

Attachment 3 - Template Corporate Report for Council

TO: Mayor and Members of Council

REPORT FROM:

DATE:

TITLE/SUBJECT: Procurement of Toronto and Region Conservation Authority Programs and Services as part of the preparation of an updated Memorandum of Understanding and Service Level Agreements in support of shared objectives

OBJECTIVE/SUBJECT: To seek Council approval to amend by-law/policy (INSERT NAME/NUMBER OF BY-LAW/POLICY) to allow for sole/single sourcing of Toronto and Region Conservation Authority (TRCA) for municipally requested specialized environmental programs and services and further, to enter into an updated Memorandum of Understanding and Service Level Agreements with TRCA to advance our shared priorities.

RECOMMENDATIONS:

1. That Council approve an amendment to City/Town/Region of XXX by-law/policy (INSERT # AND NAME) to allow single/sole sourcing of TRCA/conservation authority programs and services and name TRCA/conservation authorities as an exempt organization(s) for procurement purposes for programs and services of municipal interest.
2. That Council approve City/Town/Region staff to enter into a Memorandum of Understanding (MOU) with TRCA/conservation authorities for municipally requested programs and services, in accordance with the Conservation Authorities Act.
3. That Council approve an amendment to the City/Town of XXX INSERT PROCUREMENT BY-LAW/POLICY to allow single/sole sourcing of TRCA programs and services and name TRCA as an exempt organization for procurement purposes for programs and services of municipal interest, including programs that exceed the \$XXX threshold which require Council approval.
4. That Council authorize the City/Town of XXX, or their designates, to negotiate and enter into a Memorandum of Understanding (MOU) and Service Level Agreement (SLA) with TRCA for the delivery of municipally requested and approved capital projects, operating programs, services, and partner funded projects that meet the following conditions:

- a. that the work to be performed by the TRCA on behalf of the **City/Town** relate to the types of projects, work and services set out in Attachment 1 of this report, unless otherwise approved by single sourcing or Council direction;
 - b. that the TRCA utilize an open, competitive bidding process consistent with the **City's/Town's** procurement policies and processes;
 - c. that the vendors hired by the TRCA comply with all relevant **City/Town** policies and guidelines;
 - d. that the TRCA shall undertake the work on a cost recovery basis provided however, that TRCA may charge a reasonable administration fee associated with project management, preparation of reports and permit applications, negotiation of easements, land acquisition, access agreements and similar types of activities subject to approval by the CEO and or CFOO of TRCA and **City Manager/CAO and or relevant Deputy City Manager** in the **City/Town of XXX**;
 - e. that the agreements be in a form and content satisfactory to the CEO and or CFOO of TRCA and **City Manager/CAO and or relevant Deputy City Manager in the City/Town of XXX.**
5. And that staff report back by Q1 2021 on efforts to achieve a comprehensive MOU and SLA between the **City/Town** and TRCA once additional details are known.

REPORT HIGHLIGHTS:

- The **City/Town of XXX** has a history of collaboration with Toronto and Region Conservation Authority (TRCA), which includes **INSERT RELEVANT PROJECT AND WORK**. For many years, TRCA has undertaken a variety of projects on behalf of the **City/Town**. TRCA owns **INSERT NUMBER OF ACRES** in the **City/Town of XXX**, including **INSERT RELEVANT SITES**.
- The **City/Town** and TRCA share responsibility for delivering services, and funding is provided from each respective budget as appropriate. Region of XXX Councillors including **INSERT MUNICIPAL ELECTED REPRESENTATIVES** serve on the TRCA Board of Directors to provide oversight and direction on the many programs services of common interest.
- The purpose of this report is to clarify the relationship between TRCA and the **City/Town** and to obtain authorization for the procurement of certain services by TRCA on behalf of the **City/Town** on a **sole/single** source basis and to enter into an updated MOU and SLAs to advance shared priorities including programs and projects.
- There is value to the **City/Town** in having TRCA provide services on behalf of the **City/Town** on projects that eliminate or reduce risk to life and property in a prompt, cost-effective and environmentally responsible manner. TRCA is able to provide cost-effective management of natural environment projects using their highly specialized expertise and ability to expedite required approvals, facilitate community involvement, meet tight timelines, and satisfy federal and provincial environmental standards particularly on TRCA land and in regulated areas such as valleylands and around watercourses and wetlands in the **City/Town of XXX** where TRCA approvals are required.
- It is also expected that Provincial changes to the Conservation Authorities Act (the Act) will further encourage and allow for conservation authorities to enter into agreements with municipalities within their jurisdictions, in respect to programs and services that the

authority will provide on behalf of the municipality. These initiatives are in addition to the mandatory programs and services that conservation authorities provide to their municipalities, which are required by regulation. Related regulations have not yet been made public, in order for conservation authorities and municipalities to assess what programs and services are required and which would require agreements.

- Due to the many areas of mutual interest including City/Town initiatives that cross over TRCA lands and within regulated areas, and TRCA's long term relationship with the City/Town and Region (IF RELEVANT) for monitoring and maintenance of infrastructure, City/Town of XXX staff wish to formalize the relationship between the City/Town and TRCA, as well as the services that may be procured from TRCA, by entering into an agreement with TRCA and amending City/Town of XXX INSERT PROCUREMENT POLICY/BY-LAW to allow for single/sole sourcing of TRCA services, in order to streamline the current procurement process for TRCA services, to document the services provided to the City/Town by TRCA, and satisfy the expected requirements to be laid out in the Conservation Authorities Act regulations that are expected to be released later this year.

BACKGROUND

The City/Town of XXX has a history of collaboration with TRCA. For many years, the TRCA has undertaken a variety of projects in partnership with, and on behalf of, the City/Town and which are of common interest to both organizations. A selection of projects undertaken in partnership with, or with the support of, TRCA include:

- INSERT PROJECTS

Various City/Town departments and divisions have worked with, and continue to work with, TRCA in accordance with their respective business areas. There is value to the City/Town in having TRCA provide services on behalf of the City/Town on projects that eliminate or reduce risk to life and property in a prompt, cost-effective and environmentally responsible manner. TRCA is able to provide cost-effective management of natural environment projects using their highly specialized expertise, and ability to expedite required approvals, facilitate community involvement, meet tight timelines, and satisfy federal and provincial environmental standards.

Furthermore, amendments made to the Conservation Authorities Act ("the Act") in 2018, which are intended to increase the transparency of the relationships between conservation authorities and municipalities to the public, and also to allow for conservation authorities to enter into agreements with municipalities within their jurisdictions in respect to programs and services that the authority will provide on behalf of the municipality. These initiatives are in addition to the mandatory programs and services that conservation authorities provide to their municipalities, which are required by regulation. Specifically, the following wording was added to the Act as part of the 2018 amendments:

Programs and services

21.1 (1) The following are the programs and services that an authority is required or permitted to provide within its area of jurisdiction:

1. Mandatory programs and services that are required by regulation.
2. Municipal programs and services that the authority agrees to provide on behalf of municipalities situated in whole or in part within its area of jurisdiction under a memorandum of understanding referred to in subsection (3).
3. Such other programs and services as the authority may determine are advisable to further its objects. 2017, c. 23, Sched. 4, s. 20 (1).

Mandatory Programs and Services

(2) Programs and services referred to in paragraph 1 of subsection (1) shall be provided in accordance with such standards and requirements as may be set out in the regulations. 2017, c. 23, Sched. 4, s. 20 (1).

Memorandum of Understanding with Municipalities

(3) An authority may enter into a memorandum of understanding with a municipality situated in whole or in part within its area of jurisdiction in respect of programs and services that the authority will provide on behalf of the municipality. 2017, c. 23, Sched. 4, s. 20 (1).

To date, no updated regulations have been made public to support the delineation between 'mandatory programs and services' and 'programs and services that the authority will provide on behalf of the municipality. However, it is anticipated that once the regulations are provided, the **City/Town** will be required to enter into an agreement in order to have TRCA provide municipally requested programs and services.

An amendment to the **City's/Town's** primary procurement mechanism, **INSERT POLICY/BY-LAW**, would further aid in streamlining the procurement process for municipal staff.

COMMENT/ DISCUSSION/ RATIONALE

Given the large number of projects and the benefits from working with the TRCA, staff recommend that TRCA be engaged to undertake certain projects as set out in this report rather than putting this work out through the competitive procurement process.

City/Town of XXX staff have identified several benefits to the **City/Town** as a whole to enter into an agreement with TRCA and to amend the **City/Town of XXX's INSERT POLICY/BY-LAW** to allow for **single/sole** sourcing TRCA services. These include:

- Where work is taking place in unique, complex and/or sensitive areas. This can include, but not be limited to, valley lands, areas with ecological sensitivities or with species at risk;
- Where work taking place on TRCA lands, including those under management agreement with the municipality or where a hazard is present on municipal lands but work must be

carried out on TRCA lands. In all cases where work is carried out on TRCA lands, TRCA must be involved;

- Where the **City/Town** and TRCA enter into a partnership together on a project or program. Frequently such partnerships are tied to a system of follow-up maintenance, monitoring, assessment and evaluation of practices utilized following implementation of the project. Such partnerships exceed the services and timelines of what a private contractor would undertake;
- Where it makes sense to manage both TRCA and municipal assets together in a more comprehensive manner;
- In some cases, where TRCA can contribute funds to a project that will provide for a larger net benefit upon completion;
- Where TRCA can leverage opportunities from other programming with municipal partners (e.g. **Region of XXX, Infrastructure Ontario**) to coordinate integrated and potentially larger scale solutions than might be otherwise possible;
- Where TRCA offers highly unique or specialized existing services or programs that align with municipal needs, such as managing specialized consultants that require first-hand knowledge and experience in the area of expertise, for example, geotechnical engineering.

Also, TRCA has moved forward in close cooperation with **the City/Town of XXX** to increase communications and coordination on development applications in the **City/Town**. Some major successes have included coordination to ensure timely review and approval of **INSERT RELEVANT PROJECTS/DEVELOPMENTS**. Staff from TRCA and the **City/Town** involved in the development review process have regular meetings to ensure timely review and issue management related to development files.

In an effort to streamline the procurement approval process for **City/Town** staff and to more effectively move forward projects of municipal importance, it is recommended that Council approve the **City/Town** entering into an agreement with TRCA to allow the provision of services outlined in Attachment 1 and in accordance with the conditions outlined in Recommendation 1 and that **INSERT POLICY/BY-LAW** be amended as needed to allow this agreement to be carried out and to allow single sourcing of TRCA for goods and services required by the **City/Town**.