

To: Board of Management

From: John Tracogna
Chief Executive Officer

Subject: **TRIPARTITE AGREEMENT**

Date: 2017-10-12

Summary:

A Tripartite Agreement between the Toronto Zoo, the City of Toronto, and the Toronto and Region Conservation Authority (TRCA) originally implemented in 1978, grants the Zoo permission to operate on TRCA lands. City Council has directed that a new Tripartite Agreement be entered into prior to the transfer of City owned lands to Parks Canada for the Rouge National Urban Park (RNUP), which is now established and being implemented, This report describes the proposed terms of a new Tripartite Agreement and adjustments to the boundaries of the Zoo that benefit the Toronto Zoo, Parks Canada and the TRCA. .

Recommendations:

It is recommended that:

1. The Chief Executive Officer of the Toronto Zoo be authorized to enter into a new Tripartite Agreement on behalf of the Toronto Zoo Board of Management (Board) provided such agreement is substantially in accordance with terms described in this report and in a form satisfactory to the City Solicitor;
2. The City Solicitor be authorized to facilitate execution of the Tripartite Agreement on behalf of the Board and City of Toronto; and
3. The City Clerk be requested to transmit this report and the actions of the Board to the City Manager for onward transmittal to the Executive Committee for its consideration;
4. The City Clerk be requested to transmit the report and the actions of the Board and City Council to the TRCA for their consideration and approval.

Financial Impact:

There is no financial impact as a result of this report.

Decision History:

At its meeting of October 8, 2013, City Council directed that the City Manager, with appropriate civic officials, and the Chief Executive Officer of the Toronto Zoo, finalize and report back on a revised Tripartite Agreement for the Toronto Zoo.

(<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2013.EX34.7>)

As part of the transfer of City owned lands to Parks Canada for incorporation into the Rouge National Urban Park, City Council required that the Tripartite Agreement be completed prior to the transfer of the City lands at its meeting of February 19 and 20, 2014.

(<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.EX38.4>)

This report responds to the City Council directive.

Comments:

The Toronto Zoo currently occupies 287 hectares of land (710 acres). Of that, approximately 40 hectares (100 acres) is City owned and comprises the main parking lot and front entrance area. The balance of the Zoo lands are owned by the TRCA. A Tripartite Agreement between the Board, the City of Toronto, and the TRCA, originally implemented in 1978, grants the Zoo permission to operate on TRCA lands. City Council has required that a new Tripartite Agreement be entered into. Prior to the transfer of City lands to the Government of Canada for the Rouge National Urban Park, (RNUP) which is now established and being implemented, this report describes the proposed terms of a new Tripartite Agreement and adjustments to the boundaries of the Zoo that benefit both the Toronto Zoo, the Rouge National Urban Park and the TRCA.

The new Tripartite Agreement is a license to operate the Toronto Zoo on lands owned by the TRCA. The original 1978 Agreement is updated through the current review process. The Tripartite Agreement builds upon a foundational agreement from 1961 that outlines the overall authority of the TRCA for flood control and erosion mitigation. The 1961 Agreement is unaffected by this proposed agreement and will remain in force.

Toronto Zoo staff have worked with City staff, Parks Canada and the TRCA to complete the new Tripartite Agreement. The two components of the new agreement are:

- Revised wording and clauses to the 1978 Agreement; and
- A comprehensive Reference Plan replacing an existing conceptual survey to more clearly define the extent of the Toronto Zoo incorporating revised boundaries for the Toronto Zoo.

In addition to being considered by this Board, consideration of the new Tripartite Agreement will be given by City Council, and the TRCA Board as they are parties to the Agreement.

The proposed changes to the boundaries of the Toronto Zoo are shown on Attachment 1 of this report. The boundary changes encompass two concepts:

- Relinquishing valley lands directly adjacent watercourses abutting the Zoo which are not of functional use to the Toronto Zoo, but beneficial to Parks Canada as part of the RNUP; and
- Acquiring lands north of Old Finch Avenue, east of Meadowvale Road for the use of the Toronto Zoo for the purpose of creating breeding facilities and for growing browse.

It is proposed that valley and watercourse lands adjacent to the perimeter of the Toronto Zoo on both its west and east limit associated with the Rouge River and Little Rouge Creek be transferred from the TRCA to Parks Canada. The transfer of these lands has no operational value or impact on the Toronto Zoo as these naturalized lands are not actively used for Zoo purposes. The advantage of transferring these lands to Parks Canada is that it ensures a consistent approach to conservation, regulatory management and security equal with the balance of the RNUP. It also provides a potential opportunity for Parks Canada to provide public access and conservation education in these natural areas through the development of trails and interpretative features. These valley lands and watercourses form part of the Rouge River system which is already under the jurisdiction of Parks Canada. With the water courses being transferred to Parks Canada, the Toronto Zoo will be enveloped by the boundaries of the RNUP. Given the alignment of conservation interests and interaction between Parks Canada and the Toronto Zoo, the jurisdictions proposed in the agreement are appropriate.

As part of the new Tripartite Agreement, a 16 hectare (41 acre) parcel of land on the north side of Old Finch Avenue extending east from Meadowvale Road will be added to the Zoo for the purposes of browse production and conservation breeding facilities. The Zoo is increasingly reliant on browse for feeding its animals as part of animal enrichment and needs additional lands. In addition, breeding facilities currently located on Zoo Lands east of Meadowvale Road can be consolidated and improved on these lands proposed for use on the new land parcel.

The resulting changes to the boundaries of the Zoo lands produces 210 hectares (519 acres) of land for productive use by the Zoo. Although , the proposed boundary changes result in less land being licensed to the Zoo, it does not negatively impact the current operations of the Toronto Zoo or impinge upon the recently approved Zoo Masterplan. The change provides opportunity for expansion of operations on the lands

north of Finch Avenue that will benefit the Zoo's operations and will help implement the newly approved Masterplan for the Zoo.

Key provisions of the new revised Tripartite Agreement are the:

- Lands to be used for Zoo purposes are geographically and legally defined as part of the agreement through a Reference Plan and associated legal descriptions;
- Buildings and other assets forming the Zoo are owned by the City and managed by the Zoo on behalf of the City;
- The Zoo will seek written approval from the TRCA for any Masterplan revision or major redevelopment;
- All three parties shall seek opportunities for collaboration on conservation programming;
- The TRCA will retain control of flood and erosion control mitigation in the river channels;
- The City is responsible for all maintenance, repairs, utilities, taxes and insurance of zoo buildings and structures on the lands licensed for Zoo purposes;
- The Zoo shall promptly remedy any construction liens registered against the lands;
- The Zoo will indemnify the TRCA against any charges or liabilities of using the licensed lands for Zoo purposes; and
- Should a dispute arise between the parties, it will be subject to binding arbitration.

The new Tripartite Agreement will allow the Zoo to continue current operations, and in the future, allow expansion of Zoo facilities north of Old Finch Avenue. The agreement allows Parks Canada to take appropriate conservation management of the river courses and abutting natural river valley lands. The TRCA retains responsibility for flood mitigation and erosion control in the watercourses adjacent the Zoo. City Divisions such as Toronto Water will continue to work in concert with the TRCA on flood/erosion mitigation projects.

The key terms of the new Agreement are summarized in Attachment 2 to this report.

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John Tracogna
Chief Executive Officer

List of Attachments:

Attachment 1: Tripartite Agreement Boundaries

Attachment 2: Key Terms of the Proposed Tripartite Agreement

Attachment 1: Tripartite Agreement Boundaries



Green – Existing Zoo Boundary Red – Proposed Zoo Boundary

Attachment 2: Key Terms of the Proposed Tripartite Agreement

Permitted Use
<ul style="list-style-type: none"> • Allows use of TRCA lands for a Zoo and for conservation education and research purposes • Requires operation in accordance with the agreement or other applicable policies established by the City • May operate as a research facility pursuant to the Animals for Research Act' • TRCA regulations apply to the Zoo property • All buildings, structures and animals are owned by the City and managed by the Zoo • TRCA and the Zoo will collaborate on education and conservation programs
Ownership and Improvements
<ul style="list-style-type: none"> • The City owns all buildings, structures and animals and they are managed by the Board • The City and the Board shall consult and will obtain written permission from the TRCA for Masterplans, revisions to them or major redevelopment projects • The TRCA , City, and Zoo shall collaborate on conservation and education programs • The TRCA is responsible for flood and erosion control matters. The Board shall not alter any water course
Taxes
<ul style="list-style-type: none"> • The Board is not required to pay property taxes for the Zoo • The City is responsible for any property taxes, insurance, maintenance, repairs, utilities for buildings and structures on TRCA land
Term
<ul style="list-style-type: none"> • Agreement in force February 1, 2018 • Agreement lasts until Zoo no longer in use, and may be amended from time to time
Insurance
<ul style="list-style-type: none"> • City to maintain fire, public liability and damage insurance and general liability insurance for Board and staff
Release and Indemnity
<ul style="list-style-type: none"> • The Board is required to remove liens pursuant to the Construction Liens Act, and the TRCA shall not be left with liability, and if so, TRCA may terminate the Agreement • The Board shall indemnify the TRCA from any loss due to claims, liens, damages, or related costs or charges arising from the Board's use of the TRCA lands • The City and the Board indemnify the TRCA from property taxes or local improvement charges • The Board has the right to pursue claims if lands are expropriated but does have the right to pursue a claim against TRCA
Assignment
<ul style="list-style-type: none"> • The Board shall not pledge assign, transfer grant licenses, rights to another party for more than one year without approval of TRCA • Disputes between the parties to the Agreement are subject to the Arbitration Act (Ontario)

Note: Schedule A – Legal Description of Zoo Boundaries
 Schedule B – List of Zoo Buildings and Structures