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PROPERTY SERVICES RESOURCING FOR VIVANEXT PROGRAM

The Finance and Administration Committee recommends the adoption of the recommendation contained in the following report undated, from the Commissioner of Corporate Services.

1. RECOMMENDATION

It is recommended that:

1. Council authorize the hiring of seven Property Services staff for the land acquisition program for the next phase of vivaNext as outlined in this report, subject to full funding through the Move Ontario 2020 $1.4 billion envelope.

2. PURPOSE

This report seeks Council's authorization to hire additional staff to implement the acquisition of land for the vivaNext program.

3. BACKGROUND

Metrolinx will fund the first phase of vivaNext through the $1.4 billion MoveOntario 2020 announcement

The $1.4 billion Provincial funding announcement in April 2009 secured the implementation of the first phase of the vivaNext program, which delivers the core of the rapid transit network in York Region as well as transit infrastructure improvements. The $1.4 billion funding announcement to York Region was part of a larger funding envelop of $9.2 billion to be administered by Metrolinx.

More recently, in March 2010, the Province announced that it would be reducing the Metrolinx budget over the next five years by re-prioritizing the timing of projects and pushing $4 billion of infrastructure to later years. Staff have met with Metrolinx and have developed options for staging the delivery of vivaNext. Metrolinx concurs with YRRTC that we continue with the current property acquisition plan.

The first phase of vivaNext will put approximately 45 kilometres of rapidways down the centre of Yonge Street, Highway 7 and Davis Drive. In order to implement the rapidways, widenings will be required that will result in a significant number of property takings and impacts on existing uses. A large percentage of the properties are commercial and many involve multiple tenants.

The first phase of vivaNext is to be operational as early as 2014

The intent of the first phase of funding is, in part, to assure that the rapidways are in place and operational along the corridors in time for the commencement of revenue service of the Spadina Subway Extension in 2015. While a number of projects in the first phase will be operational by 2015, the recent March 2010 funding announcement implies that a few segments may be delayed to accommodate Provincial cash flow requirements. The segments are planned to be implemented through design-build arrangements with York Consortium 2002 and with Infrastructure Ontario.

Property procurement along Davis Drive (D1) and Highway 7 (H3) commenced in 2008, requiring three appraiser/negotiators

In 2008, the procurement of property for three (3) vivaNext projects commenced along three corridors in York Region: H3 - Highway 7 – Yonge Street to Warden Avenue; and D1 - Davis Drive – Yonge Street to Huron Heights Drive/Alexander Road; and the Toronto York Spadina Subway Extension – TYSSE. Three appraiser/negotiators were hired to have carriage of the H3 and D1 projects.

Staff resources hired for the D1 and H3 segments will continue to work on closing those files over the next two to four years

The H3 and D1 projects have approximately 200 properties plus tenant interests totalling approximately 500 files. The settlement and closing of the files are still to be negotiated and finalized. The time period to finalize all the settlements is anticipated to be two to four years. Property Services and Legal staff are responsible for negotiating and closing final settlements, as well as co-ordinating property management issues. In addition, business loss claims for commercial properties will not be filed until construction is complete. Property Services resources will be required to finalize these settlements including business loss claims. While there is no statutory limitation on the time frame for finalizing claims, it is in the Region’s interest to settle as many of these claims as possible within the funding envelope.

Acquisitions on the remaining projects of vivaNext are commencing in 2010

There are three (3) projects remaining within the Move2020 funding envelope that will require acquisition programs in 2010. These are: H2 – Highway 7 from Yonge Street to Islington Avenue; Y2 - Yonge Street from Highway 7 to Gamble Road/19th Avenue; and Y3.2 – Yonge Street from Sawmill Valley Drive/Savage Road to Davis Drive.

4. ANALYSIS AND OPTIONS

Five additional appraiser/negotiators are required for the property acquisitions along Highway 7 and Yonge Street

For the next phases (H2, Y2 and Y3.2) there are approximately 348 properties requiring either full or partial acquisition. The majority of the properties are commercial entities which in addition, will have tenant claims. This will result in approximately 800 to 900 total files. Based on the work loads experienced in the initial acquisition programs on Highway 7 and Davis Drive, it is anticipated that an additional five appraiser/negotiators are required to undertake the property acquisitions for the additional segments coming on stream.

To effectively provide the necessary management and oversight on the vivaNext projects, a dedicated manager and one support staff are required

A full-time Manager is required to manage and coordinate activities for all vivaNext acquisitions for the duration of the project. This position will report directly to the Director, Property Services Branch. The existing three dedicated appraiser/negotiators and the additional five new appraiser/negotiators will report to the new management position.

Land acquisitions must be supported by an investigative process to determine the market value of the land and other compensation set out in the *Expropriations Act*. The Manager will manage the coordination of independent professionals required to fulfill the Region's due diligence. These professionals include, but are not limited to, providing services related to environmental issues, parking, landscaping, heritage issues, real estate appraisals, business valuations, quantity surveying, architectural issues, urban planning, surveying, building relocations, demolitions and soil/property remediation.

To support the Manager and eight appraiser/negotiators, one support staff member is required.

In the event funding for the project ceases or workload reductions, the additional resources may be given notice of layoff in accordance with the terms of the Collective Agreement and Employment Standards as applicable.

Outsourcing the negotiation work is not a viable option

There are a limited number (approximately five) of outside negotiation consultants who could perform this work. However, with many major infrastructure projects currently underway these consultants are stretched to the limit. Given both the large scope of the VIVA project and their existing workload from other public sector clients, it is highly unlikely that any of these consultants would commit themselves totally to the VIVA project. In addition, the cost would be significantly higher for the outsourcing option.

5. FINANCIAL IMPLICATIONS

Funding for the vivaNext staff resources

The capital budget for property, inclusive of legal fees, appraisals, staffing and other necessary services, includes a total of $14.5 million for the projects that are funded from the $1.4 billion MoveOntario 2020 bundle. Property costs, inclusive of property procurement resources, services and fees, to June 30, 2010, have been agreed to by Metrolinx for advanced funding through an executed extended Memorandum of Agreement. Approximately $52.7 million has been deposited to the Region's MoveOntario Reserve account as working capital to procure property and commence early works. Metrolinx has indicated that they are working on setting up a working capital reserve to fund all other expenditures that YRRTC incurs on a three-month rolling basis, inclusive of staffing and project management office costs, as a means of ensuring that YRRTC and the Region are not out-of-pocket.

Funding for staffing is available for phases Y3.2, Y2 and H2. As funding for future phases is still being negotiated, continuing staff resources will be conditional upon obtaining additional funding. These staff resources are tied specifically to the projects in the $1.4 billion funding announcement. Should the funding source no longer be available, the positions will be eliminated. To this effect, letters of offer to proponents will include the following clause:

> *"Activities related to the continued operation of YRRTC are contingent on Provincial and Federal funding. Should this funding cease and YRRTC cease operations, your employment will come to an end and you will be entitled to notice or payment in lieu thereof, only as prescribed by the minimum statutory requirements contained within the Employment Standards Act, 2000, as amended for unionized employees the provisions of the Collective Agreement will prevail in terms of layoff notice and bumping rights."*

Metrolinx agrees that it is appropriate to continue with the property procurement plan for all funded segments of vivaNext.

6. LOCAL MUNICIPAL IMPACT

Acquiring the lands for the next phases of the vivaNext capital program in a timely manner will ensure that construction proceeds without delay. Completion of these projects will result in an efficient rapid transit system that reduces traffic congestion and provides a faster, more reliable service to the residents of York Region.

7. CONCLUSION

This report recommends Council endorse a new staffing structure to meet the needs of the vivaNext projects.

There are a total of six vivaNext projects under the Move2020 funding envelope with three in progress. The acquisition of properties now will ensure that YRRTC remains in 'shovel ready' mode and also reduces the risk of significant property escalation costs associated with development that is occurring along the corridors. This report seeks authorization to hire additional full-time employees to address the project time pressures.

For more information on this report, please contact Barry Crowe, Director, Property Services Branch at Ext. 1685.

The President of the York Region Rapid Transit Corporation has endorsed this report.

The Senior Management Group has reviewed this report.