

Section III – Items for the Information of the Board

TO: Chair and Members of the Executive Committee
Meeting #11/19, Friday, January 24, 2020

FROM: John MacKenzie, Chief Executive Officer

RE: UPDATE ON MEMORANDUMS OF UNDERSTANDING AND SERVICE LEVEL AGREEMENTS WITH PARTNER MUNICIPALITIES

KEY ISSUE

Update on work underway and required support to achieve Memorandums of Understanding (MOUs) and Service Level Agreements (SLAs) with Partner Municipalities in the context of the updated *Conservation Authorities Act* and emerging regulations.

RECOMMENDATION

WHEREAS Toronto and Region Conservation Authority (TRCA) RES.#A121/19, adopted at the June 21, 2019 Board of Directors meeting, directed staff to pursue and execute updated Memorandums of Understanding (MOUs) and Service Level Agreements (SLAs) with its partner municipalities in accordance with the amendments to the *Conservation Authorities Act* made by Bill 108 and designed to improve accountability and transparency around the work of conservation authorities funded by municipalities;

AND WHEREAS the *Conservation Authorities Act* amendments prompt the need for agreements for non-mandatory programs and services to be negotiated with regional municipalities, City of Toronto and lower tier municipalities as part of the transition plan process following proclamation of the enabling regulations associated with the Bill 108 amendments to the *Conservation Authorities Act*;

AND WHEREAS TRCA delivers a significant amount of value-added services to its partner municipalities that will be further strengthened through SLAs, where formal agreements do not currently exist;

AND WHEREAS TRCA staff have held numerous meetings with municipal representatives in our jurisdiction since receiving Board of Directors direction on June 21, 2019;

THEREFORE, LET IT BE RESOLVED THAT staff continue to work with partner municipalities to execute updated MOUs and SLAs based on mutually agreed upon services;

THAT the Board of Directors representatives in lower tier municipalities request support from their municipal staff in ensuring that consideration is given for TRCA to be relieved from standard purchasing requirements based on their unique expertise and within the scope and mandate of the *Conservation Authorities Act* (e.g. flood and erosion management) in a manner similar to the City of Toronto and other municipalities in our jurisdiction;

THAT staff report back to the Board of Directors on the progress of these agreements once draft *Conservation Authorities Act* regulations are released;

AND FURTHER THAT the Clerk and Manager, Policy, so advise municipal partners.

BACKGROUND

The *Conservation Authorities Act* (CA Act) was amended on June 6, 2019 as part of Schedule 2 of Bill 108, which was entitled the “More Homes, More Choice Act”. While Bill 108 is now law, many of the provisions of the amended CA Act are still subject to enabling regulations to be proclaimed by the Lieutenant Governor (Cabinet) or by the Minister. Proposed regulations to enact the new legislation include:

- Mandatory Program and Service Regulations - standards and requirements;
- Transition Regulation - Transition Plan, consultation, timeframe to achieve compliance;
- Governing apportionment of operating expenses and capital costs; and
- Classes of programs and services for fees and prescribed amounts.

The Province is proposing to consult with both conservation authorities (CAs) and municipalities beyond the preliminary consultation that was just completed in fall of 2019. However, no timelines for further consultation have been provided at the time this report was prepared. These regulations will dictate financing arrangements for mandatory services funded by upper tier municipalities. Financing for non-mandatory services will be addressed through the MOUs and SLAs executed as part of future (2021) annual budget processes and beyond.

TRCA’s services to municipalities vary depending on partner needs and TRCA’s area of expertise. A high-level overview of TRCA’s suite of existing and proposed partner services is provided below:

Development and Environmental Assessment Planning and Permitting

- Technical support in implementing the natural heritage, natural hazard, water resource and source protection policies of municipal and provincial policies and plans; and,
- Voluntary project review with agencies (e.g. Metrolinx) to confirm consistency with relevant legislation and plans.

Studies, Assessments, and/or Reviews

- Environmental Assessments (or similar assessments) and other required studies to support projects associated with valley land and waterfront development (e.g., trail, access, watercourse, and slope stabilization improvements);
- Review of geotechnical investigation and/or other external reports; and,
- Manage and/or execute floodplain studies.

Ecological Restoration, Planting, and Wildlife Management

- Development and implementation of long-term, multi-year restoration strategies.
- Terrestrial and aquatic restoration (e.g., wetland, shoreline, stream, and meadow restoration; habitat implementation; aquatic plantings; drainage and culverts; pond decommissioning);
- Forestry services (e.g., Forest Management plans, stand tending/thinning, hazard assessment and mitigation, forest health monitoring);
- Planting services (e.g., supply of nursery stock, tree and shrub plantings/site prep/mulching);
- Invasive species management plans and implementation; and,

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- Wildlife and ecosystem management (e.g. Canada Geese, beavers, meadow management, etc.).

Conservation Land Management and Trails

- Trail planning, development, design and implementation.

Monitoring

- Monitoring, measuring, and reporting on environmental indicators that follow standardized and recognized approaches at various scales and link to other long-term monitoring programs and data (e.g., Aquatic and terrestrial habitat and benthic communities; geomorphology, surface water quality, stream temperature, hydrology, groundwater etc.); and,
- Species at risk monitoring.

Erosion Monitoring and Management

- Erosion hazard monitoring;
- Erosion studies and analysis;
- Project implementation (e.g., Geotechnical analysis; hydro-geologic analysis/modelling; topographic, aerial and hydrographic surveying, design and drafting);
- Remediation/mitigation of erosion (e.g., slope stabilization, bank stabilization); and,
- Construction management

Property Management

- Real estate planning, appraisal and valuation services including acquisitions, negotiating licenses, lease matters, filling rental dwelling vacancies; and
- Asset management, including maintenance and recapitalization of buildings and structures, as well as natural asset management services.

Watershed Planning

- Sub-watershed studies and Watershed Plans, including updates to existing studies and plans, and assistance with implementation of management actions.

Climate Change and Applied Research

- Climate change risk scoping for both corporate and community sectors, climate modelling to identify vulnerabilities, applied research to support development and implementation of community energy and emissions plans, vulnerability assessments, and other applied research and scientific studies;
- Climate change planning activities, framework development and support in convening capacity building workshops among municipal staff to identify local priorities; and,
- Supporting municipal involvement in binational management efforts for Lake Ontario involving collaboration with Environment and Climate Change Canada and the Ontario Ministry of Environment, Conservation and Parks.

Community/Business/Industry Engagement, Education and Community Learning

- Engagement of community on sustainability actions to support the protection of ecosystem health;
- Engagement of businesses and employees in the industrial, commercial, and institutional sectors;

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- Improve efficiencies, utilize local community support, and implement a broad range of climate change-related urban renewal initiatives through the Sustainable Neighbourhood Action Program (SNAP);
- Planning and delivery of community engagement and learning events and programming;
- Delivery of Community-based Restoration Events (tree planting, meadow plantings) and watershed clean-up events;
- Delivery of mobile environmental education programs to elementary and high school students including Watershed on Wheels, the Aquatic Plants Program and the Yellow Fish Road Storm Drain Marking program; and,
- Delivery of English as a Second Language outreach programs that introduce newcomer adults to their local green spaces. Field trips introduce newcomers to conservation areas, trail networks, and recreational opportunities that are close to home; and,
- Public and stakeholder consultation.

Archaeology

- Archaeology research, assessment, excavation, and reporting on Stages 1, 2, 3, and 4 work;
- Archaeological artifact storage and management for TRCA and partner projects;
- Archaeological research, reports, and management plans for designated sites; and,
- Interpretation of archaeological resources; and Heritage Impact Assessments.

Agriculture (conventional and urban agriculture)

- Technical support pertaining to agri-environmental Best Management Practices (i.e., project planning, design, and implementation); and,
- Community supported Urban Agriculture programs on TRCA owned or managed lands

Other General TRCA Services

- Master planning and design of public use areas and trails;
- Detailed park area management plans;
- GIS/LIDAR and other mapping services;
- Remote aerial survey, photography and monitoring work; and,
- Stormwater management pond maintenance and repairs.

Update on Discussions with Municipalities

Following TRCA Board direction on June 21, 2019, TRCA's CEO and Senior Leadership Team reached out to staff at all upper tier and lower tier partner municipalities in order to initiate discussions on new or updated MOUs and SLAs. Meetings were scheduled involving the CEO, TRCA senior staff and senior leaders of municipalities. A sample structure of the agreement is also being provided to some municipalities as part of the meeting agenda.

TRCA has received support from regional municipalities of Durham, Peel, and York and the City of Toronto for maintaining its current services as part of 2020 budget deliberations. It has been mutually established that discussion on proposed SLAs and MOUs will be considered as part of the transition process following the enactment of the new legislation and promulgation of new regulations.

TRCA currently provides a range of value-added services to both lower tier and upper tier municipalities based on council approved direction, project specific-procurement agreements, and/or partnership MOUs.

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The City of Toronto has supported and advanced this partnership through an update to their Financial Control By-Law updated on December 13, 2018. Section 22 of the updated By-Law highlights delivery of approved capital projects, operating programs and partner funded projects of TRCA related to waterways, ravines and the Lake Ontario waterfront based on the following conditions:

- TRCA must use an open, competitive bidding process consistent with the City's procurement policies and processes;
- TRCA must comply with, and requires that, all vendors comply with the City's (i) Fair Wage Policy; (ii) Labour Trades and Contractual Obligations in the Construction Industry Policy; and (iii) Non -Discrimination Policy;
- TRCA undertakes the work on a cost recovery basis; and
- The work is done under agreement with TRCA on terms and conditions satisfactory to the Deputy City Managers and City Solicitor

Through discussions with municipal partners, TRCA staff are seeking opportunities to establish protocols and mechanisms similar to those that exist with the City of Toronto in order to streamline procurement approval processes.

Meetings with TRCA's lower tier municipalities, while still underway, have led to agreement on the importance of developing new standardized agreements to ensure consistency, accountability, and transparency. In many of these meetings, suggestions have been forthcoming on how to better collaborate to achieve shared desired outcomes.

Many of the meetings have confirmed the importance of TRCA as a resource and delivery agent of municipal programs and projects to achieve shared objectives. In addition, the meetings have led to productive discussions related to matters of mutual interest, cooperation on funding opportunities/grant applications and real property and land management.

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

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

Strategy 7 – Build partnerships and new business models

DETAILS OF WORK TO BE DONE

TRCA will:

- Communicate, once known, to the Board of Directors, municipal partners and relevant stakeholders, information related to the draft enabling regulations;
- Continue to meet with municipal partners to define services based on municipal preferences and needs, and the enabling regulations;
- Work with municipal partners to address any potential procurement approvals or required by-law amendments to support updated MOUs and SLAs; and,
- Update existing, and finalize new, SLAs and MOUS, as appropriate.

The timing of the above will depend on when the Province releases and finalizes the enabling regulations.

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