, headwaters, and species in our watershed are key elements of a sustainable and healthy environment that residents rely on for sources of drinking water, the economy and for recreation. The ability to track and report on changes to these indicators of healthy watersheds and share that knowledge assists in the understanding of current watershed health and highlights emerging trends, used as a basis for setting environmental management priorities, research opportunities for other agencies, and overall management and protection of watershed resources. ERCA undertakes its watershed science programs in conjunction with the Provincial Water Quality Monitoring Network (PWQMN), Ontario Benthos Biomonitoring Network, the Provincial Groundwater Monitoring Network (PGMN) and works collaboratively with provincial

and federal ministries, and with universities, including the Great Lakes Institute for Environmental Research at the University of Windsor. As part of this program, the Authority produces a Watershed Report Card every five years.

While no new levy was required to support this program in 2023, this program will be included in the cost apportioning agreement but may not require significant levy on a consistent basis during the term of the agreement due to other available sources of funding and special water quality projects. For that reason, it is included as range between \$NIL and \$23,000 in the funding envelope.

John R. Park Museum and Fox Creek Conservation Centre operations & related programming

JRPH Museum is Ontario's only living historical farm museum west of London, giving it significant regional importance. The Homestead is unique as it features the original early settler homestead in its original location, as well as a working blacksmith shop, livestock program, heritage orchard and kitchen garden, and pollinator garden to provide an authentic, living history experience. The Homestead has been recognized by Tourism Windsor- Essex-Pelee Island as the Best Museum/ Heritage Space in Windsor-Essex for the past four years and is identified as a destination driver for regional tourism.

Thousands of schoolchildren attend each year for experiential education programs, exploring the human and natural history of the Essex Region, including our connectedness to, and impacts on the local environment. The John R. Park Homestead, in collaboration with the Windsor-Essex Catholic School Board, has also introduced an Indigenous Innovation education program to help decolonize the site and provide a fulsome history of our region.

While there are restrictive operating covenants in place, that were accepted when the property was transferred in 2008, the Ministry of Environment, Conservation & Parks (MECP), has directed that only the activities such as those related to maintaining the land as a conservation area, may be classified as category 1 program or services, and could include, for example, preserving the wetland and providing public nature trails, boardwalks, beach, and picnic areas, to the extent that supervision of staff is not required. Museum/Visitor Centre operations and related programming fall under Category 3, non-mandatory programs and services, as relayed by MECP in their correspondence of June 15, 2022.

The Board of Directors continue to support the operations of the JRPH site in accordance with the restrictive covenants that are in place despite the need for significant levy funding and the programs and services associated with the museum and visitor's centre will be included in the cost apportioning agreement and is expected to consume approximately \$135,000.

John R. Park Museum & Heritage Buildings Preservation

Recently, the Authority commissioned an asset condition report which revealed the extent of the deterioration of the main house and ancillary buildings, with an estimated remediation cost exceeding \$1million. While it is hopeful that an active fundraising campaign can provide the funds to restore the site to an acceptable level that will prolong the life of the building(s), given the immediate and urgent need for repairs, the Board of Directors approved a re-direction of the customary land acquisition annual levy funding of \$500,000, to the maintenance and preservation reserve fund. Prior to the additional allocation, \$12,000 to \$15,000 was allocated annually for maintenance, specific to the historic buildings, however the new Fox Creek Conservation Centre will also require future repairs & maintenance.

This program of heritage building remediation and maintenance will be included in the cost apportioning agreement and is included as a range between ~\$52,000 and ~\$512,000 in the Category 3 funding envelope.

Curriculum-based Outdoor Education

There is a significant body of research-based evidence surrounding the value of outdoor learning experiences. There is also increasing demand within the education sector for programs and services that focus on environmental issues that are germane today. ERCA's Outdoor Education programs provide experiential and engaging environmental programs and services for kindergarten to grade 12 students and teachers, meeting the objectives of the provincial curriculum. While this program has historically required an average annual levy of approximately \$30,000 to sustain it, significant fundraising through the Essex Region Conservation Foundation has eliminated the reliance on levy for approximately five years, starting in 2022.

The Outdoor Education program will be included in the cost apportioning agreement, however, may require levy supports during the latter years of the proposed term of the agreement, depending on fundraising success of the Essex Region Conservation Foundation. It is included as a range of \$NIL to ~\$14,000 in the funding envelope.

Outreach and Community Engagement

Engaging community members in stewardship opportunities is integral to conservation success across the region. Providing hands-on opportunities for people to connect with nature and take action for the environment raises awareness regarding broader local environmental issues, including increasing natural areas coverage, protecting mature forests, mitigating risks of natural hazards, such as flooding, and impacts of climate change on this region.

There continues to be increased demand from community members for volunteer opportunities to take action for the environment, and ERCA is uniquely positioned to coordinate these opportunities across the region. These stewardship events result in cleaner watersheds and increased habitat, implemented with volunteer support, and are most cost-effective when offered collaboratively on a watershed basis.

This community outreach program has historically required annual levy of approximately \$48,000 however, the 2023 levy requirement was reduced by available grants and carry forward of funds.

Community engagement by the Authority is supported by the Board of Directors, will be included in the cost apportioning agreement, and is included as a range between \$34,000 and ~\$48,000 in the Category 3 funding envelope.

Based on the Board-approved suite of non-mandatory programs and services, the range for municipal levy supports is shown in Schedule B.

Schedule B – Estimates of Cost Apportionment of Category 3 Programs

The estimated municipal costs associated with the Category 3 funding envelope outlined in Schedule A will be apportioned among the participating municipalities according to the Modified Current Value Assessment (MCVA), as outlined below. A range is included due to the shifting allocation within the funding envelope in recent budget cycles.

Appendix B- Cost Apportionment Estimates for Category 3 Non-Mandatory Programs & Services																				
Participating Municipality	Amherstburg		Essex		Kingsville		Lakeshore		Lasalle		Leamington		Pelee		Tecumseh		Windsor			
2023 MCVA	6.14%		4.86%		6.57%		9.88%		9.04%		6.34%		0.28%		8.16%		48.73%			
Estimate of Cost Apportionment (Levy) subject to agreement for Non-Mandatory programs and services	Avg Levy	2023	Avg Levy	2023	Avg Levy	2023	Avg Levy	2023	Avg Levy	2023	Avg Levy	2023	Avg Levy	2023	Avg Levy	2023	Avg Levy	2023	Total Avg Levy	Total 2023 Levy
Conservation Services																				
Land Acquisition	\$ 31,483	\$ 2,457	\$ 24,931	\$ 1,946	\$ 33,680	\$ 2,628	\$ 50,636	\$ 3,952	\$ 46,329	\$ 3,616	\$ 32,494	\$ 2,536	\$ 1,412	\$ 110	\$ 41,844	\$ 3,266	\$ 249,742	\$ 19,490	\$ 512,550	\$ 40,000
Tree planting/Wetland construction/Forest Mgmt. Plans	4,300	4,607	3,405	3,648	4,600	4,928	6,915	7,409	6,327	6,779	4,438	4,755	193	207	5,715	6,123	34,108	36,544	70,000	75,000
Holiday Beach Infrastructure Maintenance	614	-	486	-	657	-	988	-	904	-	634	-	28	-	816	-	4,873	-	10,000	-
Water Quality																				
Watershed Stewardship and Outreach (Rural & Agricultural)	2,185	4,484	1,730	3,551	2,337	4,797	3,514	7,212	3,215	6,598	2,255	4,628	98	201	2,904	5,960	17,330	35,570	35,567	73,000
Water Quality Program	1,396	-	1,106	-	1,494	-	2,246	-	2,054	-	1,441	-	63	-	1,856	-	11,075	-	22,730	-
Outreach, Engagement & Education																				
Curriculum-based outdoor education	847	-	670	-	906	-	1,362	-	1,246	-	874	-	38	-	1,125	-	6,716	-	13,783	-
Outreach/Community partnerships	2,974	2,098	2,355	1,661	3,181	2,244	4,783	3,374	4,376	3,087	3,069	2,165	133	94	3,953	2,788	23,591	16,640	48,417	34,150
John R Park Homestead Museum																				
JRPH Museum Operations	8,376	8,351	6,633	6,613	8,960	8,934	13,472	13,432	12,326	12,289	8,645	8,620	376	375	11,133	11,100	66,444	66,248	136,364	135,962
JRPH Museum & Heritage Buildings Preservation	3,215	31,633	2,546	25,050	3,439	33,841	5,170	50,878	4,730	46,550	3,318	32,649	144	1,419	4,272	42,044	25,500	250,936	52,333	515,000
Cost Apportionment low and high estimates in 2023\$	\$ 55,388	\$ 53,630	\$ 43,862	\$ 42,469	\$ 59,254	\$ 57,372	\$ 89,085	\$ 86,256	\$ 81,507	\$ 78,919	\$ 57,168	\$ 55,353	\$ 2,485	\$ 2,406	\$ 73,617	\$ 71,280	\$ 439,378	\$ 425,427	\$ 901,743	\$ 873,112