



## THE CORPORATION OF THE TOWN OF AMHERSTBURG

### OFFICE OF COMMUNITY AND PROTECTIVE SERVICES

**MISSION STATEMENT:** *Committed to delivering cost-effective and efficient services for the residents of the Town of Amherstburg with a view to improve and enhance their quality of life.*

Author's Name: Heidi Baillargeon	Report Date: May 19, 2022
Author's Phone: 519 736-0012 ext. 2128	Date to Council: July 25, 2022
Author's E-mail: <a href="mailto:hbaillargeon@amherstburg.ca">hbaillargeon@amherstburg.ca</a>	Resolution #:

To: Mayor and Members of Town Council

Subject: Kings Navy Yard Park Extension – Phase 1 Shoreline Improvements

#### 1. RECOMMENDATION:

Administration **BE DIRECTED** to proceed with the project based on one of the two following options:

##### Option 1

That:

1. Council **WAIVE** the Purchasing By-law to execute an agreement with AMICO for the preparation of full construction tender documents, ministry approvals, contract administration and all construction for phase one (1) to stabilization of the shoreline along the old Duff's property also known as 290, 296 and 306 Dalhousie street as outlined in the Municipal Class Environmental Assessment completed in July 2019;
2. Council **APPROVE** a pre-commitment of funding for Phase one (1) shoreline work at 290, 296 and 306 Dalhousie street to an upset limit of \$2,000,000 from the General Reserve Fund in order to complete all design and construction work for Phase 1 shoreline improvements as outlined in the Municipal Class Environmental Assessment, satisfactory in form to the Chief Administrative Officer, in Financial content to the Director of Corporate Services and in technical content to the Director of Parks, Facilities, Recreation and Culture;
3. The Mayor and Clerk **BE AUTHORIZED** to sign a contract with AMICO to an upset limit of \$2,000,000 in order to perform all work associated with the design and construction of Phase one (1) shoreline improvements for the property located at 290, 296 and 306 Dalhousie Street as outlined in this report, satisfactory in form to the Chief Administrative Officer, in Financial content to the Director of Corporate

Services and in technical content to the Director of Parks, Facilities, Recreation and Culture and further;

4. The Chief Administrative Officer and Clerk **BE AUTHORIZED** to sign and execute any such agreements, declarations or approvals required to fully execute the scope of work for Phase one (1) - Shoreline Improvements, satisfactory in financial content to the Chief Financial Officer, and in technical content to the Director of Parks, Facilities, Recreation and Culture and further;
5. Council **DELEGATE** authority to the Chief Administrative Officer to award and issue purchase orders and or sign and execute any agreements as may be required for the necessary services to execute the scope of work for Phase 1 - Shoreline Improvement located at 290, 296 and 306 Dalhousie Street.

## **OR Option 2**

That:

1. Council **DIRECT** Administration to proceed with a standard RFP for the preparation of full construction tender documents, ministry approvals, contract administration and all construction for phase one (1) to stabilization of the shoreline along the old Duff's property also known as 290, 296 and 306 Dalhousie street as outlined in the Municipal Class Environmental Assessment completed in July 2019;
2. Council **APPROVE** a pre-commitment of funding for Phase one (1) shoreline work at 290, 296 and 306 Dalhousie street to an upset limit of \$2,000,000 from the General Reserve Fund in order to complete all design and construction work for Phase one (1) shoreline improvements as outlined in the Municipal Class Environmental Assessment, satisfactory in form to the Chief Administrative Officer, in Financial content to the Director of Corporate Services and in technical content to the Director of Parks, Facilities, Recreation and Culture;
3. The Mayor and Clerk **BE AUTHORIZED** to sign a contract with the successful low bid in accordance with the Town's Purchasing By-Law in order to perform all work associated with the design and construction of Phase one (1) shoreline improvements for the property located at 290, 296 and 306 Dalhousie Street as outlined in this report, satisfactory in form to the Chief Administrative Officer, in Financial content to the Director of Corporate Services and in technical content to the Director of Parks, Facilities, Recreation and Culture;
4. The Chief Administrative Officer and Clerk **BE AUTHORIZED** to sign and execute any such agreements, declarations or approvals required to fully execute the scope of work for Phase one (1) - Shoreline Improvements, satisfactory in financial content to the Chief Financial Officer, and in technical content to the Director of Parks, Facilities, Recreation and Culture;
5. Council **DELEGATE** authority to the Chief Administrative Officer to award and issue purchase orders and or sign and execute any agreements as may be required for the necessary services to execute the scope of work for Phase one (1) - shoreline improvement located at 290, 296 and 306 Dalhousie Street.

## **2. BACKGROUND:**

The Town of Amherstburg in collaboration with both Landmark Engineers and Golder Associates have worked closely with the Essex Region Conservation Authority (ERCA) and the Ministry of the Environment, Conservation and Parks (MECP) regarding the reclamation of the old Duffy's property located at 290, 296 and 306 Dalhousie street in Amherstburg, in order to reclaim this property as Public parkland for the Town.

In January 2018, the Town of Amherstburg retained Landmark Engineers Inc. to commence the project by undertaking a Municipal Class Environmental Assessment for the future development of the site which took approximately 29 months to complete from start to finish. The Notice of Completion was published with a 30-day review period and expired on June 26, 2019. During the 30-day review, following the publication of the Notice of Completion for this Class EA, a Part II Order was requested by a local resident. On May 21, 2020 the Minister of the Environment made the decision that an individual EA was not required. With the decision being made, the Town was able to proceed with the design and construction of the project, subject to any other permits or approvals required.

Since the time of purchase the Town has retained Golder Associates to help facilitate additional required ministry approvals including a Phase 1 Environmental Site Assessment to investigate potential environmental concerns as well as a Phase 2 Environmental Site Assessment which is currently underway and includes Record of Site Condition and Certification for Property Use filed with MECP.

The Town is working closely with our hired consultants to navigate the best possible solutions for the site moving forward in order to turn this property back over to the people in the form of a public park that can be enjoyed by the community.

## **3. DISCUSSION:**

With respect to the current schedule and services required in order to complete the Phase 2 Environmental Site Assessment and Record of Site Condition, Conceptual Site Model and Certification of Property Use, the following schedule is in place:

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Item	Task	Revised Schedule
		(As of June 2, 2022)
a	Submit Risk Assessment (RA) to MECP	<i>Received (Dec. 23, 2021)</i>
b	<i>1st MECP Review Period (allow up to 16 weeks)</i>	<i>Received (May 9, 2022)</i>
1	Update RA and Ph Two CSM (based on MECP Comments)	8-Jul-22
2	<i>Consultation with MECP on Significant Issues (allow up to 8 weeks)</i>	29-Jul-22
3	Re-Submit RA (2nd Submission) (respond to MECP comments)	4-Aug-22
4	<i>2nd MECP Review Period (allow up to 16 weeks)</i>	24-Nov-22
5	Prepare Updated Phase One ESA report (pending MECP comments on RA)	8-Dec-22
6	Re-Submit RA (3rd Submission) (respond to MECP comments)	15-Dec-22
7	<i>3rd MECP Review Period (allow up to 16 weeks)</i>	6-Apr-23
8	Final RA Submission (respond to MECP comments)	27-Apr-23
9	<i>MECP Review Period and Acceptance of RA (allow up to 4 weeks)</i>	4-May-23
10	Prepare Final RA Submission (respond to MECP comments)	18-May-23
11	Final Phase Two ESA report (pending MECP comments on RA)	18-May-23
12	<i>MECP Review Period and Acceptance of RA (allow up to 4 weeks)</i>	15-Jun-23
13	Certificate of Property Use (CPU) (allow up to 4 weeks, assumes Golder is working with MECP District Engineer)	13-Jul-23
14	Posting to Environmental Registry (EBR) with 6-week public review period	24-Aug-23
15	File RSC with MECP	31-Aug-23

The schedule noted above extends well into 2023 based on required approvals from the MECP which the Town does not have control over. The Town recently received the first set of comments back from the MECP 16-week review period with some additional environmental items to be address that could impact timelines for final approval. The schedule noted above is the proposed timeline as of June 2, 2022 and could be subject to change pending further review and comments.

In consultation with Golder Associates, Administration was advised by our consultants that although we cannot open the site up to the public without final approvals from the Ministry we can work on preparing the site for use so that when approvals are granted there will be no further delay.

Administration has been working with our consultants to formulate a plan that addresses the required work in a systematic and responsible way so that we can address work required without duplicating efforts and funding required. According to the Municipal EA the shoreline has an existing sheet pile wall that requires stabilization. The EA outlines

replacing a small section of sheet pile wall in addition to implementing rock revetment for the remainder of the shoreline and addressing subsurface infrastructure including site drainage. In order to carry out this work a staging area is required which means heavy equipment moving over the site and storage of materials on site. Work could be performed from the water by barge however this would be a much costlier undertaking. Shoreline work also requires additional Ministry approvals from the Department of Oceans and Fisheries as the area was identified in the Municipal EA to be home to Species at Risk in the form of nesting birds, however, this issue should no longer be a concern as the docks have been partially removed.

The Town was working with an engineering firm on drawings for the stabilization of the Shoreline and noticed AMICO mobilizing on site to the South. Administration approached AMICO to gain a better perspective of the work they were undertaking for their project, including some discussions on timelines, costs, ministry approvals etc. It was evident from these discussions that there was a unique opportunity for the Town to partner with AMICO and potentially save on costs due to economies of scale for the Town's project in addition to capitalizing on timelines and contract administration required as resources are limited.

The shoreline improvements required on Town property includes rock revetment and sheet pile wall replacement which is the same treatment AMICO will be carrying out on their site located immediately South of the Town's property. AMICO's project is much larger in scope and scale than that of the Town, which presents a unique opportunity for partnership to save on the project with respect to mobilization costs and other material costs for the project due to sheer volume and scale of the project.

In addition, AMICO's consulting and design engineer for their project is Landmark Engineering which is the same firm that prepared the Town's Municipal Class EA. In discussions with both AMICO and Landmark Engineering, which is well versed on the Town's project and site history, together they are prepared to take on the required works associated with the project including organizing the required ministry approvals.

Administration has reached out to other organizations, contractors and Townships with similar shoreline projects to gain a better perspective of current pricing for this work. After careful consideration of the costs involved for design, construction, and contract administration, including ministry approvals, it is believed that there are considerable savings to the Town if a partnership for this work could be negotiated. The amount of time and resources required to carry out the work for shoreline stabilization is considerable not to mention time commitments for a project of this scope and scale for the current Town staffing compliment. Administration believes there will be a considerable cost savings due to economies of scale by having AMICO partner with the Town on a design build for this work.

AMICO has reviewed the scope and scale of the project and has offered to complete the project for the Town for a fixed price contract based on more detailed engineering drawings. Their fixed price would include all design build services, engineering, contract administration and all the required Ministry and regulatory approvals for construction. Proceeding in this manner would require an agreement with AMICO including very specific timelines and penalties if these timelines were not met. With this method there is no assurance that the Town is receiving the best possible pricing, although Administration believes from current research that there will be considerable savings to the Town.

There are a number of benefits of entering into a fixed price agreement:

- The Town would be able to clearly identify the costs in a volatile market right now for completing Phase 1 of the project and mitigate financial risk of material increases, labour cost increases and unexpected situations that add costs.
- Engineering, oversight and project management would be the responsibility of the contractor including all Ministry approvals which would be flowing through the same consultant that has intimate knowledge and history of the Town site and Municipal Class EA saving on design consulting and engineering costs.
- The Town would not be invoiced for this work until the project is substantially complete. This would improve cash flow and financing needs of a project of this size.
- Timing to complete the project would be ensured based on the agreement and penalties put in place if timing isn't met. If Council agrees to move forward with a sole source design build contract for this work the work could be completed only barring required ministry approvals within this calendar year. If the Council wishes to proceed with the procurement of standard Tender award process for this work, Administration can confidently say it will not be carried out until 2023 or later.

If Council decides to move forward with the normal Tender process and have the Town manage this project, additional resources are required to help with contract administration. Contract administration costs could run anywhere from \$250,000 to \$350,000 plus. The Town would contract this work out to a consulting firm thereby issuing an RFP to complete detailed design and construction drawings in addition to acquiring all necessary ministry and regulatory approvals and permits and finally send out a request for tenders and award a contract which will take us well into 2023.

Completing the project in this manner would ensure that the Town would get the best pricing available at the time of Tender however, could be more costly due to additional resources required to carry out the scope of work with a considerably longer timeline in a volatile market where prices are going up by the day. Although the Town would be able to obtain best pricing for the work in general there is risk that these total costs could result in costs exceeding the fixed price being offered by AMICO due to rising construction prices and the time required to prepare the necessary drawings and approvals. The proposal / tender process as well as Council funding approvals could add additional months to the overall project time. These delays will add additional financing cost to the project.

It should be noted once again that 'public access' to the site will not be permitted until the Town is granted final approval from the MECP, however, in the interim contractors would be allowed on site to carry out the Shoreline Improvements. For the sake of timing Administration would like to run the approvals for MECP, and required Ministry approvals needed by the DFO for phase 1 concurrently so that when final approval is granted for public site access from MECP construction work for phase 1 will be complete or well on its way to final completion.

In order to move this project forward in a fiscally responsible and expeditious manner Administration recommends council consider and approve one of the two options presented in this report and has reason to believe there could be considerable cost savings to the Town depending on which option is selected.

#### **4. RISK ANALYSIS:**

Contracting out the first phase of development before final approval is granted by the Ministry does carry some inherent risks, however, after careful dialogue with Golder Associates the Town has been advised it would be permissible to begin work.

The Town is in the process of completing the Phase 2 Environmental Site Assessment, which includes Record of Site Condition, Conceptual Site Model and Certification of Property Use in accordance with MECP requirements. Other regulated approvals including DFO approval for any shoreline work, MNRF, ERCA, are also required prior to construction commencement. Failure to comply with regulated approvals as outlined in the Class Environmental Assessment will open the Town up to substantial financial and liability risks.

Administration is recommending we stay the course and follow the approvals and Ministry regulated requirements as advised by our team of Consultants and Engineers.

Partnering with AMICO in a design build contract for shoreline work as outlined under APPENDIX A poses some risk to the Town that a lower price may be achieved if the work was Tendered through normal tendering process. However, there is also a risk that this process will take a considerable amount of time thereby adding to the cost and no cost savings will be realized. This is considered possible and of medium impact.

#### **5. FINANCIAL MATTERS:**

In 2018 preliminary cost estimates were presented for the preferred design solution at the Public Drop-In Centre No. 2 by Landmark Engineers. At the time estimated costs were as follows:

- Plaza Site Works (\$2.5-\$3 million)
- Shoreline Improvements (\$400k - \$450k)
- Marina Works (\$2.5-\$3 million)
- Associated Structures (\$1.5-\$2.5 million)

Total cost estimates for the entire project in 2018 were in the range of 7 to 9 million dollars including allowances for engineering, project administration and contingency. Since 2018 prices have increased dramatically and we also know COVID-19 has had a considerable impact on current construction costs.

After more detailed drawings are prepared the Town will have the opportunity to enter into a fixed price design build contract with AMICO for work as outlined in APPENDIX A. Should Council wish to proceed with this work Administration will promptly move forward with execution of contract to take full advantage of timing and synergies partnering with AMICO on the shoreline works.

Should council wish to proceed with tendering the project through normal RFP/ Tender Award Process Administration is recommending a pre-commitment of funds in the amount of \$2,000,000 from the General Reserve Fund in order to cover the cost of Phase one (1) for Shoreline Improvements only.

**6. CONSULTATIONS:**

Financial Services  
Parks and Naturalized Areas  
Facilities  
Engineering

**7. CONCLUSION:**

Administration has prepared this report for Council to consider two possible options in order to move the project forward with Phase one (1) stabilization of shoreline at 290, 296 and 306 Dalhousie Street in Amherstburg.

Final Approvals for the Record of Site Condition from the Ministry will likely not be granted until mid to late 2023 according to current timelines as indicated by Golder Associates. Should Council wish to proceed with one of the options presented Administration will have the opportunity to run the processes for ministry approvals and phase 1 of construction concurrently thereby preparing the site for public use when final ministry approvals are granted.

A handwritten signature in blue ink, appearing to read 'Heidi Baillargeon', is written over a horizontal line.

Heidi Baillargeon  
**Director of Community and Protective Services**

## Report Approval Details

Document Title:	Kings Navy Yard Park Extension- Phase 1 Shorewall Improvements.docx
Attachments:	- King's Navy Yard Park Extension Scope of Work Amico - Appendix A.docx
Final Approval Date:	Jul 20, 2022

This report and all of its attachments were approved and signed as outlined below:



Tracy Prince



Valerie Critchley

**No Signature - Task assigned to Tammy Fowkes was completed by assistant Kevin Fox**

Tammy Fowkes