Regional Municipality of Waterloo

Council Agenda

Wednesday February 10, 2016

Closed Session 6:45 p.m.

Waterloo County Room

Regular Meeting 7:00 p.m.

Regional Council Chamber

150 Frederick Street, Kitchener, ON

*Denotes Item(s) Not Part of Original Agenda

1. Moment of Silence

2. Roll Call

3. Motion To Go Into Closed Session

That a closed meeting of Council be held on Wednesday, February 10, 2016 at 6:45 p.m. in Waterloo County Room in accordance with Section 239 of the Municipal Act, 2001, for the purposes of considering the following subject matters:

   a) proposed or pending acquisition of land in the City of Kitchener

   * b) a matter of pending litigation and receiving of advice subject to solicitor-client privilege related to procurement

4. Motion to Reconvene Into Open Session

5. Declaration of Pecuniary Interest Under The Municipal Conflict of Interest Act
6. Presentations

7. Petitions

8. Delegations

9. Minutes of Previous Meetings
   c) Closed Committee – February 2, 2016
   d) Planning & Works – February 2, 2016
   e) Administration & Finance – February 2, 2016
   f) Community Services – February 2, 2016

10. Communications

11. Motion To Go Into Committee Of The Whole To Consider Reports

12. Reports

Finance Reports
   a) **COR-TRY-16-13**, Co-operative Proposal P0015 Linen and Laundry Services

**Recommendation:**
That the Regional Municipality of Waterloo accept the proposal of Booth Centennial Healthcare Linen Services for P0015 Linen and Laundry Services for a contract period of five (5) years with two (2) one year renewal options at an estimated cost of $596,500.00 plus applicable taxes for the five year period.

   b) **COR-TRY-16-14**, T2015-237 Mannheim Monitoring Well Construction Project, Kitchener

**Recommendation:**
That the Regional Municipality of Waterloo accept the tender of Aardvark Drilling Inc. for T2015-237 Mannheim Monitoring Well Construction Project, Kitchener in the amount of $123,805.00 plus all applicable taxes.
c) **COR-TRY-16-15**, T2015-228 Heidelberg Wastewater Treatment Plant Upgrades

**Recommendation:**
That the Regional Municipality of Waterloo accept the tender of Ball Construction Ltd. for T2015-228 Heidelberg Wastewater Treatment Plant Upgrades in the amount of $1,727,186.00 plus all applicable taxes;

And that the Regional Municipality of Waterloo approve an increase in the project cost of $393,342.87 plus applicable taxes funded from the Wastewater Reserve Fund.

**Committee Reports**

a) Planning & Works - attached & marked **PS-160202**

b) Administration & Finance - attached & marked **FS-160202**

c) Community Services - attached & marked **SS-160202**

* d) Closed Summary (CS) – attached & marked **CCS-160202**

**Chief Administrative Officer**

**Regional Chair**

**Regional Clerk**

13. **Other Matters Under Committee Of The Whole**

a) **PDL-LEG-16-13**, Authorization to Expropriate Lands (2nd Report) as Part of Stage 1 of the Rapid Transit Project Representing a Fee Simple Full Taking of Property and Interests located at 904 King Street West, in the City of Kitchener, in the Regional Municipality of Waterloo

See Recommendation on Pages 17-19

14. **Motion For Committee Of The Whole To Rise And Council Resume**

15. **Motion To Adopt Proceedings Of Committee Of The Whole**

16. **Motions**

17. **Notice of Motion**

2064437
18. **Unfinished Business**

19. **Other Business**

20. **Questions**

21. **Enactment Of By-laws – First, Second & Third Readings**

   a) A By-law to Authorize the Temporary Borrowing for Current Expenditures Pending the Receipt of Revenues

   b) A By-law to Authorize the Temporary Borrowing for Capital Expenditures Pending the Receipt of Debenture Proceeds

   c) A By-law to Repeal By-law 98-026, being a By-law to Establish a Sick Leave Plan for Employees of the Regional Municipality of Waterloo (To allow for consistency with collective agreements and the sick leave policy)

   d) A By-law to Expropriate Certain Lands for the Purpose of Part of Stage 1 of the Rapid Transit Project for Property Relating to a Fee Simple Full Taking of Property and Interests located at 904 King Street West, in the City of Kitchener, in the Regional Municipality of Waterloo

   e) A By-law to Confirm the Actions of Council – February 10, 2016

22. **Adjourn**
Region of Waterloo  
Corporate Services  
Treasury Services (Procurement)

To: Regional Chair Ken Seiling and Members of Regional Council
Date: February 10, 2016  
File Code: F18-40
Subject: Co-operative Proposal P0015 Linen and Laundry Services

Recommendation:
That the Regional Municipality of Waterloo accept the proposal of Booth Centennial Healthcare Linen Services for P0015 Linen and Laundry Services for a contract period of five (5) years with two (2) one year renewal options at an estimated cost of $596,500.00 plus applicable taxes for the five year period.

Summary:
Nil

Report:
Proposals were called for the provision of linen and laundry services by St. Mary’s General Hospital on behalf of Grand River Hospital, Cambridge Memorial Hospital, Guelph General Hospital and Region of Waterloo Paramedic Services.

The following proposals were received:

Booth Centennial Healthcare Linen Services  Mississauga, ON
London Linen Service  Ottawa, ON
Hamilton Linen Service  London, ON
Mohawk Corporate & Supply Chain Office  Hamilton, ON
The proposals were evaluated using pre-determined criteria which included Corporate Overview, Environmental Practice, Completeness of Proposal and Form of Agreement. The proposal from Booth Centennial Healthcare Linen Services received the highest score.

Prior to 2010, Paramedic Services used linen sourced through a linen service in cooperation with local hospitals. In 2010, Paramedic Services began purchasing disposable paper “sheets” as a replacement, manufactured by Taylor Medical in Texas. Paramedic Services also continued to purchase cloth blankets which are laundered at the Sunnyside Long Term Care Home. Participation by the Region in this proposal puts Paramedic Services back on the co-operative linen contract with the local hospital stakeholders.

There are several benefits to being involved in this contract, including a simple, closed loop for laundering and procuring a steady linen supply, providing clients with the industry norm of comfortable real linen, as well as ensuring cost certainty in the face of the declining Canadian dollar. Of note, the cost of disposable linen rose 12% on January 1, 2016 as a result of the USD exchange rate and an import trade tariff imposed on these items. This translates to an estimated increased cost of $14,640 annually if the use of paper sheets continued.

Pricing is fixed for the duration of the initial five year contract and is priced per kilogram. The contract would commence following Council approval.

**Corporate Strategic Plan:**

Award of this contract meets the 2015-2018 Corporate Strategic Plan objective to promote and support healthy living and prevent disease and injury under Strategic Focus Area 4, Healthy, Safe and Inclusive Communities.

**Financial Implications:**

P0015 – Estimated Annual Cost $119,300

Plus: Applicable Net HST of 1.76% 2,100

Total $121,400

The 2016 Paramedic Services operating budget includes $127,000 for the purchase of linen and laundry services which is sufficient to cover the estimated annual costs with an estimated $5,600 in savings. As previously mentioned, Sunnyside Home currently launders blankets used by Paramedic Services, which would no longer be required should this contract be awarded.
Staff have been considering options for making better use of the extensive laundry facilities at Sunnyside Home. The Regional Service Review completed in 2015 also identified an opportunity to consider the use of the laundry facilities at Sunnyside to generate revenue from other customers in the public sector. This would entail completing a cost-benefit analysis of options to determine the most efficient and least costly method of service delivery. This review is planned for 2016. The proposed contract with Booth Centennial Healthcare Linen Services includes a termination provision with 90 days notice to the supplier. This would allow the Region to consider the option of Sunnyside Home providing this scope of service in the future.

**Other Department Consultations/Concurrence:**

Paramedic Services staff were consulted in the preparation of this report.

**Attachments:** Nil

**Prepared By:** Lisa Evans, Manager, Procurement/Chief Purchasing Officer

**Approved By:** Craig Dyer, Commissioner, Corporate Services/Chief Financial Officer
Region of Waterloo
Corporate Services
Treasury Services (Procurement)

To: Regional Chair Ken Seiling and Members of Regional Council

Date: February 10, 2016       File Code: F18-30

Subject: T2015-237 Mannheim Monitoring Well Construction Project, Kitchener

Recommendation:

That the Regional Municipality of Waterloo accept the tender of Aardvark Drilling Inc. for T2015-237 Mannheim Monitoring Well Construction Project, Kitchener in the amount of $123,805.00 plus all applicable taxes.

Summary:

Nil

Report:

Tenders were called for T2015-237 Mannheim Monitoring Well Construction Project, Kitchener and were advertised in the Record, on the Ontario Public Buyers Association website and on the Region’s website. The tenders were opened in the presence of R. Wootton, G. Moroz and J. Markovic.

The following tender was received:

Aardvark Drilling Inc.    Guelph, ON    $123,805.00

Only bidders who successfully prequalified for PQ2013-14 Well Drilling, Construction and Abandonment Services were permitted to bid. Of the list of 9 bidders prequalified, only a small number were capable and available for the type of coring required in this project. Soil coring is a specialized drilling technique for detailed data collection and analysis, and few drilling companies exist locally that can complete the work required.
This construction contract includes soil coring, well installation, and sampling of new monitoring wells at the Region of Waterloo Mannheim Water Treatment Plant site and at Yellow Birch Park in Kitchener.

Subject to Regional Council approval, it is anticipated that the contractor will commence construction in February 2016 with contract completion by June 30, 2016.

Corporate Strategic Plan:

Award of this contract meets the 2015-2018 Corporate Strategic Plan objective to protect the quality and quantity of our drinking water resources under Strategic Focus Area 3, Environment and Sustainable Growth.

Financial Implications:

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>T2015-237 Consulting Engineering</td>
<td>$123,800</td>
</tr>
<tr>
<td>Sub-total</td>
<td>$155,800</td>
</tr>
<tr>
<td>Plus: Applicable Net HST of 1.76%</td>
<td>$2,700</td>
</tr>
<tr>
<td>Total</td>
<td>$158,500</td>
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Note: All figures are rounded to the nearest $100

The cost of the project will be split between two capital projects as outlined below.

The Region’s approved 2016 Water Capital Program includes a budget of $561,000 in 2016 for the Monitoring System Management (project #04170) to be funded from the Water Reserve Fund (74%; $415,100) and Regional Development Charges (26%; $145,900). Of the project cost, $88,500 will be charged to project #04170. The remaining funds will be utilized for upgrades and/or replacement of monitoring equipment.

The Region’s approved 2016 Water Capital Program includes a budget of $100,000 in 2016 for the Long-Term Water Supply Aquifer Storage and Recovery Stages 1 and 2 (project #04904) to be funded from the Water Reserve Fund (74%; $74,000) and Regional Development Charges (26%; $26,000). Of the project cost, $70,000 will be charged to project #04904. The remaining funds will be utilized for follow up well testing and analysis.

The final date of acceptance for this tender is February 21, 2016.
Other Department Consultations/Concurrence:

Water Services staff were consulted in the preparation of this report.

Attachments: Nil

Prepared By: Lisa Evans, Manager, Procurement/Chief Purchasing Officer

Approved By: Craig Dyer, Commissioner, Corporate Services/Chief Financial Officer
Region of Waterloo

Corporate Services

Treasury Services (Procurement)

To: Regional Chair Ken Seiling and Members of Regional Council

Date: February 10, 2016  

File Code: F18-30

Subject: T2015-228 Heidelberg Wastewater Treatment Plant Upgrades

Recommendation:

That the Regional Municipality of Waterloo accept the tender of Ball Construction Ltd. for T2015-228 Heidelberg Wastewater Treatment Plant Upgrades in the amount of $1,727,186.00 plus all applicable taxes;

And that the Regional Municipality of Waterloo approve an increase in the project cost of $393,342.87 plus applicable taxes funded from the Wastewater Reserve Fund.

Summary: Nil

Report:

Tenders were called for T2015-228 Heidelberg Wastewater Treatment Plant Upgrades and were advertised in the Record, in the Daily Commercial News, on the Ontario Public Buyers Association website and on the Region’s website. The tenders were opened in the presence of J. Borovicka, N. Corbett and T. Lumgair.

The following tenders were received:

<table>
<thead>
<tr>
<th>Company</th>
<th>Location</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ball Construction Ltd.</td>
<td>Kitchener, ON</td>
<td>$1,727,186.00</td>
</tr>
<tr>
<td>James Kemp Construction Limited</td>
<td>Hamilton, ON</td>
<td>$1,739,428.00</td>
</tr>
<tr>
<td>Wellington Alliance Joint Venture</td>
<td>Palmerston, ON</td>
<td>$1,847,000.00</td>
</tr>
<tr>
<td>Bestco Construction (2005) Ltd.</td>
<td>Ancaster, ON</td>
<td>$1,868,560.00</td>
</tr>
<tr>
<td>Harbridge &amp; Cross Limited</td>
<td>Concord, ON</td>
<td>$1,890,000.00</td>
</tr>
</tbody>
</table>
StuCor Construction Ltd.  Jordan Station, ON  $1,898,000.00
Newman Bros. Limited  St. Catharines, ON  $2,116,462.00
Ross and Anglin Ontario Ltd.  Toronto, ON  $2,154,400.00

The work under this contract includes the following:

- Construction of a building addition;
- Construction of partition walls and floor in the existing building;
- Replacement of the electrical supply and distribution system;
- Replacement of the HVAC system;
- Upgrading of the SCADA system; and
- Miscellaneous treatment process upgrades.

Subject to Regional Council approval, it is anticipated that the work would commence in February 2016 with completion by March 2017.

**Corporate Strategic Plan:**

Award of this contract meets the 2015-2018 Corporate Strategic Plan objective to protect the quality and quantity of our water sources under Strategic Focus Area 3, Environment and Sustainable Growth.

**Financial Implications:**

- T2015-228  $1,727,200
- Consultant Engineering and Contract Administration  364,000
- Regional In-House Engineering  40,000
- Geotechnical Inspection  20,000

Sub-total  $2,151,200

Plus: Applicable Net HST of 1.76%  37,200

Total  $2,188,400

Note: All figures are rounded to the nearest $100.
The Region’s approved 2016 Wastewater Capital Program includes a budget of $1,265,000 in 2016 and $530,000 in 2017 for Heidelberg WWTP Upgrades (project # 08325) funded from the Wastewater Reserve Fund (100%; $1,795,000). The cost of this work exceeds the project budget by $393,400. The majority of the equipment originates in the USA, the current exchange rate relative to the rate at the time the assessment was completed is a major impact to the project cost. Additionally, there was an overall increase in the market pricing from the time of the assessment. The additional costs can be accommodated and funded from the Wastewater Reserve Fund.

The final date of acceptance for this tender is March 19, 2016.

Other Department Consultations/Concurrence:

Design and Construction and Water Services staff were consulted in the preparation of this report.

Attachments: Nil

Prepared By: Lisa Evans, Manager, Procurement/Chief Purchasing Officer

Approved By: Craig Dyer, Commissioner, Corporate Services/Chief Financial Officer
The Regional Municipality of Waterloo
Planning and Works Committee
Summary of Recommendations to Council

The Planning and Works Committee recommends as follows:

1. That the Regional Municipality of Waterloo take the following actions with respect to the Report No. PDL-CPL-16-07, Balancing Environmental Protection and Transportation, the Laurel Creek Headwaters Environmentally Sensitive Landscape Case Study, dated February 2, 2016:

   Receive the report for information and endorse the recommendations as a best practice guide for the mitigation of impacts of roads and road upgrades within or contiguous to Environmentally Sensitive Landscapes (ESLs) as described in this report; and

   Distribute this report to all Area Municipalities for information and consideration of the recommendations as opportunities to balance environmental and transportation priorities within ESLs, including the Case Study Area.


3. That the Regional Municipality of Waterloo adopt installation warrants and an implementation strategy for the Level 2 Pedestrian Crossover as outlined in report TES-TRP-16-05, dated February 2, 2016.

4. That the Regional Municipality of Waterloo approve the Corporate Asset Management Policy, as set out in Appendix A to report TES-WAS-16-01/COR-FFM-16-01 dated February 2, 2016.

February 2, 2016
The Regional Municipality of Waterloo
Administration and Finance Committee
Summary of Recommendations to Council

The Administration and Finance Committee recommends as follows:

1. That the Regional Municipality of Waterloo write-off accounts receivable in the amount of $142,046.96 for the year ended December 31, 2015, as outlined in Report COR-TRY-16-09.

2. That the Regional Municipality of Waterloo authorize the Chief Financial Officer, by By-law, to borrow funds as required on a temporary basis to meet current and capital expenditures in 2016 to a maximum of $112.0 million for current expenditures and $66.0 million for capital expenditures, as outlined in report COR-TRY-16-11, dated February 2, 2016.

February 2, 2016
The Regional Municipality of Waterloo

Community Services Committee

Summary of Recommendations to Council

The Community Services Committee recommends as follows:

1. That the Regional Municipality of Waterloo increase the 2016 Operating budget for Children’s Services by $3,608,838 gross and $0 net Regional Levy for the administration and delivery of the Provincial Wage Enhancement Program; and that the Regional Municipality of Waterloo approve the hiring of up to 2.0 temporary full time equivalent staff for the period March 1, 2016 until December 31, 2016 as outlined in report CSD-CHS-16-02, dated February 2, 2016.

2. That the Regional Municipality of Waterloo approve a one time grant in the amount of $6,000 to White Owl Native Ancestry to assist in the development of an Aboriginal family resource centre;

   That the Regional Municipality of Waterloo approve a grant of $50,000 per annum for 2016, 2017 and 2018 to Conestoga College Institute of Technology and Advanced Learning for the implementation and evaluation of the Ideas Connect partnership model; and

   That the 2016 Operating Budget for Children’s Services be increased by $50,000 gross and $0 net Regional levy as outlined in report CSD-CHS-16-03 dated February 2, 2016.

3. That the Regional Municipality of Waterloo approve the purchase of four (4) General Motors diesel chassis at a cost of $149,600 plus all applicable taxes from Demers Ambulance Manufacturers Inc. as outlined in report COR-TRY-16-12 dated February 2, 2016.

February 2, 2016

2064470
The Regional Municipality of Waterloo
Community Services Committee

Summary of Closed Recommendations to Council

The Community Services Committee recommends as follows:

1. That the Regional Municipality of Waterloo approves the following appointments to the Employment and Income Support Community Advisory Committee as follows:

   a) Reappoint Erma Friesen (Participant member), Lee Ann Hundt (Aboriginal Services Agency), and Jane Tuer (Project READ) for terms ending December 31, 2019; and Art Sinclair (Business) for a term ending December 31, 2016.

   b) Appoint Jeri-Lou Nowak (Conestoga College) and Karen Morgan-Bowyer (Waterloo Catholic District School Board) for terms ending December 31, 2019; and Claudia Frias (Ontario Works Caseworker) for a term ending December 31, 2016.

February 2, 2016
Region of Waterloo
Planning Development and Legislative Services
Legal Services

To: Chair Ken Seiling and Members of Regional Council

Date: February 10, 2016

File Code: L07-90

Subject: Authorization to Expropriate Lands (2nd Report) as Part of Stage 1 of the Rapid Transit Project Representing a Fee Simple Full Taking of Property and Interests located at 904 King Street West, in the City of Kitchener, in the Regional Municipality of Waterloo

Recommendation:

That The Council of The Regional Municipality of Waterloo approve the expropriation of lands for the purpose of construction of Stage 1 of the Rapid Transit Project as detailed in Report PDL-16-13 dated February 10, 2016, and described as follows:

Fee Simple Full Taking:

LRT

1. Part Lots 300 and 301, Plan 385, as in Instrument Number 229589 being PIN 22328-0018 (LT), City of Kitchener, Regional Municipality of Waterloo (904 King Street West, Kitchener),

hereinafter referred to as the “Subject Lands” and shown in Appendix “A” to Report PDL-LEG-16-13 dated February 10, 2016, having considered the Report of the Provincial Inquiry Officer dated January 13, 2016 attached as Appendix “B” to said Report, for the following reasons:

(a) The Region of Waterloo seeks to achieve the following objectives in the taking of the Subject Lands:

(i) Construction of Stage 1 of the Rapid Transit Project which includes a light rail transit ("LRT") line approximately 19 kilometers long servicing the City of Kitchener and the City of Waterloo;
(ii) Completion of all works associated with LRT or otherwise required in order for LRT to function which includes, without limitation, the establishment of a traction power substation and associated infrastructure (collectively, the “TPSS”) to be located on the Subject Lands for the purpose of electrifying light rail vehicles operating along the LRT line;

(iii) Provide for appropriate access to the TPSS in order to allow for operation, maintenance, repair and replacement, as necessary; and

(iv) Implement landscaping and other finishes on the Subject Lands to comply with all design requirements and any applicable TPSS site plan approval and/or construction permit terms;

(b) The taking of the Subject Lands is fair, sound and reasonably necessary in order to achieve the objectives outlined above for the reasons set out in Report PDL-LEG-16-13 date February 10, 2016;

And that Regional Council cause its decision to approve the expropriation of the Subject Lands and its reasons therefor to be served upon the parties to the Inquiry, together with a copy to the Inquiry Officer;

And that the Region pay costs in the amount of $200.00 to the party or parties that requested and attended the Inquiry;

And that the Regional Chair and Regional Clerk be authorized to certify the said approval of expropriation of the Subject Lands in accordance with the Expropriations Act (the “Act”);

And that the Regional Solicitor be directed to:

(a) Register a Plan of Expropriation for the property within three months of the granting of the approval to expropriate the Subject Lands, as required by the Act;

(b) Serve the registered owners with a Notice of Expropriation and a Notice of Possession for the property after the registration of the Plan of Expropriation and the Regional Solicitor is authorized to take any and all actions required to enforce such Notices including but not limited to any application pursuant to Section 40 of the Act; and

(c) If no agreement as to compensation is made, serve the statutory Offer of Compensation and payment upon the registered owner(s) of the Subject Lands in the amount of the market value of the interests in the Subject Lands as estimated by the Region’s appraiser in accordance with the Act;

And Further that the Regional Solicitor be authorized to discontinue expropriation proceedings or any part thereof, in respect of the Subject Lands, or any part thereof, upon the registration on title of the required documentation to complete a transaction pursuant to settlement or if determined by the Commissioner of Transportation and Environmental Services that such lands, or any part thereof, are not required for the
subject Project.

Summary: Nil.

Report:

A. Project Authorizations

On June 15, 2011 Regional Council approved light rail transit (“LRT”) as the preferred rapid transit technology from Northfield Drive in the City of Waterloo through the City of Kitchener to the Ainslie Street Terminal in the City of Cambridge (the “RT Project”). Stage 1 of the RT Project will include LRT service from Northfield Drive in the City of Waterloo to Fairway Road in the City of Kitchener, as well as, Adapted Bus Rapid Transit (“aBRT”) service from Fairway Road in the City of Kitchener to the Ainslie Street Terminal in the City of Cambridge.

B. Project Details

The Region initiated a Transit Project Assessment Process (“TPAP”) with respect to Stage 1 of the Rapid Transit Project ("Stage 1") in November of 2011, which has been completed and has provided results that are permissive of the construction and operation of Rapid Transit within the approved rapid transit corridor.

GrandLinq GP (“GrandLinq”) has been selected as the LRT project Design/Build/Finance/Operate/Maintain concessionnaire (the “DBFOM Concession”) pursuant to a Request for Qualifications and Request for Proposals procurement process. The Region and GrandLinq executed a Project Agreement in connection with the DBFOM concession on May 6, 2014. Grandlinq has commenced construction of LRT and associated works.

The Region completed a separate procurement for the construction of aBRT. Construction of aBRT and associated works have been substantially completed at this time.

The land acquisition/expropriation process for the Rapid Transit Project has been divided into several separate and distinct phases. All lands that form part of Phases 1, 2, 3, 4, 5 and 6 of the land acquisition/expropriation process for the Rapid Transit Project have either been acquired or expropriated with the exception of certain lands owned by the City of Kitchener, and the City of Waterloo which are the subject of ongoing discussion.

C. 904 King St. W., Kitchener

The commencement of the expropriation process for the Subject Lands was approved by Regional Council on November 19, 2014 pursuant to Report CR-RS-14-094 representing a full taking of land required for the placement of a TPSS. The Subject
Lands are approximately 47 feet wide by approximately 125 feet deep totalling approximately 5875 square feet of land. The improvements on the Subject Lands include one two storey detached structure totalling 2938 square feet. The property is zoned Medium Intensity Mixed Use Corridor Zone (MU-2) permitting a variety of uses including residential and commercial. The property is currently unoccupied.

The appropriate forms were served to initiate formal proceedings under the Act for this property. The affected property owner was previously contacted by Legal Services staff and informed of the project, as well as, the Region’s intention to commence the expropriation process and the Region’s Expropriation Information Sheet was provided to the said owner. The Region received a Request for a Hearing of Necessity (“Inquiry”) from the affected property owner. This request was sent to the Provincial Chief Inquiry Officer and a Hearing by a Provincial Inquiry Officer was held on Tuesday December 22nd, 2015. The Report of the Inquiry Officer, which is attached as Appendix “B” hereto (the “Report”), was issued on January 13, 2016. The Provincial Inquiry Officer determined that the Region’s proposed taking of the Subject Lands is “fair, sound and reasonably necessary” in the achievement of the objectives of the Region.

At the hearing, Regional staff presented evidence that a full taking of the Subject Lands is required to construct, operate and maintain a TPSS facility that is located on the Subject Lands according to the final LRT design. The evidence included a summary of the Region’s objectives to be achieved through the acquisition of the Subject Lands for LRT and associated works, a description of the policy framework and project approvals secured, evaluation of the overall LRT design, review of the general approach to energizing the LRT line, analysis of the design for the TPSS proposed at the Subject Lands, discussion of engineering/planning considerations taken into account for final design purposes, and alternate location options considered for the TPSS.

The affected property owner questioned the need for the expropriation of the Subject Lands given that another property at 242 King Street South, Waterloo (the “Alternate Property”) was previously acquired for the same purpose. It is to be noted that the Alternate Property was acquired based on a functional design that was prepared prior to the contract award to GrandLinq. GrandLinq subsequently completed the TPSS design and advised that the Alternate Property is too small. The Subject Lands are larger than the Alternate Property by approximately 12 feet in width and by approximately 40 feet in length. The current TPSS design requires/utilizes most of the width and length of the Subject Lands.

In the Report, the Inquiry Office accepts the Region’s evidence that the Subject Lands are better suited for TPSS use due to, among other things, the availability of additional land to facilitate not only construction but also operation, maintenance and replacement of the TPSS. The Report also recognizes that the current TPSS design which includes the TPSS structure, related equipment (such as an underground electric grid), access
areas, landscaping and required setbacks exceed the area available at the Alternate Property. It was also noted that the Alternate Property is encumbered by a parking agreement and various easements that further constrain the area available for construction, operation, maintenance and replacement of the TPSS.

In the Report's conclusions, the Inquiry Officer opines that the proposed expropriation of the Subject Lands is “reasonably defensible” and thereby fair, sound and reasonably necessary in the achievement of the Region’s objectives. Pursuant to the provisions of the Act, the Inquiry Officer recommended that costs in the amount of $200.00 be paid to the affected property owner in relation to the Inquiry.

Pursuant to the requirements of the Act, the next step in the expropriation process for the Subject Lands is for Regional Council to consider the Report attached as Appendix “B” to this report and approve, not approve, or approve with modifications the proposed expropriation of the Subject Lands. The decision of Regional Council and written reasons for its decision must be served on all parties and the Inquiry Officer within 90 days of receipt of the Report.

If the subject expropriation is approved, a Plan of Expropriation will be registered on title to the Subject Lands within three months of such approval. Ownership of the Subject Lands vests with the Region upon the registration of the Plan. Notices of Expropriation must then be served upon all registered owners, including tenants as shown on the assessment roll, within 30 days of registration of the Plan.

Once ownership by the Region is secured through the registration of the Plan, it is possible to serve Notices of Possession upon affected parties. The date for possession can be no sooner than three months following the date of service of the Notices of Possession. The Notices of Expropriation and Notices of Possession may be served at the same time. In order to meet the construction time line, possession of the Subject Lands will be secured by early summer of 2016. Accordingly, Legal Services staff will be proceeding expeditiously to register the Plan and serve the Notices of Expropriation and Notices of Possession if approved by Regional Council.

After registration of the Plan and prior to the taking of possession of the affected property, the expropriating authority is required to serve the registered owners with an offer in full compensation for their expropriated interests in land. The offer must be accompanied by the immediate payment of one hundred percent (100%) of the appraised market value of the land to the registered owners as estimated by the Region’s appraiser. The registered owners are also to be served with a report appraising the market value of the property which forms the basis for the offer of compensation.

It is to be noted that the expropriation of land is on an “as is” basis and upon the registration of the Plan, the Region assumes responsibility for the lands.
Regional staff has conducted a recent corporate profile search of the affected corporate fee simple property owner, the results of which are included in Appendix “C” hereto. It is to be noted that Appendix “C” does not include a list of affected mortgagees, tenants, execution creditors, guardians of property, or persons with a limited estate or interest in said lands such as easement holders.

**Corporate Strategic Plan**

The report supports Focus Area 3.1 of Council’s Strategic Focus: Implement a light rail transit system in the central transit corridor, fully integrated with an expanded conventional transit system.

**Financial Implications**

In June 2011, Council approved the implementation of the ION Rapid Transit project, incorporating both Light Rail Transit and adapted Bus Rapid Transit, at an estimated capital cost of $818 million. The capital cost was confirmed in May 2014 when the Design-Build-Finance-Operate-Maintain (DBFOM) contract was awarded by Council. Capital financing is provided by the federal government ($265 million), the Province of Ontario ($300 million) and the Region ($253 million of which $131 million is being financed by GrandLinq and repayable by the Region over the 30 year operations and maintenance term). The RT project and Grand River Transit service improvements are funded through annual property tax increases in the three cities until 2019.

Land acquisition is being carried out by the Region outside of the DBFOM contract. The budget for the land acquisition and associated costs is $42.2 million. As of November 30, 2015 $23.7 million has been spent with the remainder committed to estimated outstanding costs of future acquisitions.

**Other Department Consultations/Concurrence:**

Rapid Transit staff and Finance staff have been consulted in the preparation of this Report.

**Attachments:**

Appendix “A” - Site Map


Appendix “C” – Corporate Profile Search.

**Prepared By:** Liviu Cananau, Solicitor, Property (Rapid Transit)

**Approved By:** Debra Arnold, Regional Solicitor, Director of Legal Services
Appendix “A”

Site Map
Appendix “B”
Report of the Provincial Inquiry Officer dated January 13, 2016

Expropriations Act, R.S.O. 1990, c. E.26 (as amended)

IN THE MATTER OF the proposed expropriation by the Regional Municipality of Waterloo of Part Lots 300 and 301, Plan 385, as in Instrument Number 229589, PIN 22326-0018 (LT), in the City of Kitchener, Regional Municipality of Waterloo, known municipally as 904 King Street West, City of Kitchener, for the purpose of the construction of the Rapid Transit Project Stage 1 relating to lands that are necessary along the Light Rail Transit alignment in the City of Kitchener, Regional Municipality of Waterloo.

Date of Hearing: December 22, 2015

Appearances:
Regional Municipality of Waterloo
Liviu Cananau
2437217 Ontario Inc.
Steven J. O’Melia

REPORT
This inquiry was held pursuant to section 7 of the Expropriations Act, R.S.O. 1990, c. E.26 (as amended) (the “Act”) to determine whether the proposed taking by the Regional Municipality of Waterloo of a fee simple interest in the property owned by the requestor is “fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority” as the Act states, or is “reasonably defensible” as the courts have interpreted this test.

PARTIES
Mr. Cananau appeared for the Region, and Mr. O’Melia represented the property owner, 2437217 Ontario Inc., and its principal Mr. Ankung Cheng.

THE PROPERTY
The Corporation owns a rectangular parcel on the north side of King Street West (which runs in a southeast to northwest direction in this area) in the City of Kitchener. It is improved with an attractive two-storey building, located as illustrated in an aerial photo in Exhibit D, last tab. It is presently a commercial use. King Street is one of the locations approved for Light Rail Transit (LRT), further to the Region’s Rapid Transit Project, Stage 1. This is now under construction in the King road allowance in front of the property. On the opposite side of King are institutional uses such as the Grand River Hospital, Sun Life Financial Inc., a church and school. The subject property is across from the hospital. The surrounding uses on the north side of King are mostly commercial, with some residences on second floors. Number 900 to the east is a low rise apartment building.

THE OBJECTIVE OF THE EXPROPRIATING AUTHORITY
The Region is currently implementing its Stage 1 Rapid Transit Project, which has been approved at all levels. The design includes approximately 19 km of LRT from the Conestoga Mall in North Waterloo to the Fairview Park Mall in Kitchener. The line is located in the centre of the King Street West road allowance in this area. The design includes 11 transit traction power substations (TPSS) which are required to supply
power to and from the LRT line. The Region proposes to place one such substation on the subject parcel. The parcel frontage is 14.4 metres, with a depth of 38.2 metres. The project dimensions for the TPSS on this parcel would be 11.03 metres by 29.5 metres.

SUMMARY OF THE EVIDENCE

The Exhibits filed at the hearing are listed in Appendix A of this Report.

Regional Municipality of Waterloo

Mr. Darshpreet Bhatti, Director, Rapid Transit for the Region of Waterloo, provided the history and rationale for the project. He has long overseen and directed the Rapid Transit Project, and has wide experience in municipal engineering projects both here and in other municipalities (Exhibit F, white tab 1). He provided testimony about the proposed design. Figure 1-2 of Ex. C-1 (the Environmental Project Report, or EPR) illustrates the entire route, further shown at the tab in Ex. E. Light Rail Transit was chosen as the preferred rapid transit technology. The relevant portion of the new LRT runs along the Central Transit Corridor, as identified in the former and new Regional Official Plans (excerpts in Ex. A.)

The Region had commenced the approval process for the project in 2006 as an individual environmental assessment for transit projects (Ex. B, first pink tab). Stages 1 and 2 were completed, but Council then adopted the new simplified approvals process available under O. Reg. 231/08 under the Environmental Assessment Act, R.S.O. 1990, c. E.18. This is called a Transit Project Assessment Process or TPAP (Ex. C, tabs 1 and 3). TPAP required an Environmental Project Report (EPR) to demonstrate only a functional design (i.e. about ten or fifteen percent of the final design), showing merely the feasibility of the project. The resulting EPR was approved by the Minister of the Environment by a Notice to Proceed in 2012 (Ex. C, tab 1) and did not require a federal approval (tab 2).

One of the key objectives in the Region's planning policies for rapid transit is to partner with other government agencies and the private sector for funding, operation and maintenance of rapid transit (Ex. A, tab 4). Further to this policy, a Project Agreement was entered into in 2014 with the successful bidder, a private consortium carrying on business as GrandLinq GP (GrandLinq). It is providing the detailed design, construction and operation of the LRT line, including this part of King Street West. (Its duties and funding proposals may be seen in Exhibit B, fourth tab, Report E-14-032, pp. 3 et seq. of 70.)

Mr. Bhatti explained the requirement for traction power substations (TPSS) along an LRT line, spaced here approximately 1 kilometre apart. There are 11 now planned for this segment of the LRT (although 13 were mentioned in Ex. B, fourth tab, Report E-14-032, p. 8 of 70). These allow for the transmission of electric power to the line upstream and downstream, and its conversion between alternating current and direct current as required. According to the GrandLinq contract the consortium has the ultimate say on the location and design of the substations. However, it is the Region which, by statute, must supply the land where they will be located.

He pointed out that TPSS locations must be as close as they can be to the LRT line, as the operating voltage must be maintained for the line. A block away would be inefficient
from a cost perspective. TPSS structures cannot be placed in the road allowance here, as the transformers alone measure about 5 metres by 10 metres.

Mr. Bhatti also provided evidence about alternative locations examined. The Region had considered a site on the opposite side of King, off Mount Hope Street, within a Sun Life parking lot (located to the north of the hospital.) This would have been 100.4 metres away from King, while all other TPSS locations were on King itself. Negotiations failed, and this site had probably not been mentioned in the RFP documents. The Region had acquired a property nearby in April 2014, with a TPSS in mind (at municipal address 242 King Street South in Waterloo, although within the same block as the subject property). This was at a time when only very preliminary designs had been done, but there was pressure to have land available. The GrandLinq consortium is now in charge of site selection and design. Earlier acquisitions posed a risk that they would not be acceptable to GrandLinq. Indeed, as it turned out, GrandLinq consultants found that the 242 property was too small to accommodate the required site components, although the distance between the stations would have been acceptable. It also posed other constraints. Mr. Bhatti emphasized in redirect that the Region had purchased 242 King prior to the hiring of GrandLinq, so that no details of the required size or design of the TPSS had been determined.

In cross examination Mr. Bhatti reiterated that TPSS should not be farther apart than about 1 kilometre. The power feed is not a constant. There will be overlaps and redundancies depending on the speed and load of the vehicles. If one station goes out, there must be sufficient feed for the train to reach the next stop. If both upstream and downstream go out, the vehicle cannot proceed. GrandLinq have completed their assessment of the distances between the stations, and the build out has proceeded with the property at 904 King West selected as the desired location. The required poles have been designed and placed underground. It would be unacceptable from a cost perspective to rework the locations now.

Even if the previous owner of 904 King did not have actual knowledge of the choice, he would have known as early as 2012 that a TPSS was required close to the Grand River Hospital. As to the site eventually chosen, even as of the 2014 Report to Council recommending their bid (Ex. B, fourth pink tab), GrandLinq would have designed less than 50% of the system. Thus the present choice for expropriation, while relatively swiftly made, is justified in their final design.

Mr. James Witherspoon, Vice President, Municipal Infrastructure-Ontario, WSP Group (formerly GENIVAR), outlined the engineering design for the Project. His firm produces designs, performance speculations and quality assurances for public private partnership (P3) projects. His firm has been planning this project for the Region since March 2012, involving land acquisition, placement of utilities, etc., including the location of the TPSS. He was involved in evaluation of the contractor bids for the detailed design and construction. The final design drawings by GrandLinq were not available in 2013 or 2014, but illustrated 80 or 90 % of the final design when released in August 2015 for construction. The 904 parcel had been chosen by then, over 242. Drawing C-1002 shows details of the roadway and utilities in the area of 904 King West (Ex. D, third tab.)

He provided explanations for features shown on Drawings C-1002 and following. C-1002 shows the interface between the LRT line and the TPSS in this area. The electrical feed from Kitchener Utilities is fed into the station, alternating current is transformed to direct, then returned to the LRT to power the rail. All three types of feed
are placed underground here. The only features above ground would be the building, fencing and landscaping. Because the building illustrated on the site drawing (Ex. D, last tab) must be 5 metres by 10 metres, it could not be contained within the road allowance.

One element of the TPSS critical to the choice of this site is the size of the grounding grid. This is required in the specs for all TPSS (see Ex. D, the 2013 RFP, sixth white tab, Design and Construction Performance Output Specifications, p. 6-11.) Drawing CE-TP-1060 (Ex. D, third tab) shows the grounding grid required for this property, prepared by the electrical engineering firm. Mr. Witherspoon testified that he understands that the area of the grid cannot vary, although the length and width may vary. The size required here, 13.38 by 31.28 metres, was designed by the electrical engineer, and extends almost to the 904 property boundaries. Mr. Witherspoon estimates that the excess land available beyond the grid on this property would be only about 1 metre, and likely be subsumed within the access driveway.

He emphasized that the 242 King South, Waterloo property had been acquired by the Region for a TPSS location well before the final design was chosen by GrandLinq. Its size mitigates against it as a location for the equipment required. Properties further away, in the next block for example (a horizontal setback), would be cost-prohibitive to operate, although perhaps technically feasible. Those further along a linear setback (along the line) could be accommodated, although Mr. Witherspoon called the 904 location the “sweet spot”.

From a timing and cost perspective, he reiterated that most of the foundation, duct work and surface features have already been installed for the LRT system. It would be virtually impossible to move one STPF now, as their locations are interrelated. Duct work is designed to feed a specific location and cannot now be altered.

Other features of the proposal are seen on Drawing AS-1060, the Architectural site plan dated June of 2015, notably the required fences (8 and 9), right of way for access, parking space at the rear (19), and access doors for the building (5 and 6.) These require sufficient space for equipment to enter and exit, and this is available on this parcel.

In cross Mr. Witherspoon was asked about the timing of the acquisition of the alternative site, 242 King. This occurred in 2014, before GrandLinq was selected. He had agreed with its purchase at the time. He affirmed that the distances of 1.7 km from the next TPSS north, and 1.4 km from the south, were possibly more advantageous than those for 904 King (1.9 and 1 respectively.)

However, his conclusion is that 904 is equally as good or better, considering all of the other factors. Looking at the site drawing at the last tab in Ex. D, although 904 is not flat as 242 is, it is not the necessary retaining wall that increases the width of the required driveway to 5.07 m. as shown. Larger vehicles may use it, and 2 to 2.5 m of space is required in order to open vehicle doors. While the width of the 242 lot might be acceptable for the project, it is subject to a right of way on both sides, making the required fence virtually impossible. The site design must be very similar at all of the TPSS, so from both a timing and constructability perspective, 904 is preferable. In addition, there are setbacks as required in the zoning bylaw, and these could not be met on the 242 site.
In redirect he emphasized that the acquisition of 242 occurred at a time of increasing pressure to obtain TPSS sites, but before GrandLinq was hired. Other sites along the LRT route were also obtained, some not ultimately suitable. The size of the grounding grid was individual to each site. If “tightened” as it would have to be for 242, there would be undesirable equipment congestion underground.

Mr. Adolfo Plaza, Regional Property Agent, outlined the process followed and the options considered by the Region for this site, as well as others. He has had extensive experience in the commercial real estate field, and as the Region’s Property Agent, has been involved in the acquisition of over 200 properties for the LRT project.

He testified that the 904 parcel is within the Kitchener Waterloo Hospital Secondary Plan, and is zoned medium intensity mixed use. When he spoke with the previous owner’s agent in August 2014, the property was vacant and had been on the market for some time. It seemed suitable based on its size, but the Region had to wait for an appraisal report before making an offer. Meanwhile it was purchased by the present owner, 2437217 Ontario Inc. The agent informed Mr. Plaza that another interested party had made an offer irrevocable until September 5, 2014. The Region’s appraisal was received only in October.

After 242 King South was acquired in 2014, the Region reached the conclusion that it was too small for a TPSS site. Its width of 10.6 m was insufficient; about 13 or 14 m is required. Only three properties on the north side met this measurement, 904 being the largest. Other negative factors were that vehicle access to 242 was by way of the street behind, Union; and that the existing driveway and parking was shared by three properties, with one way exit only onto King. In addition, the Waterloo zoning bylaw required a 5 m front yard, 1.5 m side yard and a 7.5 m rear yard setback, none of which could be met in any TPSS design for this property.

The Region had investigated a location within the Sun Life parking lot on Mount Hope Street (mentioned by Mr. Bhatti), but Sun Life wished to retain it all for a possible expansion. Since 904 was on the market, it began to consider this property. In Mr. Plaza’s opinion, the highest and best use for this parcel would not be a higher density, unless combined with an adjacent property. The parcel at 900 was already developed with an apartment complex, and thus would not likely be combined for future development.

Under cross examination Mr. Plaza was taken through the details of the rationale and process for the acquisition of 242 King. He said that although it had been acquired on the advice of project engineers prior to GrandLinq, perhaps the Region had made an error in acquiring a parcel that was too small to contain the use. By the time GrandLinq was on board, they said that the technical aspects of 242 were not right. He admitted that the existing easement for access could also be acquired, so that it was not such a negative factor. However, 242 was still too small to contain the entire design. Many sites other than Sun Life were considered but rejected. Thus when 904 came on the market, probably in summer 2014, it appeared to be the right size, and with a willing seller. However, by the time the staff report made its way to Council (November 4, 2014), the parcel had been sold to the present owner. Mr. Plaza had not been able to do more than make inquiries of the real estate agent prior to this, as he had not been authorized by a Council decision at the time.
In redirect he said that he did not know what would result if the City of Kitchener refused to approve the proposed site plan.

The landowner

Mr. O’Melia introduced the principal of his client corporation, Mr. Ankung (John) Cheng. He is a real estate broker. He hopes to retain the property as a new corporate headquarters initially, then convert the whole into a residence. He described his acquisition as a long journey. After renting office premises elsewhere he found the subject site, and thought it ideal for a headquarters as well as a residence. He tried to make due diligence inquiries before making an offer, and heard nothing of the Region’s interest. He was able to clear the conditions in his offer in the time specified for closure of the deal. However, on the very day the deal closed, he received the Region’s notice of expropriation. He wishes to retain the property, but if not, he would like a fair price.

In his summation Mr. Cananau submitted that the Region had proceeded in good faith, and had not unfairly targeted the subject property. It is the appropriate location, as distances between the TPSS may vary. A site plan has been prepared, and this site best meets the required setbacks and size of the grounding grid. GrandLinq as the operating company for the future stations had approved it. Few other sites were appropriate, based on uses or impact.

Mr. O’Melia countered that the Region had acquired the 242 property shortly before the focus shifted to 904. Thus 242 must have been considered to have been reasonably necessary, and well able to contain the projected TPSS design. What is more it is a better distance, as far as substation distribution is concerned. Mr. Witherspoon had admitted that 242 could work; it is a flatter site, so that no retaining wall was needed as with 904. Mr. Plaza had merely been told to find a wider site and did so. The decision did not seem, from any evidence provided, to be based on technical requirements.

FINDINGS AND OPINION

As Mr. Cananau argued, the evidence supports that 904 King Street West meets the TPSS requirements as detailed by GrandLinq, following their assumption of the construction process. Further details of the TPSS design and system requirements can be found in the aforementioned 2013 RFP, Ex. D, sixth white tab, Design and Construction Performance Output Specifications, pp 6-2 et seq. Section 6.6 requires an access driveway of at least 3.7 m, and a minimum clearance of 3.0 m around the station’s perimeter. A description of the contents of the substation is found at subparagraph 6.9 (a) (i). These (albeit pre-GrandLinq) requirements seem to me to favour 904. Mr. Plaza said that the fact that the 904 parcel was on the market was not a motivating factor for the Region to focus on it. It drew attention to it, but it was most likely its greater dimensions that settled the matter.

Respecting alternatives to 904, the earlier acquired 242 King Street South in Waterloo, although within the distance parameters, measures only 10.6 m by 25.7 m. It can be seen that the 11.03 m by 29.5 m size required in the engineering design for this TPSS cannot be contained within this parcel (Ex. D, last tab.) However, it must be remembered that the specifics of the design were not finalized until GrandLinq came on board, after 242 was obtained. I accept that the 904 property better suits the Region’s present needs. It also seems anomalous that the Region would acquire 242 King for the purpose of a TPSS when it is encumbered by an exit driveway shared with two adjacent
properties. There are no such encumbrances for 904. The Region's witnesses made it clear why a portion of the Sun Life lot was not acceptable as an alternative. There was mention of other properties considered, but no specifics. Nor did the owner provide other suggestions.

Respecting the notion that a problem might arise if the City of Kitchener refused to approve the site plan, I do not see this as a realistic possibility for this much studied and carefully designed public use.

It was implied that there was some procedural unfairness in the Region's approach, in that the Chongs received no notice of the Region's interest before they made an offer to purchase. However, with the LRT at the front door, further inquiries could have led to information about the current status of the Region's plans for the TPSS locations. As Mr. Bhatti testified, even if the previous owner of 904 King did not have actual knowledge of the choice, it could have been discovered as early as 2012 that a TPSS was required very close to the Grand River Hospital.

I received no evidence as to the date the present owner made its offer. Mr. Cheng said that he received notice from the Region of the proposed expropriation on the date his purchase was closed. While there was general knowledge of where a TPSS would be located, he had no prior knowledge that it would be at 904. However, I find no obvious unfairness in the Region's process around the selection of the 904 location. Mr. Plaza testified that he had made inquiries of the seller's agent in August 2014, when the property was still on the market. A less sophisticated buyer might not have made inquiries of the agent or the Region, but an experienced one might have some duty to do so. In fact, Mr. Cheng testified that he had done due diligence searches, although he did not provide details. I am not sure why these did not yield information about the Region's potential interest, following the agent's discussions with Mr. Plaza. I regret for Mr. Cheng's sake that they did not. If the seller's agent did not disclose the fact of the Region's inquiries when the offer was made, there could be liability for the seller or agent, but this should not affect the Region's right to proceed. On the evidence, at the time the present owner made its offer to purchase, there was no final decision that the Region could disclose.

There was adequate study of this LRT proposal, commencing prior to the Minister of the Environment's approval of the EPR in 2012, and continuing under GrandLq's development of detailed designs. In this process there was opportunity for information to and input from the landowners at the time (see Ex. B, second tab, page 8 of 159, concerning earlier individual notices up to 2008; last tab of Ex. F for public comments.)

This location of the TPSS can better accommodate the proposed use from the perspective of the size of the lot than 242 King South. It was also determined by the GrandLq consultants to be acceptable from a distance perspective. The owner did not introduce evidence of an alternative that had not already been rejected as less satisfactory. Without any updated engineering evidence to support the owners' main alternative of 242, I accept that the selected alternative is the preferable one. The Regional Council and its professional staff have approved it.

I am satisfied from the evidence in this case that the choice is sound and reasonably defensible. In balancing the owner's desire to retain the parcel with the public interest in effective public transportation (as I must do in deciding whether the proposed taking is fair, sound and reasonably necessary as the Act requires), in this case the private
should be subordinate to the public interest. Compensation is provided for under the Act.

CONCLUSION

After considering all of the evidence and arguments, I conclude that the proposal meets the test in the *Expropriations Act* and the summation of it as set out by the courts. As mentioned, the test in subsection 7(5) of the Act is whether the proposed taking is "fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority". Decisions such as *Re Perkins and the Queen* (1977), 13 L.C.R. 327 (O.C.A.) conclude that the test that the inquiry officer must apply can be expressed as whether the proposal is "reasonably defensible in the achievement of the authority's objectives."

For the reasons given above, I find that the proposed taking by the Regional Municipality of Waterloo is reasonably defensible in the achievement of the Region's objective of construction of Stage 1 Rapid Transit on this section of King Street West, City of Kitchener. I also recommend that the Region provide Mr. Cheng with his costs of the inquiry of $200 as provided for in subsection 7(1) of the Act.

Gillian, M. Burton  
Inquiry Officer

Date: January 13, 2016

APPENDIX A

LIST OF EXHIBITS

1. Exhibit A – Planning Documents
2. Exhibit A continued – Transportation Master Plan excerpts
4. Exhibit C – Rapid Transit Assessment Process and approvals;  
   C-1 – Vol. 1, Environmental Project Report;  
   C-2 – Functional Design Drawings
5. Exhibit D – Hearing of Necessity, Detailed Drawings and aerial views
6. Exhibit E – Route Maps, Region of Waterloo Rapid Transit LRT
7. Exhibit F – Curriculum Vitae – Darshpreet Bhatti  
   James Witherspoon  
   Adolfo Plaza  
   Aerial View of 904 King Street West block  
   Comments from Public Consultation Centres and otherwise
Fee Simple Full Taking

Ontario Business Corporation

Address: 904 King Street W., Kitchener
Owner: 2437217 Ontario Inc.
Annual Return: October 9, 2014
Directors/Officers: Ankung Cheng; Ming-Kuei Cheng