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COMPENSATION FOR EXPROPRIATION TORONTO YORK SPADINA SUBWAY EXTENSION, PROJECT 90996

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report dated May 18, 2011, from the Commissioner of Corporate Services.

1. RECOMMENDATIONS

It is recommended that:

1. Council authorize the Region to enter into agreements pursuant to Section 24 of the *Expropriations Act* with Toromont Industries Ltd. and Calloway REIT (Sevenbridge) Inc. with respect to lands expropriated for the Spadina Subway Extension.

2. The Commissioner of Corporate Services be authorized to execute the necessary agreements to complete the transactions, subject to review by Legal Services.

3. The Commissioner of Corporate Services be authorized to serve Section 25 offers on behalf of the Region, in accordance with the *Expropriations Act*.

4. Staff report back to Council on the final terms of the agreements.

2. PURPOSE

The purpose of this report is to receive authorization from Council to enter into agreements with Toromont Industries Ltd. ("Toromont") and Calloway REIT (Sevenbridge) Inc. ("Smart Centres") in order to provide mitigation measures to minimize business loss to the owners and to advance compensation to the owners. An agreement pursuant to Section 24 of the *Expropriations Act* (the "*Act*") authorizes a statutory authority to enter into an agreement with an owner without jeopardizing the owner's rights to make a claim to the Ontario Municipal Board.

3. BACKGROUND

Council authorized staff to commence the expropriation process in June 2009

Council at its meeting on June 25, 2009 authorized the commencement of the process to expropriate certain lands and interests in lands for the extension of the Spadina Subway from Steeles Avenue to the Vaughan Metropolitan Centre (formerly referred to as the Vaughan Corporate Centre).

Council as approving authority approved the expropriation of the lands required from Toromont and Smart Centres

On March 24, 2011, Council as approving authority approved the expropriation of land from two owners, Toromont and Smart Centres. An expropriation plan was registered on March 24, 2011 for the Toromont lands and April 8, 2011 for the Smart Centres lands. Once an expropriation plan is registered, the lands vest in the Region. The Region may take possession three months following Notice of Expropriation.

4. ANALYSIS AND OPTIONS

Section 24 agreements are proposed in order to reduce business loss claims

Construction of the Vaughan Metropolitan Centre Station could affect the operation of the businesses of both Toromont and Smart Centres. Agreements will be entered into with both property owners which will include mitigation measures in order to reduce business loss claims. These agreements will include advance compensation for the reimbursement of legal and consulting fees and compensation for the market value of the land based on estimates prepared by independent appraisal firms.

Section 25 of the *Expropriations Act* requires the expropriating authority to serve an offer of full compensation for the owner's interest in the lands within three months of registering an expropriation plan. This offer is to be based upon a report appraising the market value of the lands being taken as well as damages for injurious affection. The expropriating authority must serve this offer before taking possession of the land.

Section 25 offers will be served on some owners

The *Act* defines an owner as one that has an interest in the land, which includes tenants, mortgagees, creditors, guardians and trustees. The Region will serve Section 25 offers to Toromont and Smart Centres should they elect not to waive their right to be served under the *Act*. All Section 25 offers will be based on appraisal reports prepared by independent appraisal firms who have estimated the market value of the lands as well as damages for injurious affection. Any compensation provided in Section 24 agreements will be deducted from the Section 25 offers. It is anticipated that the total compensation under these agreements will be approximately $8,400,000.

Property No. 1 (*Attachment 1*)

OWNER:	Toromont Industries Ltd.
PROPERTY:	Part of Lot 5, Concession 5, City of Vaughan
TOTAL OWNERSHIP:	11.07 ha (27.36 acres)
EXPROPRIATED PROPERTY:	Fee Simple Interests (surface and sub-surface) in Parts 1, 2, 5, 6, 10, 13, 19, 20, 42, 43, 45, and 46 on Expropriation Plan YR1625307 Permanent Easement Interests (surface and sub-surface) in Parts 4, 7, 8, 9, 12, 15, 21, 23, 26, 27, 30, 37, 38, 39, 40, 41, 44, 47 and 48 on Expropriation Plan YR1625307 Temporary Easement Interests in Parts 3, 4, 8, 9, 11, 12, 14, 15, 16, 17, 18, 21, 22, 24, 25, 26, 28, 29, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 44, 47, 48 and 49 on Expropriation Plan YR1625307
AREA EXPROPRIATED:	Fee Simple Interests (surface and sub-surface) 0.91 ha (2.25 acres) Permanent Easement (surface and sub-surface) Interests: 0.88 ha (2.16 acres) Temporary Easement Interests: 1.92 ha (4.74 acres)
COMMENTS:	The subject property is located on the south west quadrant of Highway 7 and Jane Street. It is an improved property, operating as a heavy equipment sales and repair centre.

Property No. 2 (*Attachment 1*)

OWNER:	Calloway REIT (Sevenbridge) Inc.
PROPERTY:	Part of Lots 6 and 7, Concession 5, City of Vaughan
TOTAL OWNERSHIP:	21.56 ha (53.28 acres)
EXPROPRIATED PROPERTY:	Fee Simple Interests (surface and sub-surface) in Parts 1, 2, 5, 6, 7, 9, 10, 11, 13, 14, 16, 17, 18, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 32, 34, 35, 42, 45,

	46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 60, 61, 72, 73, and 74 on Expropriation Plan YR1631750
	Permanent Easement Interests (surface and sub-surface) in Parts 8, 12, 15, 19, 21, 31, 33, 43, 44, 62, 68, and 69 on Expropriation Plan YR1631750
	Temporary Easement Interests in Parts 3, 4, 8, 12, 15, 19, 21, 31, 33, 36, 37, 38, 39, 40, 41, 44, 57, 58, 59, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 75, 76, 77, 78, and 79 on Expropriation Plan YR1631750
AREA EXPROPRIATED:	Fee Simple Interests (surface and sub-surface) 1.53 ha (3.78 acres) Permanent Easement (surface and sub-surface) Interests: 0.68 ha (1.69 acres) Temporary Easement Interests: 3.25 ha (8.02 acres)
COMMENTS:	The subject property is located on the north west quadrant of Highway 7 and Jane Street. The property is improved with a Walmart, Home Outfitters and Future Shop with large portions of the property remaining vacant.

5. FINANCIAL IMPLICATIONS

Compensation for the Section 24 agreements and the Section 25 offers will be based on reports prepared by independent appraisal firms in accordance with the *Act*. Total compensation under these agreements will be approximately $8,400,000 and final terms of the agreements will be reported back to Council. The compensation will be funded by the Toronto York Spadina Subway Extension project.

6. LOCAL MUNICIPAL IMPACT

The Region’s possession of this property is required for the implementation of the Toronto York Spadina Subway Extension project and is critical to the achievement of the City of Vaughan’s vision for the corridor and it’s Vaughan Metropolitan Centre.

7. CONCLUSION

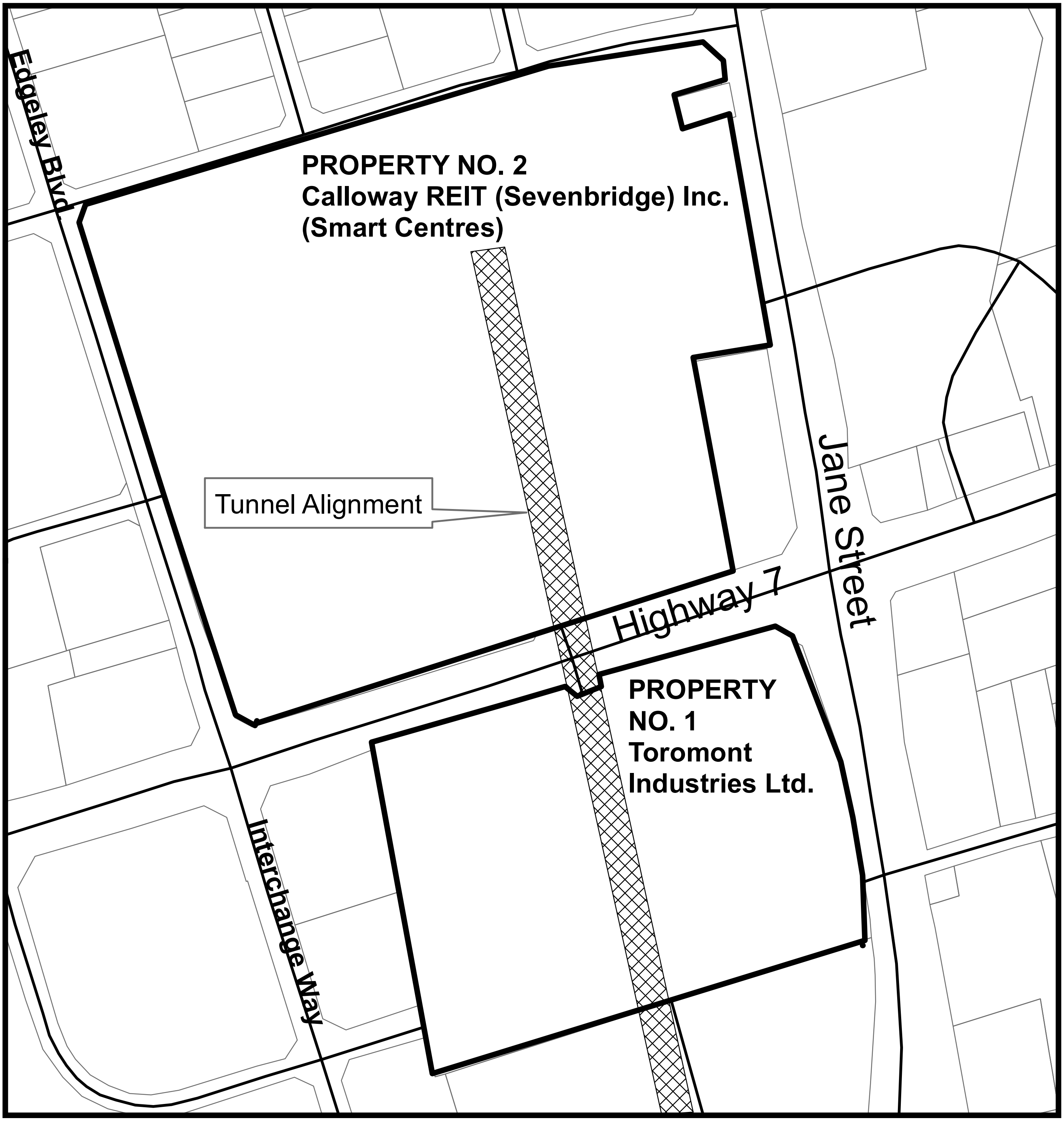
It is recommended that the Commissioner of Corporate Services authorized to execute the agreements and serve Section 25 offers for the lands required for the award of the

Vaughan Metropolitan Centre Contract for the Toronto York Spadina Subway Extension project.

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

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause was included in the agenda for the June 9, 2011 Committee meeting.)



LOCATION PLAN

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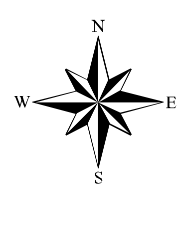
PROJECT NUMBER 90996
Toronto-York Spadina Subway Extension
CITY OF VAUGHAN



York Region

PROPERTY SERVICES