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CONSTRUCTION AND TRANSFER AGREEMENT
TORONTO YORK SPADINA SUBWAY EXTENSION
VIVA PROJECT 90996

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report dated May 6, 2010, from the Commissioner of Corporate Services.

1. RECOMMENDATIONS

It is recommended that:

1. Council authorize the Construction Transfer Agreement between the Ontario Realty Corporation (“ORC”) and The Regional Municipality of York (the “Region”) with respect to the acquisition of a temporary right of access to lands at the south west quadrant of Jane Street and Highway 407 for the Toronto York Spadina Subway Extension (“TYSSE”).
2. The Commissioner of Corporate Services be authorized to complete this transaction in accordance with the terms of the agreement.
3. Regional Council authorize the Commissioner of Corporate Services to execute all construction related arrangements or permissions with ORC required to further the construction of the Toronto York Spadina Subway Extension project provided that appropriate securities are in place to reduce the construction risks to the Region.

2. PURPOSE

The purpose of this report is to seek Regional Council approval for the Commissioner of Corporate Services to execute the Construction Transfer Agreement between The Ontario Realty Corporation and The Regional Municipality of York. The Construction Transfer Agreement will provide temporary right of access to the lands at Jane Street and Highway 407 to facilitate the enabling works scheduled to commence May 28, 2010 for the Toronto York Spadina Subway Extension.

3. BACKGROUND

The Regional Municipality of York is negotiating with the Ontario Realty Corporation for property rights required to construct the 407 Station at the south west quadrant of Jane Street and Highway 407.

Negotiations with the Ontario Realty Corporation are ongoing for the acquisition of the property rights for approximately 30 acres which has various Provincial government agency interests. It is anticipated that the acquisition will be completed by the end of calendar year 2010.

Toronto York Spadina Subway Extension requires access to the land prior to the finalization of the property agreement in order to commence the enabling works

This property is the location of the launch shaft for tunnels in York Region, north to the Vaughan Corporate Centre Station and south to Steeles Avenue West Station. The enabling works, scheduled to commence May 28, 2010, will complete pre-construction works in advance of construction of the launch shaft, scheduled for the spring of 2011. The enabling works for this property include the relocation of a City of Vaughan sanitary sewer line, relocation of Black Creek and associated valley works, construction of two accesses, including widening Jane Street, a bridge over Black Creek, and construction of a storm water management pond. The enabling works are scheduled to be completed by June, 2011.

Toronto York Spadina Subway Extension will require additional permissions from ORC as the project proceeds

Over the coming months the Toronto York Spadina Subway Extension project team may require additional permissions and arrangements with ORC to advance the construction of the project. In keeping with the Memorandum of Understanding with the City of Toronto and the TTC, the Region has the responsibility for all land arrangements within the Region of York for the Toronto York Spadina Subway Extension project. To expedite the subway construction and not cause delays to the project schedule, staff recommend that the Regional permissions required from Ontario Realty Corporation to expedite the Toronto York Spadina Subway Extension construction program be delegated by Council to the Commissioner of Corporate Services.

4. ANALYSIS AND OPTIONS

Property No. 1 (*see attachment 1*)

OWNER:	Her Majesty the Queen in Right of Ontario as represented by The Minister of Government Services
PROPERTY:	Firstly, Part of Lots 2, 3 and 4, Concession 5 designated as Parts 3, 4, 5, 6 and 7, Plan 65R-2075 and Part 1, Plan 65R-20956; Secondly, Part of Lot 2, Concession 5, except Part 3 Plan 65R-4089, Part 3 Plan 65R-20975 and Part 1 Plan 65R-20956; Part of Lot 3, Concession 5 designated as Parts 6, 7, 8, 9 and 10 Plan 65R-11641 and Part 1 Plan 65R-5530 and Parts 1, 3, 4 and 5, Plan 64R-6677 except Part 3, Plan 65R-20975 and Part 1, Plan 65R-20956, City of Vaughan, The Regional Municipality of York
TOTAL OWNERSHIP:	262.61 acres
AREA OF TAKING:	13 acres (approximately)
COMMENTS:	The subject is a vacant property tenanted to farmers

The Region acquires interests in lands within its jurisdiction for the TYSSE project, as outlined in the Operation and Maintenance of the Spadina Subway Extension (SSE) Memorandum of Understanding between the Region, The Toronto Transit Commission (TTC) and the City of Toronto. The Region has obtained securities from the TTC to minimize its risk during construction of the enabling works.

The advance contract for enabling works is to be awarded by the Toronto York Spadina Subway Extension project on May 14, 2010. There is a two week mobilization period, requiring the contractor to commence work by May 28, 2010. In order to meet these deadlines, this agreement must be executed by the Region by May 27, 2010.

5. FINANCIAL IMPLICATIONS

The cost to the Toronto York Spadina Subway Extension project for the temporary access rights is currently being negotiated and is expected to be completed in early May. The City of Toronto, as “Banker”, will subsequently invoice York Region its 13.35% share of this project expenditures. These expenditures are within the project budget as approved by Council.

6. LOCAL MUNICIPAL IMPACT

The acquisition is required for the implementation of the Toronto York Spadina Subway Extension which is critical to the achievement of the City of Vaughan vision for the corridor and its Vaughan Metropolitan Centre.

7. CONCLUSION

The acquisition of this property interest is critical for commencing the enabling works required for the Toronto York Spadina Subway Extension project. The execution of the Construction Transfer Agreement and any other permissions required by ORC will allow the contractor to access the site on May 28, 2010.

For more information on this report, please contact Paul Roberts, Manager, Realty Services, Property Services Branch at Ext. 1424.

(The attachment referred to in this clause was included in the agenda for the May 6, 2010 meeting.)

