

Item 8.4.

Section I – Items for Board of Directors Action

TO: Chair and Members of the Board of Directors
Meeting #4/19, Friday, April 26, 2019

FROM: Michael Tolensky, Chief Financial and Operating Officer

RE: **REQUEST TO NEGOTIATE AND ENTER INTO A SERVICE AGREEMENT WITH THE CITY OF TORONTO TO CONSTRUCT THE ASHBRIDGES BAY TREATMENT PLANT LANDFORM AND FOR APPROVAL TO OBTAIN A LETTER OF CREDIT TO MEET DEPARTMENT OF FISHERIES AND OCEANS REQUIREMENTS**

KEY ISSUE

Approval from the Board of Directors to negotiate and enter into a service agreement with the City of Toronto to construct the Ashbridges Bay Treatment Plant Landform and to obtain a letter of credit to be provided to the Department of Fisheries and Oceans as per the Fisheries Act Authorization required under s.35(2)(b) of the Act.

RECOMMENDATION

WHEREAS Toronto and Region Conservation Authority (TRCA), in partnership with the City of Toronto, undertook a Conservation Ontario Class Environmental Assessment to address erosion and sediment issues at Ashbridges Bay and Coatsworth Cut which was approved in February 2015;

WHEREAS TRCA in partnership with the City of Toronto completed detailed design in 2018 for the Ashbridges Bay Treatment Plant Landform based on the concept approved through the Class Environmental Assessment process;

WHEREAS Toronto Water received approval from City Council on April 16, 17 and 18, 2019 to negotiate, enter into, and execute an agreement with TRCA to construct the Ashbridges Bay Treatment Plant Landform;

WHEREAS the Department of Fisheries and Oceans requires TRCA to obtain authorization for the in-water works and to construct offsetting habitat as part of the Fisheries Act Authorization required under s.35(2)(b);

WHEREAS the Department of Fisheries and Oceans requires that a letter of credit be issued to them for the cost to implement the habitat offsetting plan;

WHEREAS the cost estimate TRCA has calculated for the habitat offsetting plan is approximately \$2 million;

THEREFORE LET IT BE RESOLVED THAT staff be authorized to negotiate, enter into and execute one or more service agreements with the City of Toronto (Toronto Water) to construct the Ashbridges Bay Treatment Plant Landform;

AND FURTHER THAT TRCA staff be authorized to obtain a letter of credit to be provided to the Department of Fisheries and Oceans for the habitat offsetting plan which is estimated

Item 8.4.

to cost approximately \$21,000 annually;

AND FURTHER THAT an update on the status of the Ashbridges Bay Treatment Plant Landform project be brought forward to the Board of Directors as part of any additional reporting associated with procurements and the anticipated request from the City for land transfers.

BACKGROUND

On May 2, 2012, TRCA was notified of the Toronto Council decision on April 10 and 11, 2012 to direct Toronto Water to enter into a joint initiative with TRCA to lead an Environmental Assessment Study that considers a landform south of the Ashbridge's Bay Wastewater Treatment Plant, to provide for the construction of the Coatsworth Cut stormwater treatment wetland and combined sewer overflow high-rate treatment facility, and that integrates these projects with other projects planned for the area.

At Authority Meeting #5/12, held on June 22, 2012, RES.#A96/12 provided staff direction to lead the Environmental Assessment Study, in collaboration with Toronto Water, Parks, Forestry and Recreation, Toronto Waterfront Secretariat, and Toronto Waterfront Revitalization Corporation. TRCA then proceeded to undertake a Conservation Ontario Class Environmental Assessment (Class EA) to support the advancement of the project, resulting in the study entitled "Ashbridges Bay Erosion and Sediment Control Project – Conservation Ontario Class EA". This Class EA study identified a preferred alternative that consists of erosion and sediment control structures that integrate with the lakefill area required for the City's planned facilities and provides a long-term solution to address the sedimentation issue with the Coatsworth Cut navigation channel which TRCA currently maintains through a \$250,000 per year dredging program.

In June 2014, Toronto City Council authorized the finalization of the Environmental Study Report for the Class EA and authorized Toronto Water to undertake the detailed design of the Ashbridges Bay Treatment Plant Landform Project as a joint initiative to be led by TRCA. In 2017, TRCA coordinated the detailed design for the Ashbridges Bay Treatment Plant Landform, incorporating the approved design concepts as outlined in the City of Toronto's Coatsworth Cut and Don River and Central Waterfront EAs and TRCA's Ashbridges Bay Erosion and Sediment Control EA. The detailed design process was completed in 2018 and a permit application was submitted to Transport Canada, Department of Fisheries and Oceans (DFO) and Ports Toronto permit reviews and authorizations are currently in progress.

The final design of the Ashbridges Bay Treatment Plant Landform Project (Attachment 1) consists of approximately 27 ha of new land (lakefill) and is composed three distinct elements:

- a 16.4 ha land base protected by an armourstone headland-cobble beach system and a rip rap revetment;
- a 710 m long central breakwater, constructed from the west side of Coatsworth Cut; and
- a smaller 100 m long east breakwater, constructed from the southernmost headland of Ashbridges Bay Park.

Integration of aquatic habitat was also a key element of the design to align with TRCA's aquatic habitat enhancement priorities on the waterfront and to also meet DFO regulatory requirements. The construction of the project results in the loss of approximately 20 ha of open coast aquatic habitat within Lake Ontario, and as such, DFO requires construction of offsetting habitat as part of the Fisheries Act Authorization required under s.35(2)(b) of the Act. Options for offsetting aquatic habitat include: establishing offsite productive aquatic habitat before lakefilling or creating a negative impact, and establishing on-site productive aquatic habitat during construction.

Item 8.4.

The project will incorporate several measures to improve on-site local fish habitat including:

- four submerged rock shoals within the headland-beach system;
- submerged rock piles, anchored log tangles and tree wads in the cobble beaches;
- a shoreline naturalization area near the opening of Coatsworth Cut along the central breakwater, and gravel fill along the inner bend of the central breakwater;
- a vertical sunken tree field at the inner bend of the central breakwater; and
- submerged rock berms along the east breakwater.

An irrevocable Letter of Credit is required by DFO with every Fisheries Act Authorization application (i.e. otherwise referred to as a DFO permit) under s.35(2)(b) of the Act to cover the costs of implementing the aquatic habitat restoration work should it not be completed by the proponent as required. The exceptions to this requirement only apply if the applicant is Her Majesty in right of Canada, Her Majesty in right of a province or the government of a territory. The City of Toronto and TRCA do not qualify as provincial government organizations. While TRCA, Credit Valley Conservation Authority, and Conservation Ontario have asked to qualify for this exception DFO has advised that there are no substitutes for a Letter of Credit (e.g. letter of commitment, cash etc.). TRCA has estimated the cost of the offsetting aquatic habitat compensation work at approximately \$2 million. This value will be confirmed by DFO through the authorization process.

RATIONALE

The Ashbridges Bay Treatment Plant Landform Project achieves the following:

- a land base for the City of Toronto's High Rate Treatment Plant as identified in the Coatsworth Cut and Don River and Central Waterfront EAs;
- erosion control and long-term shoreline protection for City of Toronto facilities;
- diversion of sediment from the navigation channel at Coatsworth Cut, eliminating the need to dredge the channel for several decades;
- public access along portions of the waterfront; and
- enhancement of fish habitat along the shoreline and newly created embayments.

On April 16, 17 and 18, 2019 City Council authorized the General Manager, Toronto Water to proceed with the construction of the Ashbridges Bay Treatment Plant Landform Project in accordance with the detailed design completed by TRCA in 2018. In addition to this, the General Manager, Toronto Water, was authorized to negotiate, enter into and execute one or more agreements as may be necessary with TRCA for the construction of the project on an actual direct construction cost recovery basis plus a reasonable administrative fee not to exceed five percent of the project cost.

In addition to this authorization to the General Manager, Toronto Water, City Council also authorized the City's Chief Financial Officer and Treasurer, in consultation with the City Solicitor and the General Manager, Toronto Water, to issue on behalf of the City and to sign all documentation related thereto, security in a form acceptable to DFO including a Letter of Credit if so required, in the amount required by DFO to cover the aquatic habitat compensation work up to a maximum of \$3 million, on such terms and conditions as are satisfactory to them, as may be necessary to obtain the permit approvals required for the project.

The City of Toronto and TRCA's desire is to commence work for this project on July 1, 2019 to align with restricted activity fisheries timing windows. In-water works will be conducted during the period of July 1 to March 31 to protect fish during critical life processes. The timing and need for fill

Item 8.4.

material to construct the project overlaps with the generation of surplus fill materials from three other Toronto Water projects near the project site: The Don River and Central Waterfront (Phase 1) Tunnel, the Ashbridges Bay Treatment Plant Outfall Tunnel, and the Ashbridges Bay Treatment Plant Integrated Pumping Station.

Transfer of fill material generated by these projects will offset costs otherwise incurred to dispose of the excess material off-site. Transfer of up to 1.2 million cubic metres of fill material from the three above-noted Toronto Water projects to the site can generate up to \$21M of savings to those projects (compared to the cost of hauling the fill material to landfill for disposal). The construction sequencing plan was developed to maximize this opportunity by aligning the construction schedule of the three other projects with the construction schedule of the new landform, and there is little room for schedule slippage. Construction must begin in July 2019, with the Cell 1 berm and east breakwater completed by March 31, 2020. Delaying the project will result in the loss of the 2019 in-water construction window, in addition to \$3.3M of lost savings and 171,000 cubic metres of fill material redirected to an alternate site.

This report is recommending that TRCA enter into agreements to implement and construct the project which requires TRCA to negotiate, enter into and execute a service agreement with the City of Toronto. As well, to meet a July 1, 2019 construction start, TRCA has undertaken the necessary planning work for the required DFO authorization and habitat offsetting plan. The submission of the authorization and securing of a letter of credit for the value of the construction of the off-setting habitat must be completed in the first week of May 2019 for the project to remain on schedule as per the review timelines specified by DFO.

Relationship to Building the Living City, the TRCA 2013-2022 Strategic Plan

This report supports the following strategies set forth in the TRCA 2013-2022 Strategic Plan:

Strategy 2 – Manage our regional water resources for current and future generations

Strategy 7 – Build partnerships and new business models

Strategy 12 – Facilitate a region-wide approach to sustainability

FINANCIAL DETAILS

The estimated project cost for construction of the Ashbridges Bay Treatment Plant Landform Project is \$96.0 million net of all applicable taxes (\$97.7 million net of HST recoveries). TRCA will work with the City of Toronto to further refine the implementation budget prior to signing a service agreement to undertake the work.

The value of the letter of credit for DFO is being estimated at \$21,000 annually. This reflects a 1.05% rate on the estimated \$2 million for the construction of the habitat offsetting plan. Funds to support the letter of credit will be recovered through the service agreement with the City of Toronto and tracked under account code 183-02.

DETAILS OF WORK TO BE DONE

Upon approval from the Board of Directors, TRCA will continue to work with Toronto Water to negotiate the completion and execution of the service agreement for implementation of the project. The final authorization package for DFO will also be submitted the first week of May 2019.

Additional procurement reports associated with construction and materials will be brought forward to the Executive and/or Board of Directors as per project sequencing. It is also anticipated that a report pertaining to property transfers will be brought forward at later stages of the project. The City of Toronto has indicated that they will request the conveyance of a portion of the water lot

Item 8.4.

owned by TRCA upon which the landform is to be built. This conveyance of land would be subject to the reservation of an easement in favour of TRCA in, under, over or through those portions of the landform necessary for access to and maintenance of any erosion control structures associated with the project. Further details will be presented to the Board of Directors for their consideration after further discussions with the City of Toronto.

Report prepared by: Lisa Turnbull, extension 5645

Emails: lturnbull@trca.on.ca

For Information contact: Lisa Turnbull, extension 5645 or Rick Portiss, extension 5302

Emails: lturnbull@trca.on.ca or rpostiss@trca.on.ca

Date: April 15, 2019

Attachments: 1

Attachment 1: Site Map