

Subject: Update on the Erosion Mitigation Project at the Storm Water Outlet at Rice Rd and Hwy 20

Recommendation:

BE IT RESOLVED THAT Council receive Report #2021-0125 – Update on the Erosion Mitigation Project at the Storm Water Outlet at Rice Road and Hwy 20, for information;

AND THAT Council direct staff to proceed with the project using a design, bid, build procurement strategy;

AND THAT Council approve \$70,000 to complete the necessary engineering and detailed design for the project out of the 2021 Capital Budget Reserves;

AND THAT Council direct staff to include the cost for constructing the project for consideration as part of the 2022 Capital Budget.

Background:

At its regularly scheduled council meeting on April 19th, Pelham Town Council passed a motion directing staff to undertake a Design/Build initiative to determine an optimal solution to identify, remediate and resolve the erosion problems at the Headwaters of the Twelve Mile Creek, immediately north of Regional Road 20 (Highway 20).

In addition, the motion passed by Council directed staff to contact the Regional Municipality of Niagara, Upper Canada Consultants, Trout Unlimited and the Niagara Peninsula Conservation Authority to seek contributions toward the cost of said repairs, in consideration of the paramount environmental significance of the erosion.

Analysis:

On June 3rd, staff issued a Design/Build Request for Proposal (RFP) for the work required to stabilize and mitigate the negative impacts of erosion from the storm

water management pond outlet to approximately 150 m north. The bid opportunity was public and was open for 20 days. It closed on June 24th. In total, there were eleven (11) registered plan takers for the project.

The Town of Pelham received only one submission for the project, which was determined to be non-compliant in accordance with the Town's Purchasing and Procurement Policy (S402-00). The Purchasing and Procurement Policy governs bid irregularities and requires the automatic rejection of certain non-compliant bids. The submission for this project was subject to automatic rejection due to the nature and extent of its non-compliance with the RFP. In addition, as a general legal proposition, the Town of Pelham is permitted to select only bids that comply with the conditions of the RFP. The Town of Pelham may not validly accept a non-compliant bid such as the submission received for the project. As a result, staff are not able to award the project under the current Design/Build RFP.

During the preparation of the Design/Build RFP staff engaged in discussions with the Niagara Peninsula Conservation Authority and Trout Unlimited Canada (Niagara Chapter). Both organizations see a benefit in completing the erosion protection works, but have stipulated that the project should be designed and constructed using sound engineering practice and in accordance with all environmental policies and regulations.

Based on the apparent lack of interest to complete the project based on a Design/Build approach and based on the comments and feedback received from the Environmental Approval agencies and interest groups during the preparation of the Design/Build RFP, staff's recommendation is to proceed with the project using a standard design, bid, build approach.

Further, it is recommended that Council direct staff to issue an RFP to complete the necessary engineering studies and detailed design for the project in 2021 using funds that are available in the Roads Reserve. It is estimated that the cost of the engineering required to complete the tender documents and obtain the necessary permits and approvals is approximately \$60,000 - \$70,000 and that this assignment can be completed to allow for construction in 2022.

Based on the preferred design concept staff will include the cost of construction as request for Council's consideration as part of the 2022 Roads Capital budget.

Financial Considerations:

Currently there are no funds allocated in the capital budget to complete the project. Based on the motion that was presented and passed by Council in April, the Treasurer has provided assurance that there are available funds in the Roads Reserve for \$60,000 - \$70,000 to be allocated to this project in 2021. Staff are of the opinion that this amount will be sufficient to cover the costs associated with completing the necessary engineering and environmental studies, complete the detailed design, and obtain the necessary permits and approvals to move the project forward.

Based on the preferred alternative staff is estimating that the cost to complete the construction portion of the project (including Contract Administration, Inspection, and Geotechnical investigations) is approximately \$200,000. Once the design concept is finalized and an engineer's estimate is available, staff will report to Council with the estimated total project cost. Staff will include the construction portion of the project as part of the 2022 Roads Capital Budget request for Council's consideration.

Alternatives Reviewed:

Council may direct staff to continue with the Design/Build approach. If Council wishes to proceed in this manner staff will be required to re-issue the RFP in accordance with the Town's Purchasing and Procurement Policy.

Staff do not recommend this approach because the Design/Build RFP issued in June only resulted in one (1) bid submission.

Strategic Plan Relationship: Risk Management

The design and successful completion of a project to address the erosion issues at the storm water outlet at the Rice Road and Hwy 20 SWM facility will ensure that the negative impacts to the 12 Mile Creek and adjacent properties due to erosion is mitigated.

Consultation:

Consultation was undertaken with the Town of Pelham Corporate Services Department and the Town's Solicitor.

Other Pertinent Reports/Attachments:

2021-0048-Public Works – Operation of the Rice Road and Hwy 20 Storm Water Management Pond in East Fonthill.

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