MEMORANDUM OF UNDERSTANDING
BETWEEN
THE NIAGARA ESCARPMENT COMMISSION
(The first party)
AND
THE MINISTER OF NATURAL RESOURCES
(The second party)
1.0 Introduction

1.1 Purpose of the Memorandum of Understanding

(a) The purpose of this Memorandum of Understanding ("MOU") is to
(i) Set out the accountability relationships between the Minister of Natural Resources (the "Minister") and the Chair of the Niagara Escarpment Commission (the "Chair");
(ii) Clarify the roles and responsibilities of the Minister, the Chair, the Deputy Minister, Ministry of Natural Resources (the "Deputy Minister") and the Director of the Niagara Escarpment Commission (the "Director"); and
(iii) Set out the expectations for the operational, administrative, financial, staffing, auditing and reporting arrangements between the Niagara Escarpment Commission (the "Commission") and the Ministry of Natural Resources (the "Ministry").
(b) This MOU should be read in conjunction with the Niagara Escarpment Planning and Development Act, R.S.O. 1990, c.N.2 ("NEPDA") as well as the Ministry of Natural Resources Act, R.S.O. 1990, c.M.31. This MOU does not affect, modify, limit or interfere with the powers of the Minister or the Commission as set out in the NEPDA, or interfere with the responsibilities of any of its parties as established by law. In the event of any conflict between this MOU and any act or regulation, the act or regulation prevails.

1.2 Definitions

In this MOU:

(a) “Act” or “NEPDA” means Niagara Escarpment Planning and Development Act, R.S.O. 1990 c.N.2, as may be amended;
(b) “AEAD” or the “Directive” means the Agency Establishment & Accountability Directive issued by the Management Board of Cabinet, effective January 26, 2010, or as amended from time to time;
(c) “Assistant Deputy Minister” or “ADM” means Assistant Deputy Minister, Policy Division, Ministry of Natural Resources responsible for the Niagara Escarpment Program;
(d) “Chair” means the Chair of the Niagara Escarpment Commission;
(e) “Commission” or “NEC” means the Niagara Escarpment Commission and Commissioners, a body corporate under the NEPDA;
(f) “Director” means the Director of the Niagara Escarpment Commission;
(g) “Deputy Minister” means Deputy Minister, Ministry of Natural Resources;
(h) “MBC” means Management Board of Cabinet;
(i) “Minister” means Minister of Natural Resources;
(j) “Ministry” or “MNR” means Ministry of Natural Resources;
(k) “Ministry Business Plans” also means Results Based Plans (RBP);
(l) “MOU” means Memorandum of Understanding;
(m) “NEP” or the “Plan” means Niagara Escarpment Plan and the “NEP Area” or the “Plan Area” means the area regulated under the Plan;
(n) “NEPOSS” means Niagara Escarpment Parks and Open Space System established under the NEP;
(o) “PSOA” means Public Service of Ontario Act, 2006, S.O. 2006, c. 35, Sched. A; and
(p) “TB” means Treasury Board.

1.3 Legislative Authority and Mandate

(a) The legislative authority, purpose, objectives and mandate of the Commission are set out in the NEPDA and the NEP (see Schedule A to this MOU for more detail).
(b) The NEP has been approved by the Lieutenant Governor in Council under the authority of the NEPDA; the NEP shall guide the activities and decisions of the Commission as set out in the NEPDA.

1.4 Agency Classification and Corporate Status

(a) The Commission is classified as a “Regulatory Agency (without a governing body)” under the AEAD.
(b) The Commission is a body corporate without share capital, created by the NEPDA and given responsibilities in connection with the preparation, implementation and amendment of the NEP, including the administration of the Development Permit system.
(c) The Corporations Act, R.S.O. 1990 c.C.38, does not apply to the Commission.

1.5 Statutes of Particular Application

(a) Statutes of particular application to the Commission, as referenced in this MOU, are specifically set out in Schedule B to this MOU.

1.6 Conflict of Interest

(a) Commission members shall abide by the conflict of interest guidelines approved by Cabinet for members appointed to agencies as set out in the Government Appointees Directive.
(b) The Commission shall abide by the conflict of interest rules found in Ontario Regulation 381/07 under the PSOA.
(c) For the purpose of applying post-service conflict of interest rules for former public servants, the Commission shall identify designated senior positions within the Commission that would be equivalent to those so designated for ministries in section 14 of Ontario Regulation 381/07 under the PSOA and shall include such list as Schedule C to this MOU.
(d) The ethics executive for the Commission shall be the Chair.
(e) The ethics executive for the Chair shall be the Conflict of Interest Commissioner.

1.7 Code of Conduct

(a) Commission members shall abide by the Code of Conduct for Regulatory Agencies as set out in the Niagara Escarpment Commission Policy and Procedure Manual dated April 2011, as amended from time to time.
(b) Upon appointment to the Niagara Escarpment Commission, Commission members shall review and affirm their commitment to and compliance with the Niagara Escarpment Commission’s Code of Conduct. Original signed copies of each Commissioner’s Acknowledgement of the Code of Conduct shall be kept on file at the Niagara Escarpment Commission Head Office in Georgetown, Ontario for the duration of the Commissioner’s appointment to the Niagara Escarpment Commission.

1.8 Effective Date and Duration of MOU

(a) This MOU becomes effective on the date it is signed by the Minister. Prior approval is required from the Chair and the MBC.
(b) This MOU will be in effect for five years from the effective date unless a new MOU becomes effective before then.
(c) After the date of expiry, this MOU shall remain in force for no more than six additional months until a new signed MOU is provided to the Secretary of the MBC.
(d) If a new minister or chair takes office before the date of expiry of the MOU, the new Minister or Chair shall affirm by letter that the MOU will continue in force without a review, or alternatively, the MOU may be reviewed. Where the Minister and Chair reaffirm this MOU, a Letter of Affirmation between the Minister and the Chair shall be provided to the Secretary of the MBC within six months of the new party or party’s commencement.

1.9 Process for Review and Amendment of the MOU

(a) Without affecting the effective date of this MOU, either the Minister or the Chair may initiate a review of this MOU by written request to the other.
(b) A full review of this MOU shall be conducted prior to the date of expiry, or within six months of a significant change to the Commission’s mandate, powers or governance structure as a result of an amendment to the NEP, the NEPDA or its associated regulations.
(c) The new or amended MOU shall be submitted to the MBC for review and approval prior to becoming effective. Where the MOU receives MBC approval, the MOU must be signed by the Chair and the Minister within 3 months of receiving MBC approval.
(d) Any amendments to this MOU do not come into effect until the amended MOU has been approved by the MBC and then signed by the Chair and the Minister. This MOU remains in effect until then.
(e) Any review of this MOU shall be negotiated by the Deputy Minister and the Chair (in consultation with the Director) and approved by the Chair, on behalf of the Commission, for final approval by the Minister.

2.0 Guiding Principles

(a) The Commission is a statutory body that exercises powers and performs duties in accordance with its purpose and mandate under the NEPDA and the NEP. The Minister acknowledges that the Commission operates at “arms length” from the government and is given independence in making decisions on questions in
accordance with the NEPDA and the NEP. The Minister further acknowledges the need for the Commission’s regulatory decisions to be made, and be seen by the public to be made, independently and impartially.

(b) The Minister acknowledges that the Commission plays a meaningful role in the development of the policies and programs of the government with respect to the NEPDA, as well as in the implementation of those policies and the delivery of those programs.

(c) The Chair acknowledges that accountability is a fundamental principle to be observed in the management, administration and operations of the Commission.

(d) As an agency of the government, the Commission shall conduct itself according to the management principles of the Government of Ontario. These principles include, but are not limited to, ethical behaviour; excellence in management; prudent, efficient and lawful use of public resources; high-quality service to the public; accountability; consistency; fairness; courtesy; and openness and transparency to the extent allowed under law.

(e) A risk-based approach shall be used to manage the Commission. The Commission shall employ a risk framework when making operational decisions.

(f) The Commission and the Ministry shall avoid duplication of services wherever possible.

3.0 Accountability Framework

3.1 The Minister

The Minister is accountable:

(a) To Cabinet and the Legislative Assembly for reporting and responding to the Legislative Assembly on the affairs of the Commission;

(b) For attesting, reporting and responding to TB/MBC on the Commission’s performance and compliance with the government’s applicable directives and operational policies;

(c) To the Cabinet for the performance of the Commission and its compliance with the government’s operational policies and broad policy directions;

(d) For receiving and ensuring that the Commission’s Annual Report is tabled in the Legislative Assembly; and

(e) For carrying out the roles and responsibilities assigned to the Minister by the NEPDA, this MOU, and applicable TB/MBC, Public Service Commission and Ministry of Finance Directives.

3.2 The Chair

The Chair is accountable:
(a) To the Minister for the performance of the Commission in fulfilling its mandate, and for carrying out the roles and responsibilities assigned to the Chair by the NEPDA, this MOU, and applicable TB/MBC, Public Service Commission, and Ministry of Finance directives;
(b) For reporting to the Minister, as requested, on the Commission’s activities; and
(c) For ensuring timely communications with the Minister regarding any issue that affects, or can reasonably be expected to affect, the Minister’s responsibilities for the Commission.

3.3 The Deputy Minister

The Deputy Minister is accountable:

(a) To the Secretary of the Cabinet and the Minister for the performance of the Ministry in providing administrative and organizational support to the Commission and for carrying out the roles and responsibilities assigned to the Deputy Minister by the Minister, the NEPDA, this MOU, and applicable TB/MBC and Ministry of Finance directives.

3.4 The Director

The Director is accountable:

(a) To the Chair for providing reports on the performance of the Commission;
(b) To the Deputy Minister for the day-to-day operation and management of the Commission staff consistent with government policy and within the parameters of the delegated authority under O. Reg. 148/10 under the PSOA; and
(c) To both the Chair and the Deputy Minister for carrying out the roles and responsibilities assigned to the Director by the Minister, the Deputy Minister, the Chair, the NEPDA, this MOU, and applicable TB/MBC and Ministry of Finance directives.

The Director receives direction from the Chair and the Commission with respect to policy and planning implementation and program and operational decision making within the jurisdiction of the Commission. Commission staff report to and are accountable to the Director for their performance.

4.0 Roles and Responsibilities

4.1 The Minister

The Minister shall be responsible for:

Business Planning and Performance Management

(a) Developing, reviewing and approving the Commission’s MOU in cooperation with the Chair and signing it into effect after it has been signed by the Chair. This
includes recommending the Commission’s MOU to TB/ MBC for approval before it is signed by the parties.

(b) Where required, recommending approval to TB/MBC of Ministry submissions affecting the powers, mandate, funding, governance and/or management of the Commission.

(c) Reviewing and approving the Commission’s annual Business Plan and Annual Report and presenting the estimates and recommended annual allocation for the Commission to MBC as part of the Ministry’s Business Plan. This includes advising the Commission of government fiscal priorities and constraints that the Commission is expected to observe and approving any new programs, major changes to existing programs and any other initiatives that would exceed the allocation in the Ministry’s approved Business Plan.

(d) Advising the Chair if and in what manner the Commission’s business and other plans are at variance with government or Ministry policy or priorities and directing the Commission to revise the plans accordingly. This includes the Commission’s Strategic Plans or Directions.

(e) Reviewing, approving of, or providing recommendations to the Commission or to TB/MBC on any other reports, plans, policies or strategies prepared by or requested from the Commission or resulting from audits or periodic reviews. This includes the Commission’s Strategic Plans or Directions and the Commission’s Risk Management Plan to be included in the Commission’s annual Business Plan.

(f) Determining at any time the need for a periodic review or audit of the Commission, requesting that the Chair undertake any such review or audit, and recommending to TB/MBC any changes to the governance or administration of the Commission resulting from any such review or audit.

**Reporting**

(g) Reporting and responding as required to the Legislative Assembly on the affairs of the Commission.

(h) Reporting annually to TB/MBC (in the Ministry Business Plan) on the status and content of the Commission’s MOU and its Business Plan.

(i) Receiving the Annual Report from the Commission and tabling it in the legislative assembly within 60 days of receiving the final draft.

(j) Attesting, reporting and responding to TB/MBC on the Commission’s performance, compliance with applicable TB/MBC directives, and the government’s operational policies and policy directions.

**Program and Policy Implementation**

(k) Monitoring and evaluating the Chair’s performance and compliance with government policies and directives, the NEPDA and the roles and responsibilities assigned to the Chair under this MOU.

(l) Monitoring and evaluating the activities of the Commission to ensure the Commission’s mandate is being fulfilled and is in compliance with government policies and directives, the NEPDA and this MOU.

(m) When appropriate and/or necessary, taking action or directing or recommending to the Chair that corrective action be taken in respect of the Commission’s
mandate or operations, with the exception of any action relating to a regulatory
decision to be made by the Commission.
(n) Communicating and providing information, advice and direction to the Chair and
the Commission on government policy, government and Ministry priorities, and
broad policy directions for the Commission and expectations of Commission
members.
(o) Consulting, as appropriate, with the Chair (and any other Commission staff as
necessary) on significant new directions or when the government is considering
regulatory or legislative changes for the Commission or to the NEPDA or any of
its associated regulations. This includes on the establishment of advisory
committees, as necessary, as provided for by the NEPDA as well as on the terms
of reference for any review of the NEP to be conducted in accordance with the
NEPDA and may include the assignment of any other tasks respecting the terms
of reference to the NEC as the Minister deems appropriate, to be carried out by
the NEC on behalf of the Minister. This also includes meeting with the Chair as
appropriate throughout the fiscal year.

Appointments

(p) Reviewing the advice or recommendations of the Chair on candidates to be
recommended to the Lieutenant Governor in Council for appointment or re-
appointment to the Commission pursuant to the process for agency
appointments established by the NEPDA and by applicable TB/MBC directives.

Delegation

(q) The Minister may delegate authority to a Deputy Minister or to any other
appropriate person for matters that fall under the purview of the Minister under
this MOU, subject to applicable law and any limitations, conditions and
requirements that the Minister sets out in such a delegation.

4.2 The Deputy Minister

The Deputy Minister shall be responsible for:

Ministerial Support

(a) Advising and assisting the Minister regarding the requirements of, and the
Minister’s responsibilities for the Commission under, the NEPDA, the AEAD, the
Government Appointees Directive, this MOU, and any other government policies
and directives that apply to the Commission.
(b) Recommending to the Minister, as may be necessary, the evaluation or review,
including a risk-based review, of the Commission or any of its programs, policies
or strategies, or changes to the management framework or operations of the
Commission.
(c) Supporting the Minister in reviewing the performance targets, measures and
results of the Commission and making recommendations to the Minister on the
same.
(d) Advising the Minister on documents submitted by the Commission to the Minister
for review and/or approval, including the Business Plan, Annual Report and any
other reports, plans, policies or strategies requested from or submitted by the Commission or produced by an audit or a risk-based or periodic review.
(e) Facilitating briefings and consultations between the Chair and the Minister, as well as between the Ministry staff and Commission staff, as appropriate. This includes meeting with the Chair as needed or as directed by the Minister.

**Business Planning and Performance Measurement**

(f) Negotiating and preparing a draft MOU with the Chair and the Director as directed by the Minister.
(g) Ensuring the Commission is advised on government business planning directions, requirements and priorities, as well as ensuring the provision of information on government-wide policies and priorities that help to guide the Commission in its business planning.
(h) Establishing a process and framework for reviewing and assessing the fulfillment of the Commission’s mandate, as well as its Business Plans, Annual Reports and other reports, plans or strategies prepared by or requested from the Commission or produced by an audit or a risk-based or periodic review, in relation to their compliance with the NEPDA, government and ministry directives, guidelines, policies and procedures and this MOU.
(i) Attesting to the TB/MBC as required to the Commission’s compliance with the mandatory accountability requirements set out in the AEAD and this MOU.
(j) Ensuring that the Commission has an appropriate risk-management framework and a risk management plan in place for managing risks that the Commission may encounter in fulfilling its mandate or meeting its program or service delivery objectives.
(k) Submitting to the Minister, as part of the annual planning process, a Risk Assessment and Risk Management Plan for the Commission.
(l) Ensuring that the Ministry and the Commission have the capacity and systems in place for on-going risk-based management, including appropriate oversight of the Commission.
(m) Ensuring the Commission is informed of the requirements, policies and priorities of the Ministry and government that apply to the Commission, including financial, administrative, human resources and corporate policies and priorities, and policies in respect of French language services, freedom of information, workplace harassment and equal opportunity.

**Program and Policy Implementation**

(n) Monitoring the Commission on behalf of the Minister while respecting the Commission’s authority; identifying needs for corrective action, where warranted; and recommending to the Minister ways of resolving any contentious issues that might arise from time to time as between the Ministry and the Commission.
(o) Consulting with the Chair and/or the Director, as necessary, to discuss matters of mutual importance to the Commission and the Ministry, such as Commission operations and support provided by the Ministry to the Commission, the priorities for implementation of the Niagara Escarpment program, the application of and compliance with government directives and policies, and the resolution of any issues or concerns.
(p) Informing the Chair, in writing, of new government directives and any exceptions to or exemptions from MBC Directives or Ministry administrative policies that may apply to the Commission.

(q) Arranging for administrative, financial or other support for the Commission consistent with Ministry plans, policies and priorities, Commission program requirements, and as specified in this MOU.

(r) Undertaking timely reviews of the Commission, its management or operations, as may be directed by the Minister.

(s) Cooperating with any review or audit of the agency as may be directed by the Minister or TB/MBC.

(t) Analyzing reports and other information requested from or submitted by the Commission to identify any performance issues of concern to the Ministry.

(u) In consultation with the ADM, ensuring that the Director’s performance contract describes the Director’s responsibilities, accountability to the Deputy Minister, reporting obligations to the Chair, and the standards to be met in performing those responsibilities and obligations. The Director’s performance contract will stipulate the Director’s obligations to support the Chair and the Commission in carrying out their mandate, duties and responsibilities and will be developed in consultation with the Chair and Director and include the signature of approval by the Chair or an attachment with an acknowledgment by the Chair that he or she has reviewed the contract and concurs with its contents.

(v) Conducting the Director’s performance appraisal and approve the Director’s Performance Development Plan (PDP), in cooperation with the Chair.

Delegation

(w) The Deputy Minister may, in accordance with the Delegation of Authority Key Directive and the PSOA and applicable government directives, delegate any of the powers and responsibilities under the purview of the Deputy Minister under this MOU to an Assistant Deputy Minister, or any other appropriate person, subject to any limitations, conditions and requirements that the Deputy Minister sets out in such a delegation.

4.3 The Chair

The Chair shall be responsible for:

Business Planning and Performance Measurement

(a) Developing the Commission’s MOU in cooperation with the Minister and the Deputy Minister and signing it on behalf of the Commission.

(b) Ensuring that the Commission carries out the responsibilities assigned to it in accordance with the NEPDA and approved corporate strategies, Business Plans and/or agency performance goals. This includes advising Commission members on the requirements of the AEAD, their responsibilities under the PSOA with regard to the rules of ethical conduct and ensuring compliance with this MOU, all applicable MBC Directives and Guidelines and the corporate financial and administrative policies and procedures of the Ministry. This also includes ensuring the Commission operates in accordance with Ministry approved Business Plans and Strategic Plans or Directions.
(c) Ensuring that the Commission operates within its approved budget allocation in fulfilling its mandate. This includes ensuring that public funds are used for the purpose intended and according to applicable legislation, regulations, directives, and the principles of integrity and honesty, ensuring value for money.

(d) Ensuring that appropriate management systems are in place (i.e. financial, information technology, human resources, etc.) for the effective administration of the Commission.

(e) Ensuring that the Commission has an appropriate risk management framework and mitigating strategy in place to help provide the proper level of assurance that program or service delivery objectives are met. This includes ensuring that an appropriate framework is in place to respond to and resolve complaints from the public in a timely manner.

(f) Setting the goals, objectives, performance measures and Strategic Directions for the Commission for the fulfillment of its mandate, to be set out in the Commission’s annual Business Plan, in accordance with the NEPDA and the provisions of this MOU for the approval of the Minister.

(g) Ensuring the Commission implements a system of performance goals, measures and reporting. The system must include commitments to attaining specific approved performance goals through specific actions, within specified time frames and will be used to assess the Commission’s performance.

**Reporting**

(h) Reporting to the Minister, as requested, on the Commission’s activities and performance within agreed upon timelines.

(i) Reviewing, approving and submitting to the Minister, on behalf of the Commission and within the time lines specified in this MOU, all formal documents related to the fulfillment of the Commission’s mandate including Business Plans, Annual Reports, financial reports and any other reports, plans or strategies prepared by or requested from the Commission or produced by an audit or periodic review. This includes providing both the Minister and the Minister of Finance with a copy of every audit report, a copy of the Commission’s response to each report, and any recommendations in the report, and advising the Minister annually on any outstanding audit recommendations.

(j) Ensuring timely communication with the Minister regarding any issues or events that concern or can reasonably be expected to concern the Minister in the exercise of the Minister’s responsibilities. This will occur through informal communications, meetings and the formal reporting mechanisms described in this MOU.

(k) Attending or making presentations before Cabinet, committees of Cabinet or the Legislature on matters concerning the affairs of the NEC when requested to do so by the Minister.

(l) Carrying out effective public communications and relations for the Commission as its chief spokesperson.

(m) Making available, on behalf of the Commission, such other data, information or reports on Commission affairs, performance and operations as the Ministry may require from time to time. This includes cooperating on and sharing any relevant information for any periodic review directed by the Minister or TB/MBC.
Program and Policy Implementation

(n) Monitoring the performance of the Commission and ensuring the implementation of actions that support the goals, objectives and Strategic Directions of the Commission. This includes directing that corrective action be taken if needed, in consultation with the Minister as appropriate.

(o) Seeking strategic policy direction and approval from the Minister, where appropriate, including during the preparation or review of the Commission’s annual Business Plan, Strategic Plan and the Commission’s Risk Management Plan.

(p) Promoting consistent, effective, understandable and timely decision-making by the Commission in the application of the NEPDA and implementation of the NEP.

(q) Consulting with the Minister and receiving the Minister’s approval in advance regarding any action or activity, excluding any action relating to a regulatory decision to be made by the Commission, which may depart from the purpose or objectives of the NEPDA, any government or ministry directives, policies, guidelines, and procedures or the powers and responsibilities of the Commission as set out in the NEPDA and this MOU.

(r) Ensuring that an appropriate framework is in place for the Director and Commission staff to receive adequate orientation and training, where necessary. This includes ensuring that Commission staff and the Director are aware of and comply with applicable TB/MBC and Ministry of Finance directives.

(s) Ensuring that confidentiality and conflict of interest matters in regard to the Commission are handled in accordance with this MOU. This includes recording any declared or apparent conflicts of interest of any Commission members in Commission Meeting minutes and ensuring such Minutes are available to the Minister and the Deputy Minister at the same time the Minutes are circulated to Commission Members.

(t) Fulfilling the role of ethics executive for Commission Members, promoting ethical conduct and ensuring that all Commission members are familiar with the ethical requirements of the PSOA, and the regulations and the directives made under the PSOA, including in respect of conflict of interest, political activity and the protected disclosure of wrongdoing.

(u) Ensuring the timely preparation and public availability of up-to-date policy guidelines, Commission minutes of proceedings and procedural rules respecting the Commission’s affairs. This includes ensuring that the Deputy Minister is given timely notice of all Commission meetings and all Commission meeting materials in a timely manner.

(v) Consult with the Deputy Minister in the evaluation of the performance of the Director and in the approval of the Director’s Performance Development Plan (PDP).

Appointments

(w) Notifying the Minister of appointment vacancies and making recommendations to the Minister on appointments and re-appointments of Commission members pursuant to the process for agency appointments established by the NEPDA and by MBC.
Delegation

(x) The Chair may delegate to the Director the exercise of any of the duties and responsibilities of the Chair, including the signing of official, financial, administrative or other documents (with the exception of this MOU) on behalf of the Chair or the Commission, subject to any limitations, conditions and requirements set out in such a delegation.

4.4 The Director

The Director shall be responsible for:

Business Planning and Performance Measurement

(a) Managing the day-to-day operations of the Commission in accordance with the mandate of the Commission, TB/MBC and Ministry of Finance directives, accepted government business and financial practices, and this MOU.
(b) Providing leadership and management to the Commission staff, including financial resources management. This includes establishing and applying a financial management framework for the Commission in accordance with applicable Minister of Finance controllership directives, policies and guidelines.
(c) Advising and supporting the Chair on meeting the requirements of and compliance with this MOU and the AEAD, as well as other government and Ministry directives, guidelines, policies and procedures, as applicable.
(d) Ensuring that the Commission’s strategic and Business Planning processes reflect government, Ministry and Commission policies, guidelines and directives, including this MOU.
(e) In consultation with the Chair, translating the goals, objectives, and Strategic Directions of the Commission into operational plans, actions and activities in accordance with Commission’s approved Business Plans and Strategic Plans and Directions.
(f) Ensuring the activities and expenditures of the Commission are managed in accordance with the approved Business Plan and other government policies, guidelines and directives.
(g) In consultation with the Chair, developing and implementing an effective program evaluation system with appropriate performance measures. This includes the development and implementation of a performance management system for Commission staff that are accountable to the Director.
(h) In consultation with the Chair, ensuring that the Commission has an appropriate risk management framework and mitigating strategy in place to help provide the proper level of assurance that program or service delivery objectives are met.

Reporting

(i) Keeping the Chair and the Deputy Minister informed on the implementation of the Commission’s management, operational and policy matters. This includes keeping the Deputy Minister and the Chair informed in a timely manner of issues or events, including contentious matters, that concern or can be reasonably expected to concern the Minister, the Deputy Minister and/or the Chair in the exercise of their responsibilities under the NEPDA, this MOU and/or the AEAD.
(j) Preparing formal documents relating to the fulfillment of the Commission’s mandate, including the Annual Report, the Business Plan, financial reports, corporate strategies, and any other reports, plans or strategies as required to be approved by the Chair for submission to the Minister in accordance with this MOU. This includes providing the Ministry with the Minutes of Commission meetings and any other reports requested for information purposes.

(k) Keeping the Chair and Commission members informed on all policy, program, planning and operating matters and in particular issues or events that could be of reasonable concern or interest to the Chair and the Commission members in fulfilling the Commission’s mandate and carrying out its duties under the NEPDA and the NEP.

Program and Policy Implementation

(l) Ensuring that the Commission has oversight capacity and an effective oversight framework in place for monitoring its management and operations.

(m) Carrying out in-year monitoring of the Commission’s performance (based on the program evaluation system) and its compliance with TB/MBC directives and the Ministry’s policies and procedures and reporting on those to the Chair and the Commission.

(n) Maintaining effective communications with the Deputy Minister and pertinent Ministry staff, and seeking, as appropriate, advice and support on program and administrative matters relevant to the Commission. This includes consulting as needed on MBC directives, Ministry policies and operational matters.

(o) Allocating the resources of the Commission to ensure the effective and efficient delivery of all programs and services and ensuring the application of policies to ensure public funds are spent with honesty and integrity.

(p) Implementing appropriate financial, information technology and human resources systems for the administration of the Commission and management of Commission staff to ensure the Commission policies are implemented effectively.

(q) Ensuring the NEPDA requirements and government’s direction on record creation, collection, maintenance and disposal are adhered to, including compliance with the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, and the *Archives and Recordkeeping Act*, 2006, S.O. 2006, c. 34, Sched. A., and making formal Commission documents publicly available as appropriate and in a timely manner.

(r) Developing and implementing, in consultation with the Chair, a formal complaint process for responding to complaints about the quality of service received by the Commission’s customers and clients consistent with the government’s customer service initiative; results will be included in the Commission’s Annual Report.

(s) Ensuring adequate training and orientation for Commission members and Commission staff regarding their roles and responsibilities.

(t) Assisting the Chair in the role of ethics executive for Commission staff, promoting ethical conduct and ensuring that all Commission staff are familiar with the ethical requirements of the PSOA and the regulations and directives made under the PSOA, including in respect of conflict of interest, political activity, and the protected disclosure of wrongdoing.

(u) Undertaking timely risk-based reviews of the Commission’s management and operations, as requested.
(v) Co-operating with any periodic review of the Commission as directed by the Minister or TB/MBC.
(w) Carrying out such responsibilities as may be assigned to him or her by the Minister, Deputy Minister, Chair or Commission under the terms of the NEPDA or the Director’s performance contract.

5.0 Reporting Requirements

5.1 Business Plans

(a) The Chair shall ensure that the Minister is provided annually with the Commission’s Business Plan covering a minimum of three years from the current fiscal year, which includes a financial budget and a Risk Management Plan, for approval within the timelines established by the Minister for this purpose.
(b) The Chair is responsible for ensuring that the Commission’s annual Business Plan fulfills the requirements of this MOU and the AEAD (see Schedule D for a more detailed summary of the requirements of the Commission’s annual Business Plan).
(c) The Chair is responsible for ensuring that the Commission’s annual Business Plan includes a system of performance measures and reporting on the achievement of the objectives set out in the Business Plan. The system must include performance goals, how they will be achieved, and target time frames.
(d) The Chair is responsible for ensuring that the Commission’s annual Business Plan includes a risk assessment and risk management plan to assist the Ministry in developing its risk assessment and risk management plan information in accordance with the AEAD to assess risks, develop and maintain necessary records and report the same to TB/MBC.
(e) The Minister shall review the Commission’s annual Business Plan and will advise the Chair whether or not the Minister concurs with the directions proposed by the Commission. In this regard, the Minister may advise the Chair where and in what manner the Commission’s plans vary from government or Ministry policies or priorities and the Commission shall revise its plan accordingly.
(f) The Minister shall approve the Business Plan once satisfied that it meets the requirements of this MOU, the AEAD and any other applicable government and Ministry policies, plans, guidelines and directives.
(g) TB/MBC may require that the Minister submit the Commission’s annual Business Plan to TB/MBC for review at any time.

5.2 Annual Reports

(a) The Chair is responsible for ensuring that the Commission’s Annual Report is submitted to the Minister for tabling in the legislative assembly. The Chair shall submit the Annual Report to the Minister within 90 days of the Commission’s fiscal year end.
(b) The Chair is responsible for ensuring that the Commission’s Annual Report fulfills the requirements of this MOU and the AEAD (see Schedule E for a more detailed summary of the requirements of the Annual Report).

(c) The Minister shall table the Commission’s Annual Report in the Legislative Assembly within 60 days of receiving it from the Commission. If the Legislative Assembly is not in session, the Minister shall file the Commission’s Annual Report with the Clerk’s Office within 60 days of receiving it from the Commission, at which time the Annual Report becomes a public document. When the Legislative Assembly is next sitting, receipt of the Commission’s Annual Report will be recorded.

5.3 Other Reports

(a) The Chair is also responsible for, at the request of the Minister or Deputy Minister, supplying any other reports, plans, policies, data and other information that may be required from time-to-time for review, information or approval purposes as determined by the Ministry for the purpose of Ministry administration and compliance with the roles, responsibilities and requirements of this MOU. This includes submission of the Commissions’ Strategic Plans and/or Directions to the Minister for approval.

(b) The Director is responsible for ensuring that Minutes of official Commission meetings are recorded and available to the Minister and Deputy Minister at the same time the Minutes are circulated to Commission Members.

6.0 Consultation and Communications

The parties to this MOU recognize that the timely exchange of information on the operations and administration of the Commission is essential for the Minister to meet the Ministerial responsibilities for reporting and responding to the Legislative Assembly on the affairs of the Commission. The parties also recognize that it is essential for the Chair to be kept informed of the government initiatives and broad policy directions that may affect the Commission’s mandate and functions.

The parties, therefore, agree as follows:

(a) “Communications” shall not include discussion or exchanging of information between Commission members or staff and the Minister, Deputy Minister or Ministry staff about specific applications that are or will be the subject of regulatory decision-making by the Commission.

(b) Inquiries received by the Minister’s office regarding an application before the Commission will be re-directed to the Commission without comment. Any response made by the Minister’s office to the inquiring party will indicate that the inquiry has been forwarded to the Commission and that the Minister cannot comment on regulatory proceeding.

(c) The Chair shall keep the Minister advised, in a timely manner, of all planned events and issues that concern or can be reasonably expected to concern the Minister in the exercise of the Minister’s responsibilities.
(d) The Minister shall consult with the Chair, as appropriate, on broad government policy initiatives or legislation being considered by the government that may impact on the Commission’s mandate or functions.

(e) The Minister and the Chair shall consult with each other on public communications strategies and publications. They shall keep each other informed of the results of stakeholder and other public consultations and discussions.

(f) The Minister and the Chair shall meet semi-annually, or as requested by either party, to discuss issues relating to the fulfillment of the Commission’s mandate, management and operations.

(g) The Deputy Minister and the Chair shall meet at least semi-annually, or as requested by either party, to discuss issues relating to the efficient operations of the Commission and the provisions of services by the Ministry to the Commission.

(h) The Commission and the Ministry will adhere to the Public Communications Protocol set out as Schedule F to this MOU.

7.0 Administrative Arrangements

7.1 Applicable Government Directives, Policies and Guidelines

(a) The Commission is a Commission Public Body under the PSOA. As such all TB/MBC, Public Service Commission, and Ministry of Finance directives, as well as all Ministry financial and administrative policies and procedures, apply to the Commission. Schedule G to this MOU provides a list of all applicable directives of TB/MBC, Ministry of Finance and Public Service Commission, under the PSOA.

(b) Schedule G to this MOU may be reviewed at any time at the request of either party to this MOU.

7.2 Administrative and Organizational Support Services

(a) The Ministry shall provide the Commission with the specific Administrative and Organizational support services set out in Schedule H to this MOU.

(b) The Deputy Minister shall be responsible for ensuring the provision of the administrative and organizational support services listed in Schedule H to this MOU and for negotiating with Ontario Shared Services concerning these services, as necessary or appropriate.

(c) Schedule H to this MOU may be reviewed at any time at the request of either party to this MOU.

(d) The Deputy Minister shall ensure that the support or services listed in Schedule H to this MOU are provided to the Commission at the Ministry’s expense and as specified by the Commission’s approved Business Plan. The Deputy Minister shall also ensure that any such support services provided to the Commission are of the same quality as those provided to the Ministry’s own divisions and branches.

7.3 Niagara Escarpment Action Team

(a) The Niagara Escarpment Action Team (NEAT) shall be maintained and shall be chaired jointly by the Director and the responsible MNR Director or Manager as
appointed by the ADM to ensure coordination of program delivery. NEAT shall also facilitate the resolution of issues or make recommendations on any other matters referred to it by the Minister, Deputy Minister or Chair.

(b) Meetings of the Niagara Escarpment Action Team shall be scheduled at the request of either the Director or the responsible MNR Director or Manager as appointed by the ADM.

7.4 Agreements with Third Parties

(a) The accountability relating to any agreements between the Commission and third parties shall be the subject of a service agreement between the Commission and the Third Party and is required to be approved by the Ministry.

(b) The Chair is responsible for ensuring that the legal, financial and other interests of the government in intellectual property are protected in any contract that the agency may enter into with a third party that involves the creation of intellectual property.

7.5 Procurement Arrangements

(a) Where necessary, the Commission may acquire goods and services, including construction and consulting services, in accordance with the Ministry’s Procurement Directive, dated April 2011, or as amended from time to time. This does not include the acquisition of goods and services related to advertising, public relations, media relations or creative services, which the Commission may acquire with the prior approval of the Minister in accordance with the Ministry’s Procurement Directive on Advertising, Public and Media Relations and Creative Communications Services, dated July 2009, or as amended from time to time, except advertising services as required by the provisions of the NEPDA (i.e. Notice of Plan Amendments pursuant to subsection 10(1)(b) of the NEPDA).

7.6 Conflict Resolution

The mandate of the Commission under the NEPDA and the NEP may conflict on occasion with the mandate of provincial Ministries, including MNR, operating in the NEP area. The parties to this MOU may also disagree with respect to the interpretation and implementation of this MOU. In the interest of managing any such conflicts in a business-like manner, the Ministry and the Commission shall agree to the following consultation and resolution mechanisms:

(a) Matters of public importance, identified as such by either party (i.e. major Corporate, Inter-ministerial or Cabinet issues), will be dealt with by the Minister or Deputy Minister (or delegate) and discussed with the Chair as appropriate.

(b) The final decision on matters of public importance shall be made by Cabinet, the Minister or Deputy Minister, as appropriate, or as may be required by law.

(c) Other matters will be resolved by the ADM and the Director in consultation, as necessary, with the Deputy Minister and the Chair.

(d) Matters may also be referred to the Niagara Escarpment Action Team (NEAT) by the Minister, Deputy Minister, the Chair or the Director and NEAT may make recommendations for resolution.

(e) The mechanisms described in paragraphs (a) to (d) above do not apply to any matters subject to the regulatory procedures set out in the NEPDA (e.g. formal
hearing processes or decisions) or matters involving judicial review or similar legal proceedings before the courts.

7.7 Legal Services

(a) The Ministry shall provide the Commission with legal advice and representation through the Legal Services Branch of the Ministry. The nature of legal services will be based upon what has been provided in previous years, and the level of service will be subject to considerations such as risk assessment, Branch capacity and priorities. These services shall be provided in accordance with the Ministry of the Attorney General's Corporate Operating Policy on Acquiring and Using Legal Services.
(b) The services set out in paragraph (a) shall be provided at no cost to the Commission.
(c) In the event that the Ministry’s Legal Services Branch does not have the expertise, resources and/or capacity to provide the services set out in paragraph (a), or where the provisions of such services would result in a conflict of interest, the Commission may request legal services from outside the Ministry’s Legal Services Branch. The Director of Legal Services, Director and the Assistant Deputy Minister shall decide how such outside legal services shall be provided to the Commission and paid for.
(d) The retention of legal counsel beyond the Ministry’s Legal Services Branch or the Ministry of the Attorney General shall be approved by the Ministry of the Attorney General. The retainer will be arranged for the Commission by the Ministry’s Legal Services Branch in accordance with any and all applicable TB/MBC directives on legal services and the retention of legal counsel under these circumstances.
(e) The accountability relating to the provision of outside legal services may be the subject of a service agreement between the Commission and the Ministry, where appropriate.

7.8 Freedom of Information and Protection of Privacy

(a) The Commission shall adhere to all of the requirements of the Freedom of Information and Protection of Privacy Act.
(b) The Minister is the institution head for the Commission for the purposes of the Freedom of Information and Protection of Privacy Act.

7.9 Delegation of Human Resource Management Authority under the PSOA

(a) Pursuant to O. Regulation 148/10 under the PSOA, the PSC has delegated its powers, duties and functions in relation to HR Management to the Director. As such, the Director is accountable for exercising that authority in compliance with any relevant legislation, directives, or policies in accordance with the mandate of the Commission, and within the parameters of the delegated authority.

7.10 Records Management

(b) The Chair is responsible for ensuring that the Commission has a system in place for the creation, collection, maintenance, and disposal of records.
(c) The Chair is responsible for ensuring that the Commission complies with the TB/MBC Management of Recorded Information Directive and the *Archives and Recordkeeping Act, 2006*, S.O. 2006, Chapter 34, Schedule A.

7.11 Service Standards

(a) The Chair shall ensure that the Commission delivers its services at a quality standard that reflects the principles and requirements of the OPS Service Directive.  
(b) The Commission shall have in place a formal process for responding to complaints about the quality of services received by the public consistent with the government’s service quality standards. However, the Commission’s process for responding to complaints about the quality of service is separate from any statutory provisions about re-consideration, appeals, etc. of the Commission’s regulatory decisions.  
(c) The Commission’s annual Business Plan shall include performance measures and targets for service standards and the Commission's response to any complaints about the Commission’s service standards.

7.12 Staffing and Appointments

(a) The Commission is staffed by persons employed under Part III of the PSOA and as such, Commission staff is eligible for all the rights and benefits accorded under the PSOA and relevant collective agreements.  
(b) The Commission, in its dealings with staff employed under the PSOA, is subject to MBC, Ministry and government human resources, corporate, financial and administrative policies, procedures, plans, guidelines and directives and Public Service Commission directives under the PSOA, as well as any applicable collective agreement provisions and any other applicable legislation as designated by the Minister.  
(c) The members of the Commission shall be appointed by the Lieutenant-Governor-in-Council on the recommendation of the Minister pursuant to subsections 5(2), 5(3) and 5(4) of the NEPDA, and in accordance with the Government Appointees Directive.  
(d) The Chair is appointed by the Lieutenant-Governor-in-Council on the recommendation of the Minister from one of the members appointed under subsection (c) above pursuant to subsection 5(6) of the NEPDA, and in accordance with the Government Appointees Directive.

7.13 Environmental Registry

(a) The NEC shall satisfy the requirements for posting proposals for plan amendments under the NEPDA as required under the *Environmental Bill of Rights, 1993*, S.O. 1993, c. 28, and its associated regulations, on the environmental registry and forward the information to the appropriate Ministry staff for posting onto the environmental registry.  
(b) The Ministry shall post those proposals for instruments under the NEPDA that require posting on the environmental registry pursuant to the *Environmental Bill of Rights, 1993*, S.O. 1993, c. 28, and its associated regulations and provide the NEC with access to any public comments received during the comment period.
(c) The Ministry shall satisfy the requirements for posting proposals for declarations pursuant to subsection 13(2) of the NEPDA, for proposals to amend a local plan pursuant to subsection 15 (2) of the NEPDA, and for proposals for regulation amendments under the NEPDA as required under the *Environmental Bill of Rights, 1993*, S.O. 1993, c. 28, and its associated regulations, on the environmental registry and forward the information to the appropriate Ministry staff for posting onto the environmental registry.

### 8.0 Financial Arrangements

#### 8.1 Funding

(a) The Commission is funded out of the Consolidated Revenue Fund in accordance with the provisions of the NEPDA as part of the Ministry’s appropriation authorized by the Legislative Assembly.

(b) The expenditure of funds on behalf of the Commission shall be directed by the Chair and the Director in accordance with the Minister-approved annual Business Plan. The Director shall prepare estimates of the Commission’s expenditures for inclusion in the Ministry’s Results Based Plan. The Chair shall submit these estimates to the Minister in sufficient time to be analyzed and approved by the Minister for inclusion in the Ministry’s Business Plan. The estimates provided by the Chair may, after appropriate consultation with the Chair, be revised by the Minister as required.

(c) Financial procedures of the Commission must be in accordance with TB/MBC and Ministry of Finance directives, policies and guidelines, as well as the corporate financial and administrative policies and procedures and other directives of the Ministry and government.

(d) Financial Arrangements are subject to amendment by such revenue policy directives as TB/MBC may issue or as required by any amendment of the NEPDA.

(e) Pursuant to Section 28 of the *Financial Administration Act*, R.S.O. 1990, c. F.12, the Commission shall not enter into any financial arrangement or commitment, guarantee, indemnity or similar transaction that may increase, directly or indirectly, the indebtedness or contingent liabilities of the Government of Ontario without the written approval of the Minister of Finance. The Minister’s approval is required before seeking the statutory approval from the Minister of Finance.

(f) When ordered to do so by the Minister of Finance, pursuant to Section 16.4 of the *Financial Administration Act*, R.S.O. 1990, c. F.12, the Commission shall pay into the Consolidated Revenue Fund any money that the Minister of Finance determines is surplus to its requirements.

#### 8.2 Financial Reports

(a) The Chair shall provide to the Minister annual financial statements which are to be included as part of the Commission’s Annual Report. The statements will be provided in a format that is in accordance with the province’s stated accounting policies issued by the Office of the Provincial Controller.
(b) The Commission shall submit to the Ministry of Finance its salary information according to the *Public Sector Salary Disclosure Act, 1996*, S.O. 1996, c.1. Sched. A.

### 8.3 Taxation Status: Harmonized Sales Tax

(a) The Commission receives a CVAT rebate under the Comprehensive Integrated Tax Coordination Agreement between the Government of Canada and The Government of Ontario as administered by Ontario Shared Services on behalf of the government of Ontario.

### 9.0 Audit and Review Arrangements

#### 9.1 Audits

(a) The Commission is subject to periodic review and value-for-money audits by the Auditor General under the *Auditor General Act*, R.S.O. 1990, c.A.35, or by the Ontario Internal Audit Division. Under the *Financial Administration Act*, R.S.O. 1990, c.F.12, the Minister of Finance may also request that the Commission be audited.

(b) The Ontario Internal Audit Division may also carry out an internal audit, if approved to do so by the Ministry’s Audit committee or by the Corporate Audit Committee.

(c) Regardless of any annual external audit, the Minister may direct that the Commission be audited at any time.

(d) The Commission shall promptly provide a copy of every report from an audit to the Minister and the Minister of Finance. The Commission shall also provide a copy of its response to the audit report and any recommendations contained therein. The Commission shall advise the Minister annually on any outstanding audit recommendations as set out in this MOU.

(e) The Commission, Commission staff and the Ministry shall co-operate in any audit of the Commission.

(f) The Chair may at any time request an external audit of the financial transactions or management controls of the Commission at the Commission’s expense.

(g) An audit may include the audit of funds held in accounts by or for the Commission (e.g., such as the Funds administered by the Ontario Heritage Trust for the Commission).

#### 9.2 Periodic and Risk-based Reviews

(a) The Commission may be subject to a review at the discretion and direction of either TB/MBC or the Minister. TB/MBC or the Minister shall determine the timing and responsibility for conducting the review, the roles of the Chair and the Deputy Minister, and how any other parties are to be involved, as appropriate depending upon whoever requested the review.

(b) A review may cover such matters relating to the Commission that are determined by TB/MBC or the Minister, and may include, but is not limited to the Commission’s mandate; aims and objectives; performance measurement systems; impacts on clients, stakeholders and the public; organizational structure; management systems; information systems; reporting and reports; corporate plans and planning; budgeting
and financial systems; human resources and human resources systems. A risk-based review shall also assess risks in each of the Commission’s risk categories in relation to any of the above described matters.

(c) The Minister shall consult the Chair as appropriate during any such review.

(d) The Chair and Director shall co-operate in any such review.

(e) The results of the review may include options for mandate changes, consolidation, privatization or termination. The results of the review will be submitted for further action to MBC or the Minister, as appropriate depending upon whoever requested the review. For any review requested by the Minister, the Minister will submit to MBC for approval any recommendations the Minister may make regarding the Commission as a result of the review.

(f) Further to paragraph (e) above, the Minister will recommend to TB/MBC any changes to the Commission’s mandate that require a corresponding change to the NEPDA and recommend any change in the powers to be given the Commission when a change in the Commission’s mandate is proposed.

10.0 Status of Schedules to the MOU

(a) All schedules to the MOU form part of this MOU.
11.0 Authorizing Signatures

The following signatures confirm agreement with this Memorandum of Understanding, including the attached Schedules A and B, between the Niagara Escarpment Commission and the Ministry of Natural Resources effective on the date of the Ministers signature.

For the Ministry of Natural Resources:

ORIGINAL SIGNED BY:

Michael Gravelle

Minister of Natural Resources

April 25, 2012

For the Niagara Escarpment Commission:

ORIGINAL SIGNED BY:

Don Scott

Chair, Niagara Escarpment Commission

March 1, 2012
1.0 Purpose and Objectives of the NEPDA, NEP and the Commission

The Commission is a body corporate constituted under the provisions of the NEPDA and given independence in the determination of questions in accordance with the NEPDA and the NEP. In its activities and decisions the Commission must have due regard for, and be consistent with, the provisions of the NEPDA and the purpose, objectives and policies of the NEP.

The Commission is responsible for its functions as set out in the NEPDA, including administering and implementing the NEP, and for matters delegated to it by the Minister. In addition there are matters designated in the NEPDA as Ministerial responsibilities and the co-ordination of the development and administration of NEPOSS, including land acquisition, by the Ministry. The Commission must also have regard for its contribution to other government policies and support to municipal planning. In exercising any authority under the NEPDA or the NEP, the Commission shall ensure that its decisions are consistent with the applicable provincial policy statements under the Planning Act. The Niagara Escarpment Plan shall take precedence over the Provincial Policy Statement to the extent of any conflict. The Commission shall be consistent with specific provisions of other provincial policies such as the Federal Fish Habitat Management Policy and the Parkland Open Space and Trails Policy as set out in the Greenbelt Plan.

The Commission and the Ministry recognize the significant role of the Commission in implementing overall government policies for land use planning and development on the Niagara Escarpment. The Commission’s mandate and functions are derived from the NEPDA and the NEP. In this role, the Commission also contributes to the Ministry’s long term Strategic Directions of ecological sustainability, biodiversity conservation and resource stewardship.

The purpose of the NEPDA is to “provide for the maintenance of the Niagara Escarpment and land in its vicinity substantially as a continuous natural environment, and to ensure only such development occurs as is compatible with that natural environment.” The objectives to be sought by the Commission and the Ministry through the NEP are:

1. To protect unique ecologic and historic areas;
2. To maintain and enhance the quality and character of natural streams and water supplies;
3. To provide adequate opportunities for outdoor recreation;
4. To maintain and enhance the open landscape character of the Niagara Escarpment, in so far as possible, by such means as compatible farming or forestry and by preserving the natural scenery;
5. To ensure that all new development is compatible with the purpose of the NEPDA;
6. To provide for adequate public access to the Niagara Escarpment; and
7. To support municipalities within the NEP Area in their exercise of planning functions conferred upon them by the Planning Act (as amended).

2.0 Mandate and Functions of the Commission

Under the leadership of the Minister, the Commission is responsible for administration of the NEPDA and the preparation and implementation of the NEP except for those functions retained by the Minister or Executive Council and/or assigned to the Ministry or others.

The current mandate and core functions of the Commission as determined by legislation, the NEP, corporate direction, Business Planning, direction from the Minister, and approvals of Executive Council are summarized as follows:

1. Promoting the objectives of the NEP and the NEPDA through a variety of communications, e.g. public relations, publications, marketing and stakeholder consultation.
2. Acting as the lead implementing agency for the NEPDA and the NEP for designated portions of Niagara Escarpment Program implementation and for such tasks as have been approved or may be subsequently directed by Cabinet, the Minister or the Deputy Minister.
3. Processing and making decisions on applications for Development Permits as governed by the provisions of the NEPDA and delegation from the Minister.
4. Processing and making recommendations on applications for Plan Amendments as governed by the provisions of the NEPDA, including those applications made by the Commission itself.
5. Providing comments to other ministries and agencies on land use undertakings, development proposals and interpretation of matters relating to policies of the NEP and programs of the Commission.
6. Intervening when necessary at hearings on development or planning proposals or similar undertakings, if in the opinion of the Commission, Plan policies are relevant and substantially threatened.
7. Serving as a commenting agency under the Planning Act and the Environmental Assessment Act and for the Parkway Belt West Plan, the Greenbelt Plan and the Growth Plan and providing comments on proposals outside of the NEP which may impact on lands and land use within or adjacent to the NEP Area.
8. Supporting the Province’s Greenspace initiative as set out in the Greenbelt Act, 2005, and the Greenbelt Plan, as well as supporting the Ministry’s Natural Spaces Initiative, where applicable.
9. Assisting the Minister with Plan implementation through the comprehensive review of other provincial plans or policies (i.e. the Provincial Policy Statement) and municipal official plans and bylaws for conformity with the NEP.

10. Co-operating with the Ministry, parks agencies and others in NEPOSS implementation, land stewardship, research and communication activities related to promoting and achieving Plan objectives.

11. Leading the Ontario Niagara Escarpment environmental monitoring program in co-operation with the Ministry and other partners.

12. Recommending Terms of Reference for and implementing periodic Plan Reviews as directed by the Minister and required by the Act.

13. Undertaking compliance, investigations and enforcement pursuant to the Provincial Offences Act (POA) Part 1 offence notices in accordance with the NEC’s Compliance Specialist POA appointment and undertaking compliance and inspections related to other possible major infractions pursuant to the provisions of the NEPDA and its associated regulations in accordance with any formal agreements, protocols, or understandings entered into with MNR outlining respective NEC and MNR roles, as applicable and amended from time to time.

14. Performing other duties and services, e.g. support for Niagara Escarpment parks acquisition, planning studies, public relations, communications initiatives, stewardship, research, etc., as may be requested by the Minister.
SCHEDULE “B”

TO THE MEMORANDUM OF UNDERSTANDING

BETWEEN

THE NIAGARA ESCARPMENT COMMISSION AND

THE MINISTER OF NATURAL RESOURCES

1.0 Statutes of Particular Application

As referenced in the MOU, the Commission is subject to the following statutes:

(a) Niagara Escarpment Planning and Development Act, R.S.O. 1990, c.N.2;
(c) Financial Administration Act, R.S.O. 1990, c. F.12;
(d) French Language Services Act, R.S.O. 1990, c. F.32;
(e) Archives and Recordkeeping Act, 2006, S.O. 2006, c. 34, Sched. A;
(f) Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005, c.11;
(g) Pay Equity Act, R.S.O. 1990, c.P.7; and
SCHEDULE “C”

TO THE MEMORANDUM OF UNDERSTANDING

BETWEEN

THE NIAGARA ESCARPMENT COMMISSION AND

THE MINISTER OF NATURAL RESOURCES

1.0 List of Designated Senior Positions for application of Post-Service Conflict of Interest Rules

For the purpose of applying post-service conflict of interest rules for former public servants, the following is a list of designated senior positions within the Commission that would be equivalent to those so designated for ministries in section 14 of Ontario Regulation 381/07 under the PSOA as referenced in section 1.6 of the MOU,

(a) Chair; and
(b) Director.
SCHEDULE “D”

TO THE MEMORANDUM OF UNDERSTANDING

BETWEEN

THE NIAGARA ESCARPMENT COMMISSION AND

THE MINISTER OF NATURAL RESOURCES

1.0 Annual Business Plan Requirements

Note: Business Planning and Reporting requirements may change as required to meet revised TB/MBC Directives and Guidelines as approved from time to time. The MOU is considered to be amended to meet any new requirements without the requirement to approve a new MOU reflecting those changes.

<table>
<thead>
<tr>
<th>Report Requirements</th>
<th>Deadline:</th>
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<tbody>
<tr>
<td>The Commission’s Annual Business Plan must report on the following:</td>
<td>As part of the Ministry’s annual business planning and work planning process and required by the MBC directive for agencies.</td>
</tr>
<tr>
<td>• The mandate of and the Strategic Directions for the Commission;</td>
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<tr>
<td>• Resources required to meet the objectives of the Commission’s mandate as well as the Commission’s Strategic Directions;</td>
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<tr>
<td>• Assessment of issues facing the Commission (i.e. an environmental scan);</td>
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<tr>
<td>• An overview of the Commission’s current and future programs and activities to meet Commission goals and objectives;</td>
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<tr>
<td>• Outline of objectives and results which the Commission expects to achieve and contribution to government, Ministry and Commission priorities and policies;</td>
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<tr>
<td>• Identification and assessment of risk and mitigation strategies related to the Commission’s mandate and Strategic Directions as outlined in the governments Guide to the Risk-Based Approach ;</td>
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<tr>
<td>• Multi –year plan providing the financial outlook with financial statements</td>
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<tr>
<td>• Financial budget including expenditures for the preceding year and projections over the three-year period of the Business Plan (including proposed operating expenditures and projected revenues)</td>
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<tr>
<td>• Summary of staff numbers, impact of Business Plan on human resources and compensation strategy including employee benefits</td>
<td>All Business Plans are required to be submitted.</td>
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<td>Report Requirements:</td>
<td>Deadline:</td>
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<td>and benchmarking against other public sector bodies;</td>
<td>to the Minister for signature and are only to be considered valid after</td>
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<tr>
<td>• Description of any initiatives with third parties such as other levels of</td>
<td>the Minister has approved the plan by affixing a signature.</td>
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<td>government or not-for-profit foundations;</td>
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<tr>
<td>• Performance measures plan including performance measures, targets and</td>
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<tr>
<td>benchmarks to be used to evaluate the extent to which the Commission achieves its</td>
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<tr>
<td>goals and objectives over the life of the Business Plan;</td>
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<tr>
<td>• Performance measures and targets for customer service over the three-year</td>
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<td>period of the Business Plan and the Commission’s process for responding to</td>
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<td>complaints;</td>
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<td>• Implementation plan; and</td>
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<tr>
<td>• Communications plan.</td>
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SCHEDULE “E”

TO THE MEMORANDUM OF UNDERSTANDING

BETWEEN

THE NIAGARA ESCARPMENT COMMISSION AND

THE MINISTER OF NATURAL RESOURCES

1.0 Annual Report Requirements

Note: Annual Reporting requirements may change as required to meet revised MBC Directives, Policies and Guidelines as approved from time to time. The MOU is considered to be amended to meet any new requirements without the requirement to approve a new MOU reflecting those changes.

<table>
<thead>
<tr>
<th>Report Requirements:</th>
<th>Submission Due:</th>
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<tbody>
<tr>
<td>The Commission’s Annual Report must contain the following elements:</td>
<td>Within 90 days of the Commission’s fiscal year-end.</td>
</tr>
<tr>
<td>• Description of Commission activities during the fiscal year reported;</td>
<td>To be tabled in the Legislative Assembly or filed with the Clerk’s Office if the Legislative Assembly is not Sitting by the Minister within 60 days of receiving the Annual Report from the Commission.</td>
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<tr>
<td>• Description of achievements during the fiscal year in relation to program objectives and planned results set out in the Commission Annual Business Plan including: Development Control, communications, monitoring and Plan administration and any other items that may be required;</td>
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<tr>
<td>• Performance measures report including an explanation of significant variances between actual and planned results or performance targets and actions to be taken when planned results or targets are not achieved;</td>
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<tr>
<td>• A brief description of funding distribution and staffing for the fiscal year;</td>
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<tr>
<td>• Report on the effectiveness of Plan implementation;</td>
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<tr>
<td>• Report on the relations with Plan stakeholders;</td>
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<tr>
<td>• Names of the Commissioners, date when first appointed and when their current term of appointment expires; and</td>
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<tr>
<td>• Analysis of the Commission’s financial and operational performance including any financial statements resulting from an audit or as required by MNR</td>
<td></td>
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</tbody>
</table>
SCHEDULE “F”

TO THE MEMORANDUM OF UNDERSTANDING

BETWEEN

THE NIAGARA ESCRAPMENT COMMISSION AND

THE MINISTER OF NATURAL RESOURCES

1.0 Public Communications Protocol

1.1 Definitions

“Public Communications” means any material that is communicated to the public, either directly or through the media in:

- Oral form, such as a speech or public presentation;
- Printed form, such as a hard copy; and
- Electronic form, such as a posting to a website.

A “contentious issue” is a matter that is, or may reasonably be expected to be, of concern to the legislative assembly or the public, or is likely to result in inquiries being directed to the Minister or government. Contentious issues may be raised by:

- Members of the Legislative Assembly;
- The public;
- The media;
- Stakeholders; or
- Service delivery partner.


1.3 The Ministry and the Commission shall appoint persons to serve as public communications “leads” as follows:

- The Ministry lead is the Ministry of Natural Resources Niagara Escarpment Program Team Leader;
- The Commission lead is the Chair.

1.4 For the purpose of this protocol, public communications are divided into three categories:

1) Media responses or news releases related to the day-to-day business of the Commission and its programs that do not have direct implications for either the Ministry or the government
• The Commission should communicate their media responses or news releases to the Ministry lead, who will circulate as appropriate to other individuals within the Ministry.
• This category does not include contentious issues, media responses, or news releases that directly or indirectly announce grants or other funding to organizations.

2) Media responses, news releases, or communications plans where provincial or Ministerial messaging on government priorities would enhance the Commission’s or the government’s profile, or would provide opportunities for local MPP announcements

• The Commission lead will notify the Ministry lead of upcoming media responses, news releases, and communications plans fifteen days in advance for all non-contentious items that might generate media interest
• For non-contentious items which provide government messaging opportunities or which involve funding announcements, the Commission must also request approval of news releases or communications plans seven days prior to the date required
• Final approval is required from the Minister’s office. If the Commission were not to receive comments or approval from the Minister’s office or Ministry lead within forty-eight hours of the date on which the item is to be issued, the agency can proceed accordingly.

3) Contentious issues, media responses, and news releases that may have direct implications for either the Ministry or the government, or are likely to result in inquiries being directed to the Minister or government (including all funding or grants announcements)

• For all contentious issues, the Commission lead will notify the Ministry lead immediately upon becoming aware of the issue and will notify the Minister’s office simultaneously. The Ministry lead may also advise the Commission of contentious issues that require attention. The Commission will provide all required background information on the issue to the Ministry lead, who will arrange to have a contentious issues note prepared.
• The Commission must obtain Ministry approval prior to issuing media responses or news releases in this category. The Commission lead will provide the media response or news releases to the Ministry lead who will initiate the approval process within the Ministry.
• Final approval on media responses and news releases in this category is required from the Minister’s office.
1.0 Applicable Government Directives, Policies and Guidelines

The following TB/MBC and Ministry of Finance directives, as well as associated policies and guidelines, apply to the Commission:

(a) Accessibility Standards;
(b) Accountability Directive;
(c) Advertising Content Directive;
(d) Agency Establishment and Accountability Directive;
(e) Capital Expenditure Evaluation Directive;
(f) Delegation of Authority Key Directive;
(g) Disclosure of Wrongdoing Directive;
(h) Enhancing Privacy: Computer Matching of Personal Information;
(i) Emergency Evacuation Planning Directive;
(j) Employee Benefits Directive;
(k) Expenditure Management Directive;
(l) Freedom of Information and Protection of Privacy Directive;
(m) Government Appointees Directive;
(n) Government Publications Directive;
(o) Human Resources Management Directive;
(p) Human Resources Management Governance and Accountability Directive;
(q) Information and Information Technology (I&IT) Security Directive;
(r) Internal Audit Directive;
(s) Key Directive on HR Administration;
(t) Management of Recorded Information Directive;
(u) Management and Use of Information & Information Technology (I&IT) Directive;
(v) Perquisites Directive;
(w) Procurement Directive;
(x) Procurement Directive on Public and Media Relations, and Creative Communications Services;
(y) Regulators Code of Practice;
(z) Staffing Management and Control Directive;
(aa) Travel, Meal and Hospitality Expenses Directive; and
(bb) Visual Identity Directive;
For further clarification, since the Commission is a Commission Public Body under the PSOA, all MBC and Public Service Commission directives under the PSOA apply, regardless of whether they are specifically set out in the MOU.

The Ministry will inform the Commission of amendments or additions to directives, policies and guidelines that apply to the Commission in a timely manner; however, the Commission is responsible for complying with all directives, policies and guidelines to which it is subject, as they are amended or added from time to time.
SCHEDULE “H”

TO THE MEMORANDUM OF UNDERSTANDING

BETWEEN

THE NIAGARA ESCARPMENT COMMISSION AND

THE MINISTER OF NATURAL RESOURCES

1.0 Administrative and Organizational Services

The Deputy Minister ensures that the Ministry provides the following administrative support services to the Commission in accordance with section 7.2 of the MOU at Ministry expense and as specified by the approved Business Plan.

For services provided centrally by the Ministry, for which there is an internal charge (e.g. French language translation), the Commission will be responsible for the cost of those services. This does not apply to Legal Services or Information Technology and Telecommunications services that are provided by the Ministry.

(a) Financial Administration: pay and benefits administration, accounts payable and technical advice, purchasing, records and form advisory services and related financial services and administrative support.

(b) Human Resources Services: classification services; advice and consultation regarding recruitment procedures, staff relations and preparation of job descriptions; counseling regarding career planning and staff development; and advice and consultation regarding corporate initiatives such as Occupational Health and Safety, and Workplace Discrimination and Harassment Policy. Corporate educational opportunities and career planning services are available to Commission staff from the Ministry and the Director will ensure these are communicated effectively to Commission staff.

(c) Information Technology and Telecommunications Services: program support, services, advice and consultation at a level reflected in the annual Business Plan; this includes the leasing and maintenance of the desktop technology and GIS systems and access to Ministry databases and systems that are relevant to the Commission’s mandate (subject to the Freedom of Information Act). The Ministry and the Commission will share, to the fullest extent possible, all information and data pertaining to the status and use of natural resources within the NEP Area.

The Commission will, at its expense, ensure its electronic publishing, including websites, meets government standards and continue to develop information systems to meet customer service and information management standards.

(d) Internal Audit: audit services related to financial compliance, management, human resources and information systems including operational reviews and special investigations as required.
(e) **Accommodation Planning**: costs of Commission accommodation (leased) will be paid by the Ontario Ministry of Natural Resources.

(f) **Freedom of Information program services**: policy advice and consultation.

(g) **French Language Services**: translation and interpretation services.

(h) **Communications and Marketing**: advice, consultation, assistance and support in communications including advice on the development of communications plans and programs.

(i) **Resource Management, Environmental Monitoring and Policy Development, Analysis and Review**: program advice and information will be made available to the Commission to support its functions.

(j) **Inspections, Investigations and Enforcement**: advice, training, consultation and program support, including entering into or establishing formal agreements, protocols or understandings outlining respective NEC and MNR roles regarding inspections, investigations and enforcement pursuant to the provisions of the NEPDA and its associated regulations.