

Section I – Items for Board of Directors Action

TO: Chair and Members of the Board of Directors
Meeting #10/19, Friday, November 29, 2019

FROM: Michael Tolensky, Chief Financial and Operating Officer

RE: CITY OF TORONTO AND PORTSTORONTO
Conveyance, Permanent Easements, Agreements and/or Licenses required for
Construction of the Ashbridges Bay Treatment Plant Landform

KEY ISSUE

Request for Board of Directors approval for conveyance of land, permanent easements, agreements and/or licenses with the City of Toronto and PortsToronto for construction of the Ashbridges Bay Treatment Plant Landform, located south of Lake Shore Boulevard East, east of Leslie Street, City of Toronto, Lake Ontario Waterfront.

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 City of Toronto Council on April 16, 17 and 18, 2019 directed City of Toronto staff to negotiate, enter into, and execute one or more agreements with TRCA to construct the Ashbridges Bay Treatment Plant Landform;

WHEREAS TRCA's Board of Directors on April 26, 2019 directed TRCA staff to negotiate, enter into and execute one or more service agreements with City of Toronto (Toronto Water) to construct the Ashbridges Bay Treatment Plant Landform and provide an update on the status of the Ashbridges Bay Treatment Plant Landform project to the Board of Directors as part of additional reporting for the anticipated requests from the City for land transfers;

WHEREAS TRCA continues to work with the City of Toronto to finalize the service agreement for construction of the Ashbridges Bay Treatment Plant Landform;

WHEREAS the City of Toronto, as part of the terms and conditions of the service agreement, is requiring confirmation of TRCA's commitments for the completion of land transfers, easements, licenses and/or agreements associated with the completion of the project;

THEREFORE, LET IT BE RESOLVED THAT TRCA enter into the following transactions with City of Toronto and PortsToronto for lands located south of Lake Shore Boulevard East, east of Leslie Street, City of Toronto:

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1. TRCA will convey to the City of Toronto a parcel of land containing 6.1 hectares (15.1 acres) more or less, of vacant land, said land being Part of Water Lot Location CL 3845 in Lake Ontario in front of Marsh Lands patented to the City of Toronto on May 18, 1880, City of Toronto;
2. City of Toronto will grant to TRCA maintenance and access easements over lands containing 4.5 hectares (11.1 acres) more or less, said land being Part of Water Lot Location CL 3845 in Lake Ontario in front of Marsh Lands patented to the City of Toronto on May 18, 1880, Part of Water Lot Location CL 1924 in front of Reserve for Park Development on Registered Plan 520E and Part of Park Development Reservation on Registered Plan 520E, City of Toronto;
3. TRCA will enter into an agreement with the City of Toronto for protection of the portions of the Ashbridges Bay Treatment Plant Landform on TRCA owned lands, containing 9.2 hectares (22.7 acres) more or less, said land being Part of Water Lot Location CL 3845 in Lake Ontario in front of Marsh Lands patented to the City of Toronto on May 18, 1880 and Part of Water Lot Location CL 1924 in front of Reserve for Park Development on Registered Plan 520E, City of Toronto;
4. PortsToronto will grant to TRCA a maintenance and access easement/license over lands containing 0.8 hectares (2.0 acres) more or less, said land being Part of Park Development Reservation, Registered Plan 520E, City of Toronto;

THAT consideration be a nominal sum;

THAT the firm Fasken, Martineau, Dumoulin LLP, be instructed to complete the transaction at the earliest possible date. All reasonable expenses incurred incidental to closing for land transfer tax, legal costs, and disbursements are to be paid;

AND FURTHER THAT authorized TRCA officials be directed to take the necessary action to finalize the transaction, including obtaining any necessary approvals and the signing and execution of documents.

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-

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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 required permits have been received from Transport Canada, Department of Fisheries and Oceans (DFO) and PortsToronto.

The final design of the Ashbridges Bay Treatment Plant Landform Project 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.

Both the land base and the central breakwater will be constructed upon portions of TRCA, City of Toronto, and PortsToronto-owned water lots. The east breakwater will be constructed exclusively on TRCA-owned water lot.

Attachment 1 is a sketch illustrating the location of the subject lands. Attachment 2 is an orthophoto illustrating the location of the subject lands.

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 approval, 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.

On April 26, 2019 the Board of Directors authorized staff to negotiate, enter into and execute one or more service agreements with City of Toronto (Toronto Water) to construct the Ashbridges Bay Treatment Plant landform and to provide an update on the status of the project to the Board of Directors as part of additional reporting associated with the anticipated request

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from the City for land transfers required as part of the agreement.

The City of Toronto and TRCA's desire is to commence work for this project in December 2019, pending final negotiations and execution of the service agreement with the City of Toronto. Through continued service agreement discussions between TRCA and Toronto Water, the City of Toronto has identified several requests for land transfers; access and maintenance easements; agreements and/or licenses between TRCA, the City, and PortsToronto, deemed necessary for the long-term management and maintenance of the future land base and two breakwaters. As part of the terms and conditions of the service agreement the City of Toronto is asking TRCA to confirm commitments for the completion of all land transfers, easements, agreements and/or licenses associated with the completion of the project. TRCA Board of Directors approval is needed in advance of the finalization and execution of the service agreement.

Attachments 1 and 2 illustrates the land transfers, easements, agreements and/or licenses proposed through the Ashbridges Bay Treatment Plant Landform service agreement. They include:

- conveyance of a portion of the TRCA-owned land base and water lot to the City of Toronto;
- a TRCA access and maintenance easement along the southern shoreline, and access and maintenance easements along the eastern shoreline, of the City-owned portion of the land base for shoreline erosion control structure maintenance, as required;
- a TRCA access and maintenance easement along a portion of the central breakwater situated within a City-owned water lot;
- an agreement between City of Toronto and TRCA for protection of the landform for the portions of the land base, central breakwater and east breakwater situated within TRCA-owned water lots; and
- an easement/license between TRCA and PortsToronto for access, to manage structure maintenance, and general liability associated with the portion of the central breakwater constructed within the PortsToronto water lot.

Post-construction reference plans will be completed for the newly created landforms to determine the exact boundaries and associated area measurements of the property parcels subject to the proposed land transfers, easements, agreements and/or licenses identified within the primary service agreement.

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 cost for the work required as part of the Ashbridges Bay Treatment Plant Landform Project land transfers, easements, agreements and/or licenses is \$100,000. TRCA will work with the City of Toronto to further refine the implementation budget prior to signing a service agreement to undertake the work.

Costs associated with preparation of reference plans, legal and other costs required to complete the land transfers; access and maintenance easements/licenses; and landform protection agreement will be recovered through the service agreement with the City of Toronto and tracked under account code 183-02.

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DETAILS OF WORK TO BE DONE

Upon approval from the Board of Directors, TRCA will finalize and execute the service agreement with Toronto Water for construction of the project and enter into an agreement with PortsToronto for the construction of the project. Required land transfers, easements, agreements and/or licenses between TRCA, the City of Toronto and PortsToronto will be finalized post-construction, upon the completion of the necessary reference plans.

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Date: November 8, 2019

Attachments: 2

Attachment 1: Site Plan

Attachment 2: Orthophoto