

**Report to
Rapport au:**

**Agriculture and Rural Affairs Committee
Comité de l'agriculture et des affaires rurales
1 October 2015 / 1 octobre 2015**

**and Council
et au Conseil
14 October 2015 / 14 octobre 2015**

**Submitted on September 13, 2015
Soumis le 13 septembre 2015**

**Submitted by
Soumis par:
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Acting Deputy City Manager / Directrice municipale adjointe par intérim,
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Ward: CITY WIDE / À L'ÉCHELLE DE LA VILLE File Number: ACS2015-PAI-PGM-0140

**SUBJECT: City of Ottawa/Rideau Valley Conservation Authority Septic System
Service Agreement**

**OBJET: Entente de service liée aux fosses septiques entre la Ville d'Ottawa
et l'Office de protection de la nature de la vallée Rideau**

REPORT RECOMMENDATIONS

That the Agriculture and Rural Affairs Committee recommend Council approve:

1. The renewal of the Septic System Service Agreement between the City of Ottawa and the Rideau Valley Conservation Authority effective January 1, 2016 to December 31, 2021, in the form attached as Document 1; and
2. The delegation of authority to the General Manager, Planning and Growth Management Department to execute the agreement in the form attached as Document 1 and any required renewals or extensions of the contract between the City of Ottawa and the Rideau Valley Conservation Authority for the enforcement of Part 8 of the Ontario Building Code.

RECOMMANDATIONS DU RAPPORT

Que le Comité de l'agriculture et des affaires rurales recommande au Conseil d'approuver ce qui suit :

1. Le renouvellement de l'entente de service de fosses septiques passée entre la Ville d'Ottawa et l'Office de protection de la nature de la vallée Rideau, valable du 1^{er} janvier 2016 au 31 décembre 2021, sous la forme ci-jointe comme document 1;
2. La délégation de pouvoirs au directeur général d'Urbanisme et Gestion de la croissance lui permettant d'appliquer l'entente jointe en tant que Document 1 ainsi que tout renouvellement ou prolongement requis du contrat passé entre la Ville d'Ottawa et l'Office de protection de la nature de la vallée Rideau et visant l'application de la Partie 8 du Code du bâtiment de l'Ontario.

BACKGROUND

Since 2001, the City has had an agreement with the Rideau Valley Conservation Authority (RVCA) to regulate Part 8 of the Ontario Building Code with respect to self-contained private systems with a capacity of less than 10,000 litres per day. Pursuant to Subsection 6.2(2) of the *Building Code Act*, municipalities are authorized to administer and enforce the regulations with their own resources or by appointing a conservation authority or board of health to undertake the reviews and inspections of new septic systems.

On March 6, 2003, Council approved the delegation of authority to the General Manager, Development Services to enter into an agreement between the City and the

RVCA for continuance of the agreement until December 31, 2006. The RVCA undertook this responsibility on behalf of the three conservation authorities that fall within the City of Ottawa; Mississippi Valley Conservation, Rideau Valley Conservation Authority and South Nation Conservation. In addition to this approval, Council approved the basic terms and conditions of the agreement, which formed the framework for the level of service provided by the RVCA in fulfilling the terms of the agreement. The existing agreement was extended beyond its original term in 2006, and again in 2010.

The RVCA, through its Ottawa Septic Systems Office (OSSO), oversees the review of permit applications for septic permits of self-contained private systems with a capacity of less than 10,000 litres per day within the legislated timeframes, issues permits, undertakes the inspections for determining Ontario Building Code compliance, enforces non-compliance; and where required, commences court action. In addition, the RVCA provides Ontario Building Code advisory services to the industry and applicants, access to septic systems permit records and responds to complaints related to new septic systems.

Below is a summary of the volume of services rendered by the RVCA over the last five years. The information is tracked by the RVCA using the City's MAP data information system and is accessible to staff.

Activity Summary	2010	2011	2012	2013	2014
On-site Sewage Permits	821	707	600	579	577
Renovation Permits	74	78	68	66	50
File Searches**	300	287	251	322	236
Complaint Investigations and Enforcement	32	63	62	42	52

RVCA Five Year Activity Summary

** For compliance reports for legal transactions, such as the purchase of a property.

DISCUSSION

The Building Code Services Branch has reviewed the level of service, client satisfaction reports and performance statistics provided by the RVCA. As a result of the review, it is recommended the City continue to outsource septic approvals and inspection services.

The RVCA is the centre of expertise for the enforcement of regulations under Part 8 of the Ontario Building Code and related issues pertaining to septic systems service. It is

able to provide a centralized, consistent, continuous service for all residents, irrespective of the location of the septic systems installation. The RVCA, as a steward of the environment and representative of local conservation authority interests, is best able to deliver a septic systems program that protects the environment and the three watersheds of the City of Ottawa (Rideau Valley, the South Nation River and the Mississippi Valley). A large number of municipalities rely on conservation authorities to enforce Part 8 of the *Building Code Act*.

If the City were to assume the role as principal authority for Part 8, the current service delivery model would have to be reconfigured to address the need for additional qualified staff to deliver the septic systems permit and inspections program across the city. Thus, by appointing the RVCA, the City does not assume any risk of liability and avoids all costs associated with the administration and enforcement of this part of the Building Code. All financial elements associated with the delivery of septic services under Part 8 of the Ontario Building Code are the sole responsibility of the RVCA.

Terms of Agreement

As set out in the proposed agreement attached as Document 1 to this report, the RVCA, through the OSSO, will continue to provide services based on the following terms and conditions:

- The RVCA (in partnership with Mississippi Valley Conservation and South Nation Conservation) is responsible for the enforcement of Part 8 of the Ontario Building Code relating to the review and approval of the construction of septic systems in the City of Ottawa.
- The RVCA will provide a septic systems program which comprises of the following functions in accordance with the *Building Code Act* and Ontario Building Code:
 - The review and approval of septic systems permit applications;
 - The inspection of construction of septic systems;
 - The issuance of sewage system permits and orders where there is non-compliance;
 - The commencement of prosecution and court actions;
 - The provision of information on Ontario Building Code compliance and abatement actions;

- Ontario Building Code advisory services;
 - The investigation and resolution of complaints;
 - Records management;
 - Performance monitoring and reporting; and,
 - Collection of fees to fully cost-recover the program.
- The RVCA is responsible for staffing the program with qualified individuals to meet the workload demands. The RVCA will appoint Sewage System Inspectors pursuant to the Ontario Building Code.
 - The RVCA is legally responsible and accountable for the decisions and work of the OSSO, from which the City is completely indemnified and insured.
 - The RVCA, through OSSO, is required to provide an over-the-counter, drop-in service to landowners at its office at 3889 Rideau Valley Drive. The Sewage Systems Inspectors will also receive applications from installers on site.
 - The RVCA is responsible for maintaining an electronic database of its reviews, approval and inspection activities. The electronic database is integrated into the City's MAP data information system so that all records relating to a particular installation are immediately available to City staff working in the building permit approval and inspection processes.
 - Any adjustments to the fee structure must follow the provisions set out in the Ontario Building Code.
 - The RVCA as well as the Mississippi Valley Conservation and South Nation River Conservation will meet with the rural councillors, once annually, to brief councillors on new initiatives or program changes, and to discuss service delivery and legislative issues.
 - The RVCA will continue to distribute client satisfaction surveys as part of the septic systems application process to provide the opportunity for the homeowner/installer to make comment regarding the service provided. The survey results will be shared with the City annually.
 - The RVCA will provide a copy of their annual report to Ontario Building Code Services branch for information. The report will include a breakdown of the following

activities: on-site sewage applications and permits for new construction, renovation permits, file searches. It should be noted that the annual report is made public on the RVCA website along with their performance measures and service response times.

- To align the RVCA with Section 7 of the *Building Code Act*, a new requirement has been added to Article Four of the Agreement for an annual financial report to be provided to the City of Ottawa which, pursuant to the provisions of Regulation Division C Part 1 (1.9.1.1) of the Ontario Building Code, includes information on sewage system permit fees collected; the costs of servicing sewage system permits and enforcing the *Building Code Act* and the Ontario Building Code (indirect and direct costs); and the balance of the reserve fund at year end.

RURAL IMPLICATIONS

The RVCA will continue to provide septic systems services to the rural areas of the City.

CONSULTATION

Meetings were conducted with the Ottawa Septic Service Office of the Rideau Valley Conservation Authority to confirm terms of the Agreement.

LEGAL IMPLICATIONS

There are no legal impediments to adopting the recommendations. The City is responsible for enforcing the Building Code pursuant to Section 3 of the *Building Code Act*. Section 6.2 of the *Building Code Act* provides that a municipality may enter into an agreement with a conservation authority for the enforcement of the *Act* and the Building Code with respect to sewage systems.

RISK MANAGEMENT IMPLICATIONS

There are no risk implications.

FINANCIAL IMPLICATIONS

The agreement includes stipulations that the Authority will collect fees to fully fund the cost of the program, and the City is not required to compensate the Authority for the services. Therefore, there are no City financial implications.

ACCESSIBILITY IMPACTS

The content of this report does not negatively affect people with disabilities or seniors.

ENVIRONMENTAL IMPLICATIONS

The continuance of the Septic Service Agreement with the Ottawa Septic Service Office of the Rideau Valley Conservation Authority ensures continued enforcement and compliance with the provisions of the Ontario Building Code and *Building Code Act* with respect to septic services in the City of Ottawa.

TERM OF COUNCIL PRIORITIES

Governance, Planning and Decision-Making (GP): The renewal of the agreement allows for the continuation of this service by the RVCA's staff who possess the knowledge, experience and expertise to provide consistent and centralized septic system services to Ottawa residents.

Financial Sustainability (FS): The continuation of this agreement ensures that City is able to avoid costs associated with staffing, administering and enforcing Part 8 of the Ontario Building Code, which can be provided much more economically through the RVCA.

SUPPORTING DOCUMENTATION

Document 1 Proposed Septic System Agreement between the City of Ottawa and the Rideau Valley Conservation Authority

DISPOSITION

General Manager, Planning and Growth Management Department, in consultation with City Clerk and Solicitor Department, to execute agreement.

Document 1 – Proposed Septic System Agreement between the City of Ottawa and the Rideau Valley Conservation Authority

**PROPOSED SEPTIC SYSTEM AGREEMENT BETWEEN
THE CITY OF OTTAWA AND THE RIDEAU VALLEY
CONSERVATION AUTHORITY
SEWAGE SYSTEM MANAGEMENT AGREEMENT**

This Agreement dated as of the 1st day of January, 2016

BETWEEN:

RIDEAU VALLEY CONSERVATION AUTHORITY

(hereinafter called the “Conservation Authority”)

OF THE FIRST PART

- AND -

THE CITY OF OTTAWA

(hereinafter called the “Municipality”)

OF THE SECOND PART

WHEREAS this Agreement is being entered into pursuant to the *Ontario Building Code Act*, 1992, S.O 1992, c.23, Subsection 6.2(2) (hereinafter called “the *Act*”), which states, a municipality that is not a party to an agreement under Subsection (1) may enter into an agreement with a board of health or a conservation authority having jurisdiction in the municipality for the enforcement of the provisions of this *Act* and the Ontario Building Code related to sewage systems.

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

ARTICLE ONE

GENERAL

Section 1.01 Application:

This Agreement shall be applicable to all lands within the municipality serviced by private sewage systems.

Section 1.02 Duties:

The Conservation Authority shall carry out its duties hereunder in accordance with the *Act* and the Ontario Building Code as amended, this Agreement and any other legislation contemplated hereunder.

The Rideau Valley Conservation Authority, as appointed by the City of Ottawa, shall carry out all Ontario Building Code duties pertaining to Part 8 of the Ontario Building Code, in accordance with all administrative duties and responsibilities outlined in said legislation.

ARTICLE TWO

DEFINITIONS

Section 2.01 of this Agreement,

- (i) "Sewage System" means - (a) a chemical toilet, an incinerating toilet, a recirculating toilet, a self-contained portable toilet and all forms of privy including a *portable privy*, an earth pit privy, a pail privy, a privy vault and a composting toilet system,
- (b) a greywater system,
- (c) a cesspool,
- (d) a leaching bed system, or
- (e) a system that requires or uses a *holding tank* for the retention of *hauled sewage* at the site where it is produced before its collection by a *hauled sewage system*, where these,
- (f) have a design capacity of 10,000 litres per day or less,
- (g) have, in total, a *design capacity* of 10,000 litres per day or less, where more than one of these are located on a lot or parcel of land, and
- (h) are located wholly within the boundaries of the lot or parcel of land on which is located the *building* or *buildings* they serve.

(ii) “Inspector” means an inspector appointed under Section 6.2 (3) of the *Building Code Act, 1992* as amended.

ARTICLE THREE

SERVICES OF THE CONSERVATION AUTHORITY

Section 3.01 Services:

The Conservation Authority shall provide the following services in relation to the Lands.

(i) Inspection of properties prior to the issuance of a permit for the construction, installation, establishment, enlargement, extension or alteration of a Sewage System.

(ii) Following the issuance of a permit, inspection and re-inspection where necessary, of Sewage System installations to ascertain compliance with the permit and other requirements under the *Act* or the Ontario Building Code.

(iii) Issue permits in accordance with the minimum standards set out in the *Act* and the Ontario Building Code relating to Sewage Systems.

(iv) Receive and process applications and requests related to activities listed in paragraphs (i) through (iii) of Section 3.01.

(v) Meet with the rural Councillors once annually and invite Mississippi Valley Conservation and South Nation River to attend, to brief the Councillors on new initiatives or program changes, and to discuss service delivery and legislative issues and as requested, attend meetings of Municipal Council and their committees to discuss matters relating to any provisions of the *Act* or the Ontario Building Code relating to Sewage Systems.

(vi) Maintain adequate records of all documents and other materials used in performing the duties required under this Agreement. This includes documenting Sewage System permits, renovation permits, files searches, customer complaints, malfunctioning Sewage Systems and Councillor inquiries in the Municipality’s data information system. Currently the City of Ottawa utilizes the Municipal Autodesk Partnership (MAP) system for tracking and reporting purposes.

(vii) Upon reasonable notice by the Municipality, provide reasonable access to the Municipality of all records kept under Subsection 3.01 (vi) within 5 days of such notice.

(viii) Provide information and expertise, where required, to the Municipality, its stakeholders and constituents regarding provisions of the *Act* and the Ontario Building Code relating to Sewage Systems.

(ix) Investigate complaints and malfunctioning Sewage Systems, undertake compliance counselling and preparation of reports for abatement action as it relates to existing and proposed Sewage Systems.

(x) Any other matters relating to the administration or enforcement of the *Act* or the Ontario Building Code relating to Sewage Systems.

(xi) Distribute a client satisfaction survey as part of the Septic Systems application process, to provide the opportunity for the homeowner/installer to make comment directly to the Municipality regarding the service provided by the Conservation Authority.

(xii) In addition to the annual reporting provision set out in the *Ontario Building Act* and Ontario Building Code, the Conservation Authority, will prepare and provide a report capturing the breakdown of services, including but not limited to, service standards, requests for service, client satisfaction results and response times to public and Councillor inquiries.

ARTICLE FOUR

FEES

Section 4.01 Collection of Fees:

The Conservation Authority shall collect and retain all fees payable by any person for work performed by the Conservation Authority hereunder as compensation for its services provided hereunder and all persons required to pay any such fee shall pay the fee to the Conservation Authority. The Authority agrees that compensation for the services outlined in Article Three - "Services of the Conservation Authority" shall be provided solely from the fees collected pursuant to Section 4.01 and the Municipality shall not be required to pay any compensation to the Authority for the services.

Section 4.02 Reserve Fund:

The Conservation Authority shall maintain a reserve fund that is sufficient to sustain the operating expenses of the Ottawa Septic System Office (OSSO) in respect to activities specifically related to the enforcement of Part 8 of the Ontario Building Code. The reserve fund shall be established from the collection of fees outlined in Section 4.01.

Section 4.03 Reporting

In accordance with Subsection 6.2(6) of the *Act*, which directs that Section 7 of the *Act* applies to a conservation authority that has assumed responsibility for sewage systems, the Conservation Authority shall prepare and provide the Municipality with an annual report pursuant to Section 7(4) of the *Act*, containing information on sewage system permit fees collected as well as the cost of servicing sewage system permits and enforcing the *Act* and Ontario Building Code. The annual report shall conform to Regulation Division C Part 1 (1.9.1.1) of the Ontario Building Code, which further requires that this annual report distinguish between direct and indirect costs and include the balance of the reserve(s) at year-end where such have been established.

ARTICLE FIVE

INSPECTORS

Section 5.01 Appointment:

The Board of Directors of the Conservation Authority shall be responsible for the appointment of all Inspectors and shall issue a certificate of appointment bearing his or her signature, or a facsimile to it, to each *Inspector* appointed by the Conservation Authority.

ARTICLE SIX

LIABILITIES AND INSURANCE

Section 6.01 Indemnification of the Conservation Authority:

The Conservation Authority, its directors, officers and employees shall indemnify and save harmless the Municipality from any and all claims, demands, causes of action, loss, costs or damages that the Municipality may suffer, incur, or be liable for, resulting from the performance of the Conservation Authority, its directors, officers and employees in the execution of the work and obligations described under this Agreement.

Section 6.02 Insurance:

The Conservation Authority shall provide and maintain for the term of this Agreement 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. Such insurance shall include, but is not limited to bodily injury and property damage including loss of use; personal injury; contractual liability; premises, property & operations; non-owned automobile; broad form

property damage; owners and contractors protective; occurrence property damage; products & completed operations; employees as Additional Insured(s); contingent employers liability; cross liability and severability of interest clause.

The Conservation Authority shall provide and maintain for the term of this Agreement Professional Liability insurance subject to limits of not less than an annual aggregate of \$2 million. Such insurance shall provide coverage for all errors and omissions made by the Conservation Authority, its officers, directors and employees in regard to the obligations of the Conservation Authority under this Agreement. Such insurance shall be kept in force for the term of the Agreement and for two (2) years following the conclusion of services provided under this Agreement.

Such insurance shall be in the name of the Conservation Authority and shall name the Municipality as an additional insured thereunder. This insurance shall be non-contributing with and apply as primary and not as excess of any insurance available to the City.

The Conservation Authority shall provide and maintain for the term of the Agreement liability insurance in respect to owned or leased licensed motor vehicles subject to a limit of \$5 million inclusive per occurrence for bodily injury, death and damage to property including loss of use thereof.

Such insurance policies shall contain an endorsement to provide the City with not less than thirty (30) days written notice of cancellation or of a material change that would diminish coverage.

Evidence of insurance satisfactory to the City of Ottawa shall be provided by the Conservation Authority prior to the commencement of work. The Conservation Authority shall annually provide the City with Certificate(s) of Insurance confirming that the said insurance policies are in good standing.

ARTICLE SEVEN

TERM AND TERMINATION OF AGREEMENT

Section 7.01 Term:

This Agreement shall be in force for a period of sixty (60) months, retroactively commencing January 1, 2010 and ending December 31st, 2015.

Section 7.02 Termination:

This Agreement may be terminated by either party on not less than 180 days written notice. Upon termination of this Agreement, the Conservation Authority shall provide the Municipality complete copies of all files and records of the Conservation Authority relating to the exercise of the delegated authority pursuant to this Agreement. The obligation of the Conservation Authority to indemnify the Municipality pursuant to Section 6.01 of this Agreement shall continue in full force and effect after the termination of this Agreement with respect to all actions or omissions of the Conservation Authority in executing the work under this Agreement prior to the date of termination.

ARTICLE EIGHT

MISCELLANEOUS

Section 8.01 Preamble:

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

Section 8.02 Gender, etc.:

Whenever the singular form is used in this Agreement and when required by the context, the same shall include the plural, the plural shall include the singular and the masculine gender shall include the feminine and neuter genders.

Section 8.03 Amendments:

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 8.05 Notices:

Any notices, 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 Conservation Authority:

Rideau Valley Conservation Authority

3889 Rideau Valley Drive, PO Box 599

Manotick, Ontario, K4M 1A5

Attention: General Manager