

Section I – Items for Board of Directors Action

TO: Chair and Members of the Executive Committee
Friday, April 09, 2021 Meeting

FROM: Michael Tolensky, Chief Financial and Operating Officer

RE: STRABAG INC.
Proposal to Extend the Lease
3205 Sideline 16, City of Pickering, Regional Municipality of Durham, Duffins
Creek Watershed (CFN 50429)

KEY ISSUE

Proposal from Strabag Inc. to exercise the option to extend their lease for an additional 5 year period on Toronto and Region Conservation Authority-owned land for the purpose of temporary storage of Strabag Inc.'s equipment and materials located east of Sideline 16 and north of Concession Road 5, municipally known as 3205 Sideline 16, City of Pickering, Regional Municipality of Durham, Duffins Creek watershed.

RECOMMENDATION

THE EXECUTIVE COMMITTEE RECOMMENDS THAT WHEREAS the Toronto and Region Conservation Authority (TRCA) is in receipt of a request from Strabag Inc. to exercise their option to extend the term of their existing lease agreement for the purpose of temporary storage of Strabag Inc.'s equipment and materials located east of Sideline 16 and north of Concession Road 5, municipally known as 3205 Sideline 16, City of Pickering, Regional Municipality of Durham, Duffins Creek watershed;

AND WHEREAS it is in the opinion of TRCA that it is in the best interest of TRCA in furthering its objectives, as set out in Section 20 of the *Conservation Authorities Act*, to cooperate with Strabag Inc. in this instance;

THEREFORE LET IT BE RESOLVED THAT TRCA extend their lease with Strabag Inc. for the use of 0.999 hectares (2.47 acres), more or less, said land being part of Lot 16, Concession 5, municipally known as 3205 Sideline 16, City of Pickering, Regional Municipality of Durham;

THAT the extension of the lease with Strabag Inc. be subject to the following terms and conditions:

- i. That the renewal option term of the lease for 5 years be approved;
- ii. That consideration be \$28,000 per annum plus HST in 2021, \$30,200 per annum plus HST in 2022, and commencing in 2023 and for each subsequent year of the Term, the previous year's annual rental rate shall be increased (but never decreased) by the rate of inflation as calculated by Statistics Canada's All-Items Consumer Price Index (CPI) as per the annual average inflation rates index for Ontario for the previous calendar year, plus HST;
- iii. That Strabag Inc. is to be responsible for all approvals required for construction and operation of the temporary storage site for Strabag Inc.'s equipment and materials;
- iv. That Strabag Inc. is to be responsible for all costs associated with the removal of

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any equipment, materials and infrastructure associated with the construction and operation of their temporary storage site, at the end of the lease extension term, and restore the site to the satisfaction of TRCA;

- v. That the lease extension will assume all other terms and conditions of the existing lease with Strabag Inc.;
- vi. Any other terms and conditions deemed appropriate by TRCA staff and solicitor.

THAT said lease be subject to the approval of the Ministry of Natural Resources and Forestry in accordance with Section 21(2) of the *Conversation Authorities Act*, R.S.O. 1990, Chapter C.27, as amended, if required;

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

As part of temporary ancillary use of the Brock lands, Toronto and Region Conservation Authority (TRCA) entered into a lease agreement with Strabag Inc. for the purpose of temporary storage of Strabag Inc.'s equipment and materials located east of Sideline 16 and north of Concession Road 5, municipally known as 3205 Sideline 16, City of Pickering, Regional Municipality of Durham, Duffins Creek watershed.

The original lease agreement with Strabag Inc. dated April 1, 2016, was for a period of five years, with the option of one five-year extension. Since establishing the lease with Strabag Inc. in 2016 at an annual rental rate of \$12,000 plus HST, TRCA has increased Strabag Inc.'s annual rent by increments of \$3,000, bringing their current rental rate for the 2020/2021 lease period to \$24,000 plus HST. Nearing the end of the initial term, TRCA received a request from Strabag Inc. to extend their lease agreement for the additional five-year period, prompting TRCA to complete a fair market rent assessment of the leased lands. In February 2021, an independent appraisal company completed the assessment, returning a proposed annual rental rate of \$30,200 plus HST.

As per the terms and conditions of the lease, TRCA and Strabag Inc. will agree to modified terms for the extension period of the lease. It is therefore proposed that commencing with the extension term, the annual rent for the first year be established at \$28,000 plus HST, and the second year of the term at annual rent of \$30,200 plus HST. Commencing in 2023 and for each subsequent year of the Term, the previous year's annual rental rate shall be increased (but never decreased) by the rate of inflation as calculated by Statistics Canada's All-Items Consumer Price Index (CPI) as per the annual average inflation rates index for Ontario for the previous calendar year.

Attachment 1 is a sketch illustrating the location of the subject lands. Attachment 2 is an orthophoto illustrating the location of the subject lands. This renewal confirms the removal of the entrance and roadway from the existing leased lands.

Lease Agreement

The area subject to this lease extension consists of approximately 0.999 hectares (2.47 acres) of land. The following are the key terms and conditions of the proposed lease extension arrangement:

1. Lease Payment: For 2021 the rate is \$28,000 per annum plus HST, for 2022 the rate is \$30,200 per annum plus HST, for 2023 and for each subsequent year of the Term, the

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previous year's annual rental rate shall be increased (but never decreased) by the rate of inflation as calculated by Statistics Canada's All-Items Consumer Price Index (CPI) as per the annual average inflation rates index for Ontario for the previous calendar year, plus HST;

2. Term of the extension: 5 years;
3. Insurance: Strabag Inc. will provide \$5 million in commercial general liability insurance;
4. Utilities: Strabag Inc. will be responsible for all utilities;
5. Further Approvals: Strabag Inc. will comply with any applicable laws, directions, rules and regulations;

RATIONALE

The extension of the lease with Strabag Inc. would be in the best interest of TRCA in furthering its objectives as set out in Section 20 of the *Conservation Authorities Act*. Extending the term of the lease agreement with Strabag Inc. is a temporary use that would allow for continued revenue generation, supporting financial sustainability of the Brock North lands and future restoration of the site.

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 3 – Rethink greenspace to maximize its value

Strategy 7 – Build partnerships and new business models

FINANCIAL DETAILS

The revenue generated from this lease extension will continue to be used for TRCA purposes and applied to 106-19 Brock North account series. The annual rental rate for the five year term is established as: \$28,000 plus HST for 2021, \$30,200 plus HST for 2022, and commencing in 2023 and for each subsequent year of the Term, the previous year's annual rental rate shall be increased (but never decreased) by the rate of inflation as calculated by Statistics Canada's All-Items Consumer Price Index (CPI) as per the annual average inflation rates index for Ontario for the previous calendar year, plus HST.

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Attachments: 2

Attachment 1: Site Plan

Attachment 2: Orthophoto