



## **REPORT FOR ACTION WITH CONFIDENTIAL ATTACHMENT**

### **Ensuring Value for Money for Tree Maintenance Services - Update and Legal Advice**

**Date:** June 24, 2020

**To:** Infrastructure and Environment Committee

**From:** City Solicitor and General Manager, Parks, Forestry and Recreation

**Wards:** All

#### **REASON FOR CONFIDENTIAL INFORMATION**

---

This report is about litigation or potential litigation that affects the City of Toronto.

The attachment to this report contains advice or communications that are subject to litigation and solicitor-client privilege.

#### **SUMMARY**

---

This report explains the results of the review conducted by Parks, Forestry and Recreation of work performed by tree maintenance vendors, which was undertaken in response to City Council's direction to the General Manager, Parks, Forestry and Recreation and arising out of the Auditor General's April 26, 2019 Report "Ensuring Value for Money for Tree Maintenance Services". It also provides advice with respect to potential legal action.

#### **RECOMMENDATIONS**

---

The General Manager, Parks, Forestry and Recreation and the City Solicitor recommend that:

1. City Council adopt the confidential instructions to staff in Confidential Attachment 1.

2. City Council authorize the public release of the confidential recommendations contained in Confidential Attachment 1, at the discretion of the City Solicitor, but that the remainder of Confidential Attachment 1 remain confidential as it contains advice which is subject to solicitor-client privilege.

## **FINANCIAL IMPACT**

---

The financial impact of adopting this report is included in the Confidential Attachment.

## **DECISION HISTORY**

---

On May 14, 2019 City Council directed the General Manager, Parks, Forestry and Recreation, in consultation with the City Solicitor and the Chief Purchasing Officer, to conduct a review of the tree maintenance contracts referenced in the report (April 26, 2019) from the Auditor General, in order to determine if the City can pursue legal action against the vendors to recover any monies, or to consider suspending any of the vendors from future work; the review should include, but not be limited to, a review of the vendor's work logs and associated Global Positioning System records to review the accuracy of work logs, confirm work completed and identify discrepancies.

On May 14, 2019 City Council directed the General Manager, Parks, Forestry and Recreation to report to the Audit Committee in the fourth quarter of 2019 with a status update, and again in one year to provide a further update on results of the review of City vendor work logs and associated Global Positioning System records.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.AU2.4>

On October 25, 2019, the Audit Committee considered an information report from the General Manager, Parks, Forestry and Recreation outlining the division's progress in responding to the May 2019 Council direction.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.AU4.14>

## **COMMENTS**

---

Parks, Forestry and Recreation (PFR) has conducted a review of the tree maintenance contracts referenced in the April 26, 2019 report from the Auditor General - Ensuring Value for Money for Tree Maintenance Services and, in consultation with Legal Services, has engaged the vendors in discussions on a confidential and without prejudice basis.

Confidential Attachment 1 summarizes PFR's findings, the status of its discussions with the vendors, and confidential legal advice on these matters. It is necessary to maintain confidentiality to protect the City's legal interests. The information contained in Confidential Attachment 1 is subject to both litigation and solicitor-client privilege.

## **CONTACT**

---

Kim Statham, Manager Urban Forestry, Parks Forestry & Recreation, Tel: 416-392-6478, Fax: 416-392-1915 Email: [Kim.Statham@toronto.ca](mailto:Kim.Statham@toronto.ca)

Michael Pacholok, Chief Purchasing Officer, Purchasing & Materials Management, Tel: 416-392-7312, Fax: 416-392-1262, Email: [Mike.Pacholok@toronto.ca](mailto:Mike.Pacholok@toronto.ca)

Abbie Moscovich, Solicitor, Municipal Law, Tel: 416-392-6905, Fax: 416-397-5624, Email: [Abbie.Moscovich@toronto.ca](mailto:Abbie.Moscovich@toronto.ca)

Penelope Ma, Solicitor, Litigation, Tel: 416-397-7690, Fax: 416-397-5624, Email: [Penelope.Ma@toronto.ca](mailto:Penelope.Ma@toronto.ca)

## **SIGNATURE**

---

Janie Romoff  
General Manager  
Parks, Forestry and Recreation

Wendy Walberg  
City Solicitor  
Legal Services

## **ATTACHMENTS**

---

Confidential Attachment 1 - Legal Advice Relating to Urban Forestry's Review of Tree Maintenance Contracts