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DELEGATION OF AUTHORITY EXECUTION OF STANDARD FORM AGREEMENTS AND DOCUMENTS

The Finance and Administration Committee recommends the adoption of the recommendations contained in the following report, September 16, 2005, from the Regional Solicitor:

1. RECOMMENDATIONS

It is recommended that:

1. Regional Council delegate to staff the authority to execute the standard forms of agreements and documents set out in Attachment 1 to this report.
2. The Regional Solicitor be directed to prepare the necessary by-law.

2. PURPOSE

The purpose of this report is to obtain approval from Regional Council to delegate to designated staff the authority to execute standard forms of agreements and documents.

3. BACKGROUND

In order to facilitate the daily management of Regional business, Regional Council has, from time to time, delegated to staff the authority to prepare and execute standard forms of agreements without reporting to Council in each case.

In addition, through enactment of the purchasing by-law, Council has delegated to the Chief Administrative Officer, Commissioners and their designates, the authority to award contracts subject to compliance with certain procedures and conditions. The authority to award contracts under the by-law generally includes the authority to sign formal agreements and related documents, subject to the approval of Legal Services. The purchasing by-law, however, contemplates a competitive process and is not applicable to agreements where there is no financial consideration. As a result, staff are from time to time presented with standard forms of agreements and documentation for which there is no delegated authority and which are not within the ambit of the purchasing by-law. Many documents are standard commercial requirements that require the signature of an authorized signing officer.

It is therefore proposed that existing authorities be consolidated and that additional authority be given to staff, as necessary, in order to manage daily business activity.

4. ANALYSIS AND OPTIONS

4.1 Existing Authority

Regional Council has, from time to time, delegated to staff the authority to execute certain categories of agreement which are required for daily operations. Typical examples are purchase of service agreements with service providers in the Community Services and Housing and Health Services portfolios. In planning matters, staff are authorized to prepare and execute subdivision and site plan agreements and agreements authorizing the prepayment of development charges. Since 2000, staff have been given the authority to approve land acquisition agreements up to a value of \$50,000.00. In all cases, the authority is conditional upon compliance with standard terms and conditions and with approval of the agreement by Legal Services.

4.2 Proposed amendments

Staff have conducted a complete review of all existing authorities and invited suggestions from each department for other matters which may be appropriate for delegation.

Attachment 1 to this report sets out a list of agreements and documents by category. The accompanying note indicates whether the form of agreement has already been delegated or is recommended as an addition. New forms of agreement are proposed only if they are consistent with existing criteria.

Funding Agreements

Many Regional programs are supported by funding commitments from senior levels of government. As a condition of receiving funds, the Region is generally required to enter into an agreement with the funding agency, undertaking to apply funds to a specified purpose and to comply with reporting requirements. To date, no general authority has been given for staff to execute these agreements without a report to Council.

It is recommended that the respective Commissioner be authorized to execute funding agreements for routine program requirements. In special cases or for high profile matters, it is recommended that the Regional Chair and Clerk continue to exercise their signing authority and that Commissioners should seek direction from the Chair's office in individual cases.

Facilities

Agreements are required from time to time to permit the Region to use certain facilities on a short term basis. This may include accommodation for off-site meetings or public information sessions. Conversely, third parties are permitted to occupy Regional property and facilities from time to time for functions and activities. These agreements

typically define the extent of the permitted use and include the obligation to carry appropriate insurance coverage. It is recommended that existing authorities be consolidated and that the authority be expanded to include all Regional facilities. A further proposed amendment would allow staff to authorize agreements with providers of essential services to Regional facilities, such as telecommunication connections.

Purchase of Service Agreements

From time to time, Regional Council has delegated to staff the authority to approve and execute purchase of service agreements for delivery of Regional programs, primarily within the Community Services and Housing and Health Services mandates. It is proposed that these authorities be consolidated and expanded to include purchase of service agreements with agencies which receive Regional grants and housing providers under the *Social Housing Reform Act*.

Real Estate Matters/Land Registrations

To date, there has been significant delegation of Council's authority to staff in order that property acquisitions and registrations can proceed expeditiously.

Since 2000, the Chief Administrative Officer and Commissioner of Corporate Services have been given the authority to approve land acquisition agreements up to a value of \$50,000.00, subject to compliance with standard conditions.

In the course of completing real estate transactions, many standard commercial documents and forms are required. These include forms of undertakings, declarations and acknowledgements. It is recommended that the ability of staff to execute these documents on behalf of the Region be clarified.

It is also proposed that staff be authorized to approve agreements for temporary access and encroachments to accommodate Regional works where there is nominal consideration. These are currently not included in the authority to approve land acquisition agreements.

Program Administration

Regional Staff are presented with a wide variety of documentation required to satisfy program requirements. Delivery of Regional programs often requires agreements with senior government agencies which set out roles and responsibilities or provide for the exchange of information in order to administer the program. In addition, staff may be required to submit service plans and activity reports to satisfy audit requirements. Also included in this category are standard commercial documents to confirm the status or terms of agreements. It is also proposed that staff be authorized to execute releases of agreements where Regional conditions have been satisfied or the agreement has expired according to its terms.

To the extent that these forms of documents are standard commercial requirements and do not have direct financial implications, it is recommended that staff be given authority to sign such documents on behalf of the Region.

Planning

There is existing authority for the Commissioner of Transportation and Works to approve and execute subdivision agreements and site plan agreements.

In addition, the Chief Administrative Officer and Commissioner of Finance have been given the authority to execute agreements authorizing the prepayment of development charges, subject to certain terms and conditions.

It is recommended that these planning matters be included in a consolidated by-law and that the original terms of the delegation continue to apply.

Regional Roads

Since 1996, the Commissioner of Transportation and Works has been given the delegated authority under the *Municipal Act* to approve temporary closures for special events. From time to time, it is critical to close roads on a temporary basis to accommodate construction. Due to time constraints it is not possible to obtain specific Council authority. It is therefore recommended that the temporary closure authority be expanded to include construction activity.

A further proposal is that the Commissioner of Transportation and Works be authorized to approve temporary access agreements to and from Regional roads. All such approvals will be subject to the Commissioner of Transportation and Works being satisfied that Regional operations are not compromised and that satisfactory securities are in place.

Settlement of claims

The existing policy for settlement of claims permits the Regional Solicitor to commence claims on behalf the Region for amounts up to \$100,000.00 and to settle uninsured claims up to the Region's insurance deductible limit, currently \$100,000.00. It also gives the Regional Solicitor the authority to prepare and execute any documents to give effect to the settlement of claims. It is recommended that this policy be amended to give the authority to the Commissioner responsible for the program rather than to the Regional Solicitor.

Since these matters may have financial implications within each Commissioner's budget it is recommended that the respective Commissioners are given the primary responsibility and instruct the Regional Solicitor as required.

4.3 General

As a matter of convention, the Regional Chair and Regional Clerk are generally appointed as the signing officers of the Regional Corporation. It is recommended that this be formalized in the by-law and that the Regional Chair and Clerk be formally designated as signing officers. The Chair and Clerk would retain this authority despite any additional delegations. With respect to the specific agreements set out in the attachment, it is recommended that the Commissioner for the relevant program be given the authority to approve and execute documents, with a provision for appointing designates, if appropriate. The nomination of specific designates will be the subject of a further report from staff.

In order to ensure consistency, it is recommended that the by-law provide that all agreements be reviewed and approved by Legal Services and that a record of documents executed under this authority be filed with the Regional Clerk. It is intended that this authority apply only to standard form agreements and documents and that anything not in the ordinary course of business be referred to Council for specific approval.

5. FINANCIAL IMPLICATIONS

There are no financial implications directly associated with this report.

6. LOCAL MUNICIPAL IMPACT

There is no direct local municipal impact associated with this report.

7. CONCLUSION

Regional Council has from time to time delegated to staff the authority to execute standard forms of contracts and documents on behalf of the Region. It is proposed that these authorities be consolidated and enacted in a new by-law and that additional authorities be included, where appropriate, to ensure consistency and to facilitate management of the daily business of the Regional Corporation.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause is attached to this report.)