

The Corporation of the Municipality of Brockton



By-Law 2024-043

---

Being a By-Law to Enter into an Agreement with Saugeen Valley Conservation Authority for the Delivery of Category 2 Programs and Services.

---

**Whereas** the Saugeen Valley Conservation Authority is a conservation authority established under the Conservation Authorities Act, R.S.O. 1990, c. C.27 and is governed by its participating municipalities in accordance with the Conservation Authorities Act;

**And Whereas** the Municipality of Brockton is a lower-tier municipality, located wholly or partly within the area under the jurisdiction of Saugeen Valley Conservation Authority;

**And Whereas** under the Conservation Authorities Act, Category 2 programs and services may be provided with municipal funding subject to a memorandum of understanding or such other agreement in respect of the programs and services;

**And Whereas** the Municipality of Brockton wishes to avail themselves of the Category 2 programs and services attached hereto as Schedule 'B';

**And Whereas** the Council of the Municipality of Brockton has authorized entering into this Agreement with Saugeen Valley Conservation Authority for the delivery of Category 2 programs and services;

**Now Therefore** the Council of the Corporation of the Municipality of Brockton **Enacts as Follows:**

- 1.0 That the Council of the Corporation of the Municipality of Brockton hereby authorizes entering into an Agreement with Saugeen Valley Conservation Authority for the delivery of Category 2 programs and services as contained in the attached Schedule "A", and forming an integral part of this to this By-Law.
- 2.0 That the Mayor and Clerk are hereby authorized to sign the agreement with Saugeen Valley Conservation Authority as attached.
- 3.0 That this By-Law shall come into effect upon final passage.
- 4.0 This By-Law may be cited as the "Saugeen Valley Category 2 Programs and Services Agreement By-Law".

**Read, Enacted, Signed and Sealed this 7th day of May, 2024.**

\_\_\_\_\_  
Mayor – Chris Peabody

\_\_\_\_\_  
Director of Legislative and Legal Services (Clerk)  
– Fiona Hamilton

## Category 2 Programs and Services Agreement

(hereafter, "Agreement")

**THIS AGREEMENT** is made on the \_\_\_\_\_ day of \_\_\_\_\_, 2024 (the "Effective Date").

**BETWEEN:**

**THE MUNICIPALITY OF BROCKTON**

(hereinafter, "Participating Municipality")

**AND:**

**SAUGEEN VALLEY CONSERVATION AUTHORITY**

(hereinafter, "SVCA")

**WHEREAS** SVCA is a conservation authority established under the *Conservation Authorities Act* (the "Act") and is governed by its participating municipalities in accordance with the Act,

**AND WHEREAS** the Participating Municipality is located wholly or partly within the area under the jurisdiction of SVCA,

**AND WHEREAS** under the Act, Category 2 programs and services may be provided with municipal funding subject to a memorandum of understanding ("MOU") or such other agreement in respect of the programs and services,

**AND WHEREAS** the Participating Municipality wishes to avail themselves of the Category 2 programs and services attached hereto as Schedule 'B',

**AND WHEREAS** the Council of the Participating Municipality has authorized the Participating Municipality to enter into this Agreement with SVCA for the delivery of a Category 2 program or service,

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

1. This Agreement shall commence on January 1<sup>st</sup>, 2025 and shall continue for five (5) years to and including December 31<sup>st</sup>, 2029 (the “Term”), unless either party provides written notice of termination to the other party at least ninety (90) days prior to the expiry of the Term.
2. All schedules attached shall form part of this Agreement and be binding upon the parties herein.
3. SVCA agrees to provide Category 2 programs and services for the structure identified in Schedule ‘A’ of this Agreement.
4. SVCA will not add to or delete from the list of activities identified in Schedule ‘B’ funded through this Agreement. Any change requires an amendment to this Agreement in writing with the Participating Municipality. In accordance with Schedule ‘B’, capital projects will not be offered by SVCA unless approved by the SVCA Board of Directors.
5. The Participating Municipality agrees to the costs as identified in Schedule ‘C’ to the Agreement. Time and material costs will be billed to the Participating Municipality at the end of each calendar year during the Term, following the prescribed budgetary process in accordance with the requirements of the applicable regulations under the Act. Payment by the Participating Municipality is to be made within 60 days of the invoice date.
6. Costs identified in Schedule ‘C’ are subject to reasonable work and/or cost revision, all of which is subject to reasonable notice to the Participating Municipality. The Participating Municipality has the right to refuse revisions. Should the Participating Municipality refuse to agree to reasonable work and/or cost revisions, they would cease to be part of this Agreement.
7. SVCA and the Participating Municipality will agree to facilitate open and timely communication at all levels.
8. Unless otherwise provided for within the Act, if a dispute arises between the parties, including in respect of the content or interpretation of this Agreement, which has not

been resolved within sixty (60) days, such dispute may be submitted to a third party mediator, the choice of mediator to be agreed upon by the parties, and failing agreement to choose a mediator within an additional sixty (60) days, the mediator to be appointed by a judge of the Superior Court, for resolution via non-binding mediation conducted pursuant to the National Mediation Rules of the ADR.

9. Neither party shall be in default with respect to the performance or non-performance of the terms of the Agreement resulting directly or indirectly from causes beyond its reasonable control (other than for financial inability) that could not reasonably have been foreseen, including, without limitation, any delay caused by war, invasion, riots, acts of terrorism or sabotage, acts of government authority (other than by the Participating Municipality), plague, epidemic, pandemic, natural disaster, strike, lock-out, inability to procure material, acts, laws or regulations of government authority or other cause beyond the reasonable control of such party and not caused by the act or omission of such party, and the performance of such term or terms shall be extended for a period equivalent to the period of such delay. This provision does not relieve the Participating Municipality of its obligation to pay fees and costs when due.
10. If any provision of this Agreement is invalid, unenforceable, or unlawful, such provision shall be deemed to be deleted from this Agreement and all other provisions of this Agreement shall remain in full force and effect and shall be binding in all respects between the parties hereto.
11. The resolution of the SVCA Board of Directors to execute this Agreement shall be included as Schedule 'D' to this Agreement.
12. The resolution of Council from the Participating Municipality to execute this Agreement shall be included as Schedule 'E' to this Agreement.
13. This Agreement shall be binding upon the parties after duly executed resolutions from both the SVCA Board of Directors and the council of the Participating Municipality approving this Agreement have been passed.
14. This Agreement shall be binding upon the successors and assigns of the parties hereto.
15. This Agreement may be executed in counterparts and when each party has executed a counterpart, each of such counterparts shall be deemed to be an original and all such counterparts, when taken together, shall constitute one and the same agreement.

**IN WITNESS WHEREOF**, the parties have entered into this Agreement as of the Effective Date.

**SAUGEEN VALLEY CONSERVATION AUTHORITY**

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

Name: Jennifer Stephens

Title: General Manager/Secretary-Treasurer

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

Name: Barbara Dobreen

Title: Chair, SVCA Board of Directors

I/we have the Authority to bind the Corporation.

**THE MUNICIPALITY OF BROCKTON**

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

Name:

Title:

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

Name:

Title:

I/we have the Authority to bind the Corporation.

## Schedule 'A' – Walkerton Flood Control Works, Municipality of Brockton

### Site Summary and Location Map

#### Site Location and Access:

The Walkerton Flood Control Works project is located within the limits of the geographic Town of Walkerton. The project consists of a series of dykes, retaining walls, storm sewer pipes and flap gates, all of which can be accessed via the various road crossings throughout the Town.

Municipality: Municipality of Brockton, geographic Town of Walkerton

Roll No. & Legal Description: Various SVCA registered easements, municipal property, and municipal road allowances

A Category 2 agreement is offered for maintenance and inspection of those portions of the Walkerton Flood Control Works project that reside on the following municipal properties and road allowances:

Municipally Owned Properties (Roll No.)	Road Allowances
410436000502700	Queen Street South
410436000502600	Yonge Street North
410436000401200	Catherine Street
410436000108790	Victoria Street North
410436000109000	Durham Street East
410436000117300	William Street
410436000108750	

#### Description:

The Walkerton Flood Control Works project was originally constructed between 1956 and 1963 to protect the central business district and residential neighbourhoods from a 100-year flood event. The entire project consists of 2.4 km of dykes, a series of floodwalls, several storm sewer outlets and eight flap gate locations.

There is also a flood control wall at the confluence of Silver Creek and the Saugeen River, north of Durham Street West and a stormwater outfall near the east end of Catherine Street.

## **2022 External Engineering Inspection:**

### *Public Safety Summary*

No significant public safety issues were identified at the time of inspection.

### *Operator Safety Summary*

No operator safety issues were identified as the project does not have any operable features.

### *Condition Summary*

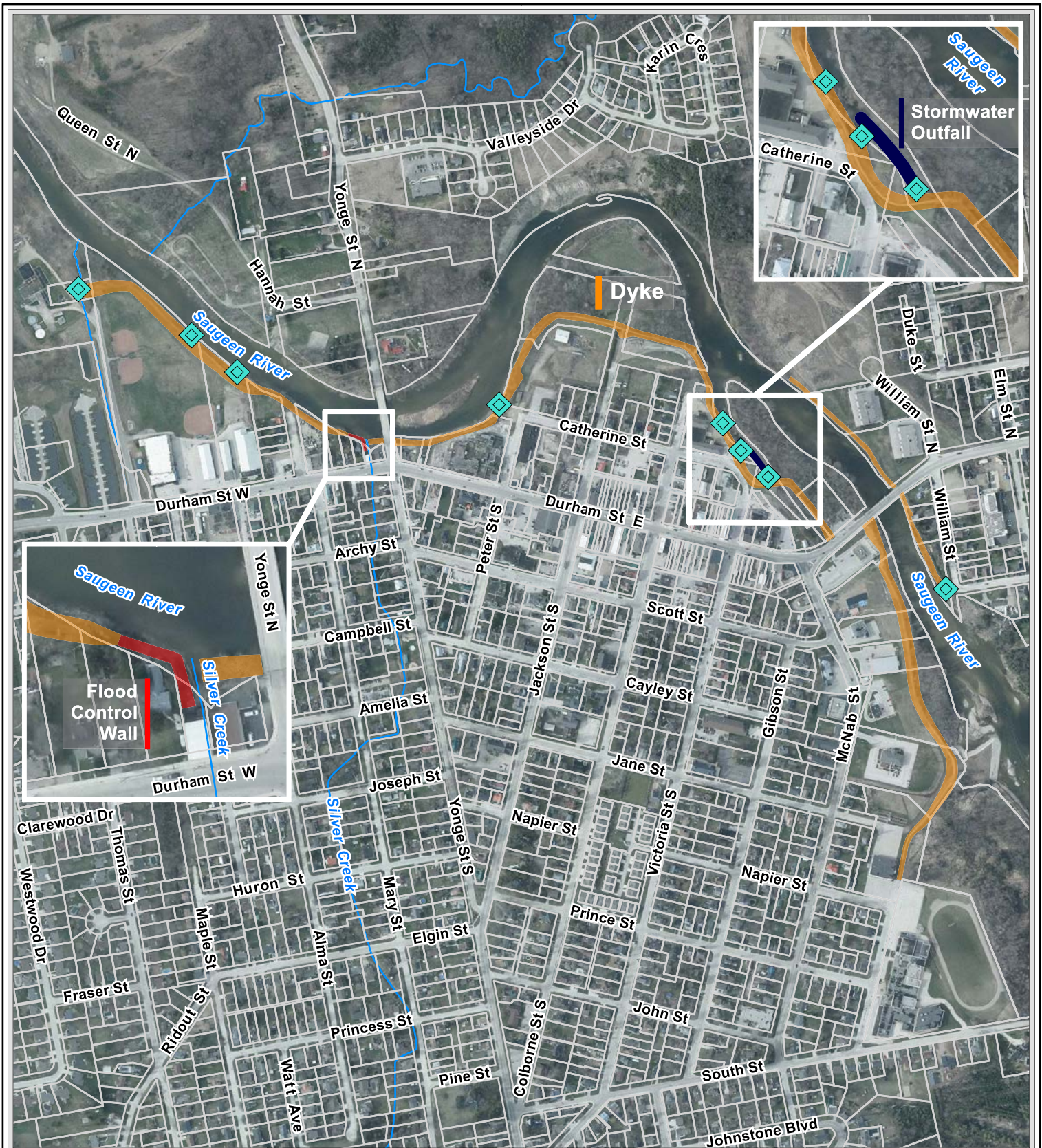
In general, the Walkerton Flood Control Works project was observed to be in good condition. The embankments throughout the site were a combination of manicured grass and naturalized areas with a significant amount of tree growth. Some of the areas adjacent to the dyke have been filled in to facilitate development. In these areas, the dyke is indistinguishable from the surrounding lands.

The various concrete walls throughout the project had areas of spalling and cracking with efflorescence but were in overall good condition. The flap gates were operable and inspected where possible. Some outlets without flap gates were identified.

### *Recommendations*

The attached excerpt from the 2022 D.M. Wills Inspection Report outlines all current recommendations for the Walkerton Flood Control Works project.

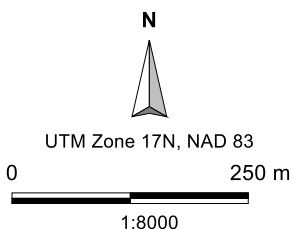




The included mapping has been compiled from various sources and is for information purposes only. Saugeen Valley Conservation Authority (SVCA) is not responsible for, and cannot guarantee, the accuracy of all the information contained within the map.

Produced by SVCA and includes material ©[2022] of the Queen's Printer for Ontario. All Rights Reserved. [2022] May Not be Reproduced without Permission. THIS IS NOT A PLAN OF SURVEY.

This mapping contains products of the South Western Ontario Orthophotography Project 2020 (SWOOP2020). These images were taken in 2020 at 16cm resolution by Mapcon Mapping Ltd. They are the property of Saugeen Valley Conservation Authority ©2022.



**Legend**

-  Flap Gate
-  Permanent Watercourse
-  Parcel Fabric
-  Dyke
-  Stormwater Outfall
-  Flood Control Wall

**Walkerton**





**Table 2 – Inspection Recommendations**

Recommendation	Description of Deficiency	Priority	Estimated Cost	Additional Comments
<b>Management System</b>				
1. Establish a regular frequency for engineering inspections (i.e. 5 years) as well as routine inspections by staff (i.e. annually).	There were no records of past engineering inspections by a professional consulting engineer. There were records of past routine inspections, including an inspection; however, the only records were photos taken in 2016, 2017, 2018, 2019, and 2020. The SVCA would benefit from establishing a regular frequency of engineering inspections (i.e. every 5 years) as well as routine inspections by staff (i.e. annually).	Immediate	\$5,000	The estimated cost shown is for the completion of an annual or bi-annual inspection by a qualified consulting engineering firm and assumes that the SVCA would have a number of flood and erosion control structures inspected as part of the same contract. The cost for a standalone inspection would be estimated as \$10,000. It is assumed that the routine inspections would be completed by SVCA staff as part of their regular duties.
2. Review all storm sewer outlets that do not have flap gates to determine if flap gates are required to provide the desired level of flood control for the Town.	There are a number of storm sewer outlets that do not have flap gates installed. It could be that they are not required based on the hydraulic grade line for the storm sewer; however, this is not clear from the information reviewed as part of preparing this report.	High	\$0	It is assumed that this work would be completed by SVCA staff as part of their regular duties. The cost for adding a flap gate to an existing storm sewer outlet could be in the range of \$5,000 per site.
3. Monitor the erosion of the channel banks at the Amelia Street property and add additional erosion protection as required.	The Envirolok vegetated erosion protection system is failing and there is erosion on the right bank of the channel just downstream of Mary Street.	Ongoing	\$0	It is assumed that this work would be completed by SVCA staff as part of their routine inspections.
4. Confirm the location and the extent of the easements owned by the SVCA and develop communication tools to inform local property owners about the presence of the easement on their property as well as acceptable uses of their lands within the easement.	A number of property owners have constructed structures near or on the flood control dykes.	Medium	\$0	It is assumed that this work would be completed by SVCA staff as part of their regular duties.
5. Complete a CCTV inspection of all storm sewer pipes and culverts to confirm their condition. Based on the results of these inspections, develop a plan for the rehabilitation or replacement of any deteriorated pipes.	Some of the storm sewer pipes viewed at the outlets are in poor condition and a thorough inspection via CCTV camera would better identify the condition of the pipes and identify rehabilitation or replacement recommendations.	Medium	\$30,000	It is assumed that the SVCA would retain a specialized contractor to complete this work; however, the Municipality of Brockton may have this capability in house which would allow the work to be completed at a lower cost.

Recommendation	Description of Deficiency	Priority	Estimated Cost	Additional Comments
<b>Minor Maintenance</b>				
6. Replace the two storm sewer outlet pipes and rebuild the gabion basket wall on the east side of the river, south of the Durham Street East bridge (near William Street).	The storm sewer pipes and gabion basket wall on the east side of the river, South of the Durham Street East bridge (near William Street) are in poor condition.	Low	\$75,000	The final cost will depend on the length of storm sewer pipes that need to be replaced. This would be determined as part of the CCTV inspections. The type of headwall selected to replace the gabion baskets would also impact the cost. A flap gate can be installed at the same time, if required.
7. Clean out the channel downstream of the storm sewer outlets at the east side of Catherine Street.	There is water ponding downstream of the Catherine Street storm sewer outlets causing backwater into the storm sewer pipes.	Low	\$50,000	It is assumed that the SVCA would retain a contractor to complete this work; however, the SVCA or Municipality of Brockton may be able to complete this work in house for a lower cost.
8. Monitor the large woody vegetation on the crest and slopes of the embankments and remove damaged or dead trees. Do not allow additional trees to be planted or grow within 5 m of the toe of the dyke or on the dyke itself. When removing trees, remediate the root systems so as to discourage the weakening of the soil and piping through the embankment and establish stable natural grass cover.	<p>There is a significant amount of tree growth on the flood dykes. The issues that could result from this include:</p> <ul style="list-style-type: none"> <li>• Root systems weaken the soil and have the potential to cause piping through the embankment.</li> <li>• Tree cover generally leads to poor growing conditions for grass under the tree canopy leading to exposed soils and increasing the potential for erosion.</li> <li>• Trees have large root balls. If a tree is blown over during a storm event, the removal of the root ball could compromise the dyke, increasing the risk of failure and an inability to provide the required flood protection.</li> </ul>	Ongoing	\$0	It is assumed that this work would be completed by SVCA staff as part of their regular duties.
9. Repair or replace the deteriorating erosion protection on the east bank at the outlet of Silver Creek.	The erosion protection on the east bank at the outlet of Silver Creek is deteriorating and there is erosion along the various sections of the bank.	Medium	\$50,000	It is assumed that the SVCA would retain a contractor to complete this work.
10. Replace the construction joint seals within the Silver Creek Floodwall.	The construction joint seals within the Silver Creek Floodwall are deteriorating and are required in order to satisfactorily retain water in a flood.	Medium	\$7,500	It is assumed that the SVCA would retain a contractor to complete this work.

## **Schedule 'B' – Walkerton Flood Control Works, Municipality of Brockton**

### **Category 2 Programs and Services**

#### **Maintenance Activities:**

The following maintenance activities would be completed on the municipal properties and road allowances identified in Schedule 'A':

- Installation and maintenance of signage
- Grass cutting, vegetation control and grubbing
- Clear sediment, vegetation, and/or other woody debris around and inside flapgates

It is assumed that the Municipality of Brockton will continue to cut grass on the dykes at the following properties:

- 410436000502700 (Arena and ball diamonds)
- 410436000502600 (Agricultural Society)
- 410436000117300 (Firehall)

The above maintenance activities are contingent on SVCA staff having full, unobstructed access to the site.

#### **Inspection:**

- Annual inspection and subsequent inspection report by SVCA staff
- Coordination of one inspection during the term agreement by a qualified external engineer
- General project management, including review and communication of SVCA permit requests within the vicinity of the project, landowner communications, and maintenance of an operations manual
- Completion of a CCTV inspection of all storm sewer pipes and culverts once during the term agreement

The above inspection activities do not include review of road conditions, such as asphalt, curb and gutter, municipal sewers and watermains, sidewalk, guiderails, or any other municipal infrastructure not related to the Walkerton Flood Control Works project.

For the purposes of this agreement, all catchbasins beyond the slope of the flood control dyke will remain the responsibility of the Municipality of Brockton and will not be reviewed

during inspections. All culverts or drainage systems through the dyke are included in this agreement.

**Capital Project(s):**

The SVCA Board of Directors must approve any and all capital projects on the Walkerton Flood Control Works project. SVCA staff request notification should the Municipality of Brockton undertake capital projects on municipal property within the project area during the term of a Category 2 agreement.

The following items were identified in the D.M. Wills 2022 Inspection Report and are considered capital projects for the purposes of this agreement:

- Replacement of two storm sewer outlet pipes and rebuild the gabion basket wall on the east side of the river, south of the Durham Street East bridge (near William Street)
- Clean out of the channel downstream of the storm sewer outlets at the east side of Catherine Street
- Removal of trees and remediation of root systems

## Schedule 'C' – Walkerton Flood Control Works, Municipality of Brockton

### Category 2 Cost

The maintenance and inspection activities identified in Schedule 'B', on municipal property (including municipal road allowances) would occur concurrently with other, mandatory activities completed within SVCA's easements on the Walkerton Flood Control Works project. SVCA staff costs related to these items would be included in the annual SVCA budget, divided between special benefitting and general levy (60/40), as approved by SVCA's Board of Directors.

#### Notes:

- Scheduling of maintenance and inspection activities is at the discretion of SVCA staff.
- Capital projects on municipal property are not included in any cost estimates and will not be undertaken by SVCA staff without SVCA Board of Directors approval.
- Internal inspections by SVCA staff may or may not be sufficient to address Municipal regulations associated with a watercourse crossing or bridge, such as the *Municipal Act*, *Public Transportation and Highway Improvement Act* or *Bridge Code*. SVCA internal inspections will focus on the ability of the structure to retain flow within the Saugeen River and will note general deficiencies.