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ADVANCE PAYMENT FOR RELOCATION OF STRUCTURES WITHIN EXPROPRIATED LANDS

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. Regional Council authorize agreements with owners or tenants of lands that are subject to expropriation proceedings, to provide for the relocation of structures located on the lands and the payment of appropriate compensation prior to settlement of claims under the *Expropriations Act*.
2. The Commissioner of Corporate Services be authorized to negotiate the terms of such agreements, including payment to contractors, if required, and that the Commissioner be authorized to execute the agreements on behalf of the Region.

2. PURPOSE

The purpose of this report is to seek authorization from Regional Council to provide reimbursement to owners and tenants for costs associated with the relocation of structures within lands which are subject to expropriation. This will enable the lands to be cleared for construction prior to resolution of other claims for compensation under the *Expropriations Act* (the “Act”). The report also recommends that the Commissioner of Corporate Services be authorized to negotiate the specific terms of these agreements and execute the agreements on behalf of the Region. The report is required because the existing authority delegated to the Commissioner to approve land acquisitions and purchases under the purchasing by-law does not extend to this category of agreements.

3. BACKGROUND

The Region requires structures to be cleared to meet construction timelines

When the Region proceeds with expropriation, there are often structures within the lands to be expropriated. These may include ornamental fences, signs, sheds, light standards and other improvements ancillary to the main structure. Generally, the landowner wishes

to retain these improvements and relocate them to the retained lands. Delay in the removal of these structures may impact the construction schedule.

Accordingly, staff propose that negotiating an agreement for early removal of these structures will assist in expediting the project in advance of final settlement of compensation under the Act.

4. ANALYSIS AND OPTIONS

Negotiating for removal of structures early in the expropriation process is recommended to facilitate construction

Where lands have been expropriated, the Act provides that possession may only be obtained 90 days following registration of the expropriation plan. There is no inherent right to enter on the lands prior to that date. If there are structures to be removed from the expropriated lands, finalizing these arrangements may delay commencement of construction activity.

In many cases, landowners wish the structures to be relocated on their remaining lands. In order to expedite the project and maintain goodwill with the landowners, it is practical to deal with the relocations in advance of settling other claims for compensation.

Landowners should be responsible for retaining contractors directly and ensure that a competitive price is obtained

Staff recommend that the Region enter into agreements with landowners whereby the landowners will engage a contractor if necessary to relocate the structure. The landowner will be required to obtain at least three quotes and the Region will reimburse the landowner to a maximum of the lowest quote received. The landowner will be directly responsible for ensuring the contract is performed and the Regional lands are restored to an acceptable condition. Payment of these costs will typically be made in advance if any settlement with the owner as to the market value of the lands or any claim for other heads of compensation.

This process will enable the owner to have the financial means to complete the relocation to their specification and position it to their liking.

5. FINANCIAL IMPLICATIONS

Compensation for market value, injurious affection and disturbance as well as structures located on the lands is all compensable under the *Expropriations Act*. . Negotiation with the owners for relocation of the structures in advance may be financially more prudent for the Region than entertaining a claim for the loss of the structure.

6. LOCAL MUNICIPAL IMPACT

The advance reimbursement of costs for relocating structures will enable the Region's projects to move forward more efficiently to provide services to the community.

7. CONCLUSION

Entering into agreements with property owners or tenants for the relocation of structures in advance of final settlements will benefit both the owners/tenants and the Region. This will allow the Region to move forward with projects in a timely manner to meet construction timelines, while being more respectful to the impacts on the individuals whose lands have been taken.

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

The Senior Management Group has reviewed this report.