



STAFF REPORT ACTION REQUIRED

Clarification of Partnership between TRCA and the City

Date:	December 5, 2013
To:	Government Management Committee
From:	Deputy City Manager, Cluster A Deputy City Manager, Cluster B Deputy City Manager and Chief Financial Officer
Wards:	All
Reference Number:	P:\2014\Cluster A\PFR\GM27-010614-AFS#17795

SUMMARY

The City of Toronto has a history of collaboration with Toronto and Region Conservation Authority (TRCA) that is supported by the common mandate to acquire and develop parkland in a way that is sensitive to environmental protection requirements. The City and TRCA share responsibility for delivering services, and funding is provided from each respective budget as appropriate. City Councillors provide input to TRCA governance to direct many services of common interest. For many years, the TRCA has undertaken a variety of projects on behalf of the City. The purpose of this report is to clarify the relationship between the TRCA and the City and to obtain authorization for the provision of certain services by the TRCA on behalf of the City.

There is value to the City in having the TRCA provide services on behalf of the City on projects that eliminate or reduce risk to life and property in a prompt, cost effective and environmentally responsible manner. TRCA is able to provide cost-effective management of natural environment projects using their highly specialized expertise and ability to expedite required approvals, facilitate community involvement, meet tight time lines, and satisfy federal and provincial environmental standards.

RECOMMENDATIONS

The Deputy City Managers of Clusters A and B and the Deputy City Manager and Chief Financial Officer recommend that:

1. City Council authorize the Deputy City Managers, Clusters A and B to continue to work with the Toronto and Region Conservation Authority (TRCA) to deliver

- approved capital projects, operating programs and partner funded projects that meet the conditions set out in Recommendation 2.
2. City Council authorize the Deputy City Managers, Clusters A and B or their designates, to negotiate and enter into agreements with the TRCA for the delivery of approved capital projects, operating programs and partner funded projects that meet the following conditions:
 - a) that the work to be performed by the TRCA on behalf of the City relate to waterways, ravines and Lake Ontario waterfront lands, and that the types of projects and work to be performed by the TRCA be as set out in Attachment 1 of this report, unless otherwise approved by sole source or Council direction;
 - b) that the TRCA utilize an open, competitive bidding process consistent with the City's procurement policies and processes;
 - c) that the vendors hired by the TRCA comply with the City's Fair Wage Policy, Labour Trades Contractual Obligations and the Non-Discrimination Policy;
 - d) that the TRCA shall undertake the work on a cost recovery basis provided however, that TRCA may charge a reasonable administration fee associated with project management, preparation of reports and permit applications, negotiation of easements, land acquisition, access agreements and similar types of activities subject to approval by the Deputy City Managers;
 - e) that the agreements be in a form and content satisfactory to the Deputy City Managers and the City Solicitor;
 3. City Council authorize payment to the TRCA based on work performed on behalf of the City in accordance with Recommendation 2 above and amend Chapter 71, Financial Control, Schedule A accordingly;
 4. The City Solicitor be authorized to introduce the necessary bill in Council to amend Chapter 71, Financial Control, Schedule A.

Financial Impact

The recommendations in this report will have no financial impact beyond what has already been approved in the current year's budget.

If the recommendation to partner with TRCA is not approved, there will be financial implications as a result of the increased cost of services, and delay in service delivery, which could result in increased erosion and larger scale of repair work to be completed by other service providers.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

A number of staff reports have been written since 2006 recommending that the TRCA be authorized to supply services through sole source procurements or through payment under Schedule A of the Financial Control By-law. A list of staff reports and descriptions is in Attachment 2 of this report.

ISSUE BACKGROUND

Through the City's annual budget process, the City funds a portion of the TRCA's annual budget together with other regional and local municipal governments.

The City of Toronto (and formerly Metropolitan Toronto) has a long history of collaboration with the TRCA that is supported by the common mandate to acquire and develop parkland in a way that is sensitive to environmental protection requirements. In Toronto, water and associated resource governance involves the TRCA, Toronto Water, Parks, Forestry and Recreation and with respect to implementation of the Bikeway Trails Plan within in the valleys, Transportation Services. The TRCA staff have specialized services for water resource management, geotechnical engineering, environmental assessment, biological inventory and wildlife management that are required by the City. This combination of skills is not found within the City's staff complement.

In addition, over the years, the TRCA has worked on a number of capital projects and operating works on behalf of the City, funded from the annual capital and operating budgets of City Divisions, including:

- Erosion control and slope stabilization;
- Geotechnical investigations;
- Watercourse & bridge rehabilitation;
- Dredging harbour and river channels;
- Trail development and state of good repair of existing trails;
- Canada Goose Management Program;
- Watercourse inspection and long-term changes stream water quality
- Soil and Drainage evaluation and design;
- Installation of dog parks;
- Environmental Assessments; and
- Supply of local plants.

Since 2008, payment to the TRCA for work has been processed primarily under Schedule A of the Financial Control By-law under the Section 4, General Expenses, where it includes "Payments to associations and government funded organizations working with the City on City projects. "The report dated April 18, 2007, entitled "Revisions to Financial Control By-law," specifically states that "Often the City is involved in projects with government funded associations or government funded organizations where the association or organization must provide a service or good for the project which no-one else can provide (e.g. forestry/natural environment work by

Toronto Region Conservation Authority). The City, in return, must pay the association or government organization for all or part of the goods or service provided." Work performed by the TRCA on behalf of the City may be done by the TRCA's own forces.

A recent review of work being undertaken by TRCA on behalf of the City has raised a number of issues, including the application of Schedule A of the Financial Control By-law; whether certain works are appropriately directed to the TRCA and whether the City has appropriate mechanisms in place to ensure that work being performed by the TRCA is in compliance with the City policies, including Fair Wage and Labour Trades Obligations. These questions were primarily being raised because some of the work being performed by the TRCA did not appear to fall within the intent of Schedule A of the Financial Control By-law, as some of the work the City requested TRCA to do was clearly work that only the TRCA could do, while for other work the TRCA was hiring third party contractors to do the work.

The purpose of this report is to clarify which services TRCA should be engaged to undertake, either directly using TRCA's own forces or by hiring a third party contractor, to obtain authority to enter into agreements with the TRCA in respect of such services and ~~the~~ clarify Schedule A of the Financial Control By-law to ensure that the City can pay TRCA for the services performed in accordance with this report. Given the large number of projects (including work arising from the July 8, 2013 storm event) and the benefits from working with the TRCA, staff recommend that the TRCA be engaged to undertake certain projects as set out in this report rather than putting this work out through the competitive procurement process.

COMMENTS

Common Organizational Governance and Policy

The Metropolitan Toronto and Region Conservation Authority (MTRCA, now known as the Toronto and Region Conservation Authority (TRCA), was established in response to Hurricane Hazel in 1954. In 1970, the Province designated the MTRCA as the lead implementing agency for the Etobicoke to Ajax-Pickering shoreline, except for the central downtown waterfront area.

Throughout its history, the TRCA has continuously evolved and adapted in response to changes in science, community demands, and public policy. The TRCA's Living City Policies compliment Toronto's Official Plan Policies, which identify the importance of protecting and restoring the health and integrity of the natural ecosystem, supporting bio-diversity in the city, and targeting ecological improvements as well as the need for preserving and enhancing the urban forest. These common policies help the City and the TRCA to achieve project goals and objectives in the development of design solutions for specific problems.

Toronto City Councillors contribute to the governance of the TRCA. Nine (9) City Councillors are appointed as members of the Authority. Three (3) Councillors are elected to an Executive Committee that meets monthly to review day-to-day management

decisions of the Authority, including the administration of the TRCA's Fill, Construction and Alteration to Waterways Regulation. One (1) Toronto Councillor sits on the Budget/Audit Advisory Board.

Historic Continuity and Record Management

The TRCA has a long service history of monitoring flood infrastructure, natural hazard land erosion and parkland amenities in the City. This corporate history leaves a legacy of records and knowledge that inform best practices. The TRCA maintains historic records associated with erosion concerns, erosion management, flood events and flood control infrastructure construction/maintenance. They also have detailed records for permits issued in relationship to private building or development applications within watersheds. This information is critical to investigations of damage and claims. Other information that is well documented that proves to be of great value is encroachment information, historic geotechnical review of slopes and bluffs and vegetation inventory information. The TRCA's history of project management in City ravines and bluffs provides experience that comes from the cumulative development of knowledge about site conditions and analysis of geotechnology and hydrology that builds understanding of best management practice.

The TRCA's Specialized Services

The TRCA provides flood management services and reviews and installs design solutions for watercourse and natural hazard land management throughout a large area encompassing six (6) regions and 12 municipalities. It is a benefit to the City to have access to specialized staff experts at the TRCA including ecologists, botanists, geotechnical engineers, geomorphologists, civil engineers, hydrologists, archeologists, planners and project managers. The TRCA staff work closely with City staff to review consultant design proposals, prepare detailed tender-ready documents for in-house designs, requests for bids and proposals, and to oversee project implementation. The TRCA's experience enables them to deliver effective construction management including adaptive management that is often required during the construction process. When the TRCA manage projects for the City they employ a mix of contracted services and in-house service delivery, providing greater control over some elements and increased flexibility to coordinate external contractors. Their extensive knowledge of approval requirements for in-stream works, regulatory requirements and of construction techniques and service providers is helpful in ensuring innovative quality and cost effective construction.

Working with the TRCA generally results in timely delivery of planned and emergency services using best management practices. There is considerable risk of financial loss associated with undertaking construction of trails and works to control stream erosion for protection of critical infrastructure if the City does not implement works in a timely and expert manner. The TRCA have provided many emergency management services including park bridge replacement, watercourse design and reconstruction to protect vital infrastructure, geotechnical review and slope stabilization.

Payment for Services that are Funded by City of Toronto Budget

The City requires the assistance of the TRCA in the completion of many of the City's capital projects. Since 2008 these services averaged around \$8.5 million per year. City operating divisions have come to rely on the TRCA for many of the specialized services that support trail, park, shoreline and watercourse investigation, maintenance and development. Staff are recommending that the Deputy City Manager's be authorized to enter into agreements with the TRCA to undertake the types of projects and works outlined in Attachment 1 of this report.

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ATTACHMENTS

- Attachment 1 Scope of Work and Projects to be undertaken by the TRCA on behalf of the City
- Attachment 2 List of Staff Reports and Descriptions

Attachment 1

Scope of Work and Projects to be undertaken by the TRCA on behalf of the City:

- a) Permit applications Under Ontario Regulation 166/06 - Development, Interference with Wetlands and Alterations to Shorelines and Watercourses;
- b) Other relevant permit applications (e.g. Department of Fisheries and Oceans and Ontario Ministry of Natural Resources permit applications);
- c) Environmental Assessments and studies to support projects associated with valleyland and waterfront development (trail, access, watercourse and slope stabilization improvements);
- d) Project management, inspection, design and construction for projects that involve stream reconstruction, pedestrian bridge construction/replacement, trail development near Lake Ontario shoreline, watercourses and in Environmentally Significant Areas (ESA's), erosion protection structure (such as armour stone or retaining wall) construction on slopes or near watercourses and habitat wetland construction;
- e) Stormwater management pond assessments, cleaning and repairs;
- f) Watercourse flow and quality monitoring;
- g) Geotechnical investigation/review, as required to assess slope stability;
- h) Manage or execute floodplain studies;
- i) Emergency management required to assess storm damage, restore services and protect infrastructure;
- j) Fence construction in ESA's or near Bluffs;
- k) Park enhancement projects that involve significant partnership¹ including shared costs for implementation;
- l) Wildlife Management (e.g. Canada Geese);
- m) Nursery Stock from the TRCA's local tree and shrub nursery.

Footnote:

1. The significance of the partnership may be defined by the contribution of funding from TRCA, the history of construction or maintenance of the structures involved, or other factors as approved by the General Manager (s).

Attachment 2

List of Staff Reports and Descriptions

Note - this list may not include all reports relating to this issue.

Report to the Economic Development and Parks Committee dated February 20, 2006, entitled "Sole Source Purchase Orders for Environmental Improvements with the Toronto and Region Conservation Authority (Various Wards)", adopted by Council on April 25, 26 and 27, 2006. This report authorized Parks, Forestry and Recreation, to enter into sole source purchase orders with the TRCA totalling \$176,000.00 in order to expedite and complete various approved environmental capital projects. This report is available at <http://www.toronto.ca/legdocs/2006/agendas/committees/edp/edp060309/it014.pdf>

Report to Budget Committee dated February 20, 2007, entitled "Authority for the TRCA as Sole Source provider on Parks, Forestry and Recreation Natural Environment Projects", adopted by Council on February 27, 2007. This report authorized Parks Forestry and Recreation to enter into sole source purchase orders with the TRCA totalling up to \$5 million dollars in order to expedite and complete various natural environment projects. This report is available at <http://www.toronto.ca/legdocs/mmis/2007/bu/bgrd/backgroundfile-1729.pdf>

Report to Government Management Committee dated April 18, 2007, entitled "Revisions to Financial Control By-law", adopted by City Council on May 23, 24 and 25, 2007. The report resulted in revisions to Schedule A of the Financial Control By-law and included a reference to planned use of the TRCA services as part of Section 4, titled General Expenses, **Payments to Associations and Government Funded Organizations working with the City on Projects**. On the basis of this report, staff used Schedule A as the basis for requesting services from the TRCA without sole source approval. This report is available at <http://www.toronto.ca/legdocs/mmis/2007/gm/bgrd/backgroundfile-3338.pdf>

Report to Public Works and Infrastructure Committee dated April 27, 2012, entitled "Bikeway Trails Implementation Plan", adopted by Council on June 6, 2012. This report authorized the TRCA to undertake environmental assessments, site assessments, design, public consultation, project management and construction for new trail connections contained in the Bikeway Trails Implementation Plan, where appropriate. The decision and report are available at <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.PW15.2>

Report to Public Works and Infrastructure Committee dated February 29, 2012 entitled "Waterfront Landforms Study", adopted by Council on April 10 and 11, 2012. This report authorized the TRCA to lead the Waterfront Landforms Environmental Assessment Study in collaboration with Toronto Water, the Parks, Forestry and Recreation Division, and Waterfront Toronto, subject to availability of funding from the City. The decision and report are available at <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.PW13.2>