



Media Release: Immediate

## **Regional Municipality of Waterloo**

### **Consolidated**

### **Council Agenda**

Wednesday, November 9, 2016

**Closed Session 6:00 p.m.**

**Waterloo County Room**

Regular Meeting 7:00 p.m.

Regional Council Chamber

150 Frederick Street, Kitchener, ON

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\*Denotes Item(s) Not Part of Original Agenda

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- 1. Moment of Silence**
- 2. Roll Call**
- 3. Motion To Go Into Closed Session**

That a closed meeting of Council be held on Wednesday, November 9, 2016 at 6:00 p.m. in the Waterloo County Room in accordance with Section 239 of the Municipal Act, 2001, for the purposes of considering the following subject matters:

- a) receiving of advice that is subject to solicitor-client privilege and proposed or pending litigation related to a contract
- \* b) receiving of advice that is subject to solicitor-client privilege related to an agreement
- \* c) proposed or pending disposition of property in the City of Kitchener

- 4. Motion to Reconvene Into Open Session**

2261482

**5. Declaration of Pecuniary Interest Under The Municipal Conflict of Interest Act**

**6. Presentations**

**7. Petitions**

**8. Delegations**

**9. Minutes of Previous Meetings**

- a) Closed Budget – October 19, 2016
- b) Budget – October 19, 2016
- c) Closed Council – October 19, 2016
- d) Council – October 19, 2016
- e) Economic Development – October 27, 2016
- f) Planning & Works – November 1, 2016
- g) Administration & Finance – November 1, 2016
- h) Community Services – November 1, 2016
- i) Closed Committee – November 1, 2016

**10. Communications**

- a) Council Information Package – Friday, November 4, 2016  
**(Distributed Electronically)**

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

**12. Reports**

**Finance Reports**

- a) [COR-TRY-16-105](#), P2016-17 Supply of Cloth Media Filter System Wellesley Wastewater Treatment Plant 6

**Recommendation:**

That the Regional Municipality of Waterloo accept the proposal of Alfa Laval Inc. for P2016-17 Supply of Cloth Media Filter System Wellesley

Wastewater Treatment Plant in the amount of \$466,402.00 plus all applicable taxes;

And that the Regional Municipality of Waterloo grant pre-budget approval for this expenditure prior to approval of the 2017 budget as set out in report COR-TRY-16-105 dated November 9, 2016.

- b) **COR-TRY-16-106**, Sole Source Procurement for Plow Trucks 9

**Recommendation:**

That the Regional Municipality of Waterloo name Viking-Cives Ltd. as the Vendor of Record for all Plow Truck acquisitions for a three (3) year period ending October 31, 2019;

And that the Regional Municipality of Waterloo approve the sole source procurement for three (3) Plow Truck units in the amount of \$854,180.00 plus all applicable taxes as set out in report COR-TRY-16-106 dated November 9, 2016.

- c) **COR-TRY-16-107**, T2016-179 Fountain Street Reconstruction and Bridge Superstructure Replacement, Blair Road to Shantz Hill Road, City of Cambridge 12

**Recommendation:**

That the Regional Municipality of Waterloo accept the tender of McLean Taylor Construction Limited for T2016-179 Fountain Street Reconstruction and Bridge Superstructure Replacement, Blair Road to Shantz Hill Road, City of Cambridge in the amount of \$12,768,314.40 plus all applicable taxes as set out in report COR-TRY-16-107 dated November 9, 2016;

And that the Regional Municipality of Waterloo approved an increase in the project cost of \$427,659.79 plus applicable taxes.

**Committee Reports**

- a) Planning & Works - attached & marked **PS-161101** 17

**Chief Administrative Officer**

**Regional Chair**

**Regional Clerk**

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

- a) **PDL-LEG-16-71**, Authorization to Expropriate Lands (2<sup>nd</sup> Report) for Grand River Transit Facilities – 296 Fairway Road S., Kitchener and 300 Fairway Road S., in the City of Kitchener, in the Regional Municipality of Waterloo 21

**Recommendation:**

That The Council of The Regional Municipality of Waterloo approve the expropriation of lands for public transit purposes including for the construction and operation of a Grand River Transit (“GRT”) Passenger Facility in accordance with the GRT Business Plan and for transit parking facility purposes to be utilized by GRT and ION operators and users as detailed in Report PDL-16-71 dated November 1, 2016, and described as follows:

**Fee Simple Full Taking:**

1. Part Lots 3 and 4, Plan 962 as in 641088, PIN 22590-0181 (LT), City of Kitchener, Regional Municipality of Waterloo (300 Fairway Road S., Kitchener, ON N2C 1W9);
2. Part Lot 4, Plan 962, being Parts 6 & 7, Plan 58R1271 s/t 667083 and t/w 542189 and t/w 377327 as amended by 719746, PIN 22590-0180 (LT), City of Kitchener, Regional Municipality of Waterloo (296 Fairway Road S., Kitchener, ON N2C 1W9);

And that staff be instructed to register a Plan of Expropriation with respect to the said properties, or such lesser portions or interests of any of the said properties as may be determined through the design process, within three months of the granting of approval to expropriate said properties, in accordance with the “Expropriations Act” (Ontario) (the “Act”);

And that the registered owners be served with a Notice of Expropriation and a Notice of Possession with respect to the said properties 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 Expropriations Act;

And that if no agreement as to compensation is made with an owner, the statutory Offer of Compensation and payment be served upon the registered owners of applicable properties in the amount of the market value of the interests in such 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 above described lands, or any part thereof, upon the registration on title of the required documentation to complete the transaction 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.

- 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**
- 18. Unfinished Business**
- 19. Other Business**
- 20. Questions**
- 21. Enactment Of By-laws – First, Second & Third Readings**
  - a) A By-law to Expropriate Certain Lands for Public Transit Purposes Including a Grand River Transit (“GRT”) Passenger Facility to be Utilized by GRT and ION Operators and Users in the City of Kitchener
  - b) A By-law to Confirm the Actions of Council – November 9, 2016
- 22. Adjourn**



**Report:** COR-TRY-16-105

**Region of Waterloo**  
**Corporate Services**  
**Treasury Services (Procurement)**

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**To:** Regional Chair Ken Seiling and Members of Regional Council

**Date:** November 9, 2016 **File Code:** F18-40

**Subject:** **P2016-17 Supply of Cloth Media Filter System Wellesley Wastewater Treatment Plant**

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**Recommendation:**

That the Regional Municipality of Waterloo accept the proposal of Alfa Laval Inc. for P2016-17 Supply of Cloth Media Filter System Wellesley Wastewater Treatment Plant in the amount of \$466,402.00 plus all applicable taxes;

And that the Regional Municipality of Waterloo grant pre-budget approval for this expenditure prior to approval of the 2017 budget as set out in report COR-TRY-16-105 dated November 9, 2016.

**Summary:** Nil

**Report:**

Proposals were called for P2016-17 Supply of Cloth Media Filter System Wellesley Wastewater Treatment Plant and were advertised in the Record, on the Ontario Public Buyers Association website and on the Region's website. Five (5) proposals were received. The proposals were opened in the presence of J. Markovic, P. Law and C. Gatchene.

The proposals were first evaluated based on the following pass/fail criteria: maximum footprint size, timing of submission, bid deposit, financial stability, minimum of three (3) operating installations utilizing the same or similar technology within the past five (5) years and adherence to Region SCADA Standards. The evaluation continued on quality and technical criteria including schedule, completeness and proposal

organization, vendor experience, agreement with commercial terms and conditions, proposed equipment, project team, availability of spare parts/response time from service centre and references.

Following the evaluation, three (3) proponents were shortlisted and their price envelopes were opened. The proposal submitted by Alfa Laval Inc. obtained the highest overall score and had the lowest price.

**List of Bids Received:**

The following bids were short listed.

Alfa Laval Inc.	Toronto, ON
Aqua-Aerobic Systems Inc.	Loves Park, IL
Veolia Water Technologies Canada Inc.	Mississauga, ON

The work of this contract is to supply a cloth media filter system at the Wellesley Wastewater Treatment Plant. The selected filter system will be incorporated by means of a novation agreement into the future general construction contract for the filter upgrades at the Wellesley Wastewater Treatment Plant. Delivery of the cloth media filter system is planned for early to mid 2017.

The Wellesley Wastewater Treatment Plant, located in the Township of Wilmot, was constructed in 1973. The expansion in 1993 included construction of the second package treatment plant and the filter system. The plant is equipped with four gravity-fed sand filters for tertiary treatment. This type of filter normally has a lower cost but presents operating challenges. Operations staff continually experience challenges associated with the filter system that result in out-of-service filters, poor filter performance and continuous maintenance activities.

In 2014, the Region retained CH2M Hill to perform an assessment of the existing down-flow sand filters at the Wellesley Wastewater Treatment Plant. It was identified that the poor performance of the existing filters can be attributed to the limitations that are inherent to the existing down-flow filters. Through the evaluation of alternatives for filter replacements, the final report recommended replacing the existing filters with cloth media filters. This alternative was evaluated to be the most cost effective, easier to implement and operate and capable of providing reliable filtration with a relatively small footprint.

**Corporate Strategic Plan:**

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

**Financial Implications:**

P2016-17	\$466,400
Plus: Applicable Net HST of 1.76%	<u>8,200</u>
Total	<u>\$474,600</u>

Note: All figures are rounded to the nearest \$100.

The approved 2016-2025 Wastewater Capital Program includes a budget of \$1,300,000 in 2017 for the Rural Infrastructure Upgrades (project #08309) funded from the Wastewater Reserve Fund (58.8%; \$764,400) and Regional Development Charges (41.2%; \$535,600). Of this amount, \$1,000,000 is allocated for the Wellesley WWTP filter upgrades in which the supply of the cloth media filter system is included. This expenditure is included in the preliminary 2017 Wastewater Capital Budget. Pre-budget approval for the acquisition is being sought, as the 2017 Wastewater Budget will not be approved until December 14, 2016.

The final date of acceptance for this proposal is December 10, 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





**Report:** COR-TRY-16-106

**Region of Waterloo**  
**Corporate Services**  
**Treasury Services (Procurement)**

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**To:** Regional Chair Ken Seiling and Members of Regional Council

**Date:** November 9, 2016 **File Code:** F18-30

**Subject:** **Sole Source Procurement for Plow Trucks**

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**Recommendation:**

That the Regional Municipality of Waterloo name Viking-Cives Ltd. as the Vendor of Record for all Plow Truck acquisitions for a three (3) year period ending October 31, 2019;

And that the Regional Municipality of Waterloo approve the sole source procurement for three (3) Plow Truck units in the amount of \$854,180.00 plus all applicable taxes as set out in report COR-TRY-16-106 dated November 9, 2016.

**Summary:**

Nil

**Report:**

**Vendor of Record**

It is the Region of Waterloo's intent to name Viking-Cives Ltd. as the Vendor of Record (VOR) for all Plow Trucks for a three (3) year period ending October 31, 2019. If approved, the Region would request prices from the VOR for new units as required, but would not be obligated to purchase said units from the VOR. The Region anticipates procuring 8 Plow Truck units (including the 3 which are the subject of this report) over the next 10 years. Council approval would be required, per the Purchasing By-law, for the purchase of Plow trucks from the VOR.

**Justification for Sole-sourcing**

Viking-Cives Ltd, located in Mount Forest Ontario since 1985, designs, manufactures and distributes a complete line of municipal snow and ice control equipment. The Viking-Cives product has proven to be cost effective and reliable over the life cycle of the plow truck. Over the past number of years, the Region's annual procurement of plow trucks has been awarded to Viking-Cives Ltd. as the low cost provider through the RFP process. As a result, 100% of the Region's fleet of plow trucks are Viking-Cives models.

**Benefits of Standardization**

By sole sourcing the Viking-Cives product, the Region can maintain a high level of standardization that provides both a cost effective and reliable product to support the needs of the Transportation Services program.

Viking-Cives provides excellent technical support and their knowledge is invaluable in the support of operating, maintaining and troubleshooting equipment issues, thereby reducing operational downtime, operator and technical staff training, tooling and overall operational cost.

A wide range of parts is also required to support the plow trucks utilized in the Transportation Services fleet. Standardization provides flexibility in parts interchangeability and allows for reduced inventory requirements. As a result, high volume components are readily available which has resulted in reduced down time related to parts.

**Purchasing By-law**

Section 21(1)(g) of the Purchasing By-law allows for acquisition by negotiation where the extension of an existing or previous contract would prove more cost effective or beneficial for the Region. Section 21(1)(i) of the Purchasing By-law allows for acquisition by negotiation where the acquisition is required or is beneficial in regard to the standardization of goods or services for the Region.

**Corporate Strategic Plan:**

Award of this contract meets the 2015-2018 Corporate Strategic Plan objective to ensure Regional programs and services are efficient, effective and provide value for money under Strategic Focus Area 5, Responsive and Engaging Government Services.

**Financial Implications:**

Three (3) plow trucks	\$854,200
Plus: Applicable Net HST of 1.76%	<u>15,000</u>
Total	<u>\$869,200</u>

Note: All figures are rounded to the nearest \$100.

The Region's approved 2016 Transportation Capital Budget includes a budget of \$2,237,000 for Vehicles & Equipment Replacements (project 06054) of which, a provision of \$1,080,000 has been made for the replacement of three (3) plow trucks funded by the Vehicle Equipment Replacement Reserve. The previous purchase price of plow trucks in 2013 was \$246,966 per vehicle. Factors affecting the price of plow trucks include volatility of the USD exchange rate (approximately 35% US content in the plow equipment and 100% on the truck chassis), steel and aluminum commodities, and inflation.

The final date of acceptance for this quote is November 30, 2016.

**Future Plow Truck Requirements**

In addition to the three plow trucks noted above, the preliminary 2017-2026 Capital Program under consideration by Budget Committee for Transportation Services includes three (3) plow trucks in 2017 and two (2) in 2019. These units would be sourced from the Vendor of Record, and all purchases would be submitted to Council for approval. The Region is not obligated to purchase said units from the VOR.

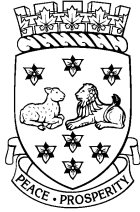
**Other Department Consultations/Concurrence:**

Transportation Services and Fleet Services staff was 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



**Report:** COR-TRY-16-107

**Region of Waterloo**  
**Corporate Services**  
**Treasury Services (Procurement)**

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**To:** Regional Chair Ken Seiling and Members of Regional Council

**Date:** November 9, 2016                      **File Code:** F18-30

**Subject:** T2016-179 Fountain Street Reconstruction and Bridge Superstructure Replacement, Blair Road to Shantz Hill Road, City of Cambridge

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**Recommendation:**

That the Regional Municipality of Waterloo accept the tender of McLean Taylor Construction Limited for T2016-179 Fountain Street Reconstruction and Bridge Superstructure Replacement, Blair Road to Shantz Hill Road, City of Cambridge in the amount of \$12,768,314.40 plus all applicable taxes as set out in report COR-TRY-16-107 dated November 9, 2016;

And that the Regional Municipality of Waterloo approved an increase in the project cost of \$427,659.79 plus applicable taxes.

**Summary:**

Nil

**Report:**

Tenders were called for T2016-179 Fountain Street Reconstruction and Bridge Superstructure Replacement, Blair Road to Shantz Hill Road, City of Cambridge and were advertised in the Record, in the Daily Commercial News, on the Region's website and on the Ontario Public Buyers Association website. The tenders were opened in the presence of J. Stephenson, L. Misurka and T. Lumgair.

The following tenders were received:

McLean Taylor Construction Limited	St. Marys, ON	\$12,768,314.40
EBC Inc.	Mississauga, ON	\$13,180,000.00
Regional Sewer and Watermain Ltd.	Cambridge, ON	\$13,693,793.60
Pomerleau Inc.	Montreal, QC	\$14,019,645.50
Capital Paving Inc.	Guelph, ON	\$14,481,038.81
Grascan Construction Ltd.	Toronto, ON	\$14,627,000.00
Facca Incorporated	Ruscom, ON	\$14,716,975.00
Amico Infrastructures (Oxford) Inc.	Cambridge, ON	\$15,022,522.26
Belor Construction Ltd.	Mississauga, ON	\$15,261,131.00
Toronto Zenith Contracting Limited	Concord, ON	\$15,605,096.00
Dufferin Construction Company	Oakville, ON	\$15,649,000.00
Eiffage Innovative Canada Inc.	Burlington, ON	\$15,689,336.00
Soncin Construction	Concord, ON	\$15,709,259.40
Alliance Verdi Civil Inc.	Bolton, ON	\$15,748,834.40
Aecon Construction and Materials Limited	Toronto, ON	\$15,942,037.82
OHL Construction Canada Inc.	Mississauga, ON	\$17,930,866.00

The work under this contract includes the following:

- Reconstruction of the existing roadway base and asphalt pavement on Fountain Street from Blair Road to Preston Parkway;
- Milling and re-paving on Fountain Street from Preston Parkway to Shantz Hill Road;
- Construction of curb and gutter on Fountain Street from Blair Road to Preston Parkway;
- Construction of a new eastbound left-turn lane on Fountain Street at Linden Drive (formerly Limerick Road);
- Construction of a new eastbound left-turn lane on Fountain Street at Preston Parkway;

- Construction of new pedestrian refuge islands on Fountain Street at Linden Drive (formerly Limerick Road) and on Fountain Street at Preston Parkway;
- Construction of a new 3.0 metre wide asphalt boulevard multi-use trail on the north side of Fountain Street from Blair Road to Preston Parkway, and a new 3.0 metre wide asphalt boulevard multi-use trail on the south side of Fountain Street from Blair Road to approximately 150 metres east of Preston Parkway;
- Construction of an infill sidewalk on the south side of Fountain Street from approximately 150 metres east of Preston Parkway to meet the existing sidewalk terminus 420 metres southwest of Shantz Hill Road;
- Rehabilitation and/or reconstruction of existing masonry retaining walls in front of 11 residential properties on Fountain Street between Preston Parkway and Shantz Hill Road;
- Rehabilitation and improvement of the existing culvert carrying Blair Creek under Fountain Street; and
- Removal of the deteriorated superstructure (girders, deck, sidewalks and railings) of the existing Fountain Street / Grand River Bridge and replacement with new superstructure designed to accommodate the additional width required to support the multi-use trails.

Construction is scheduled to start on or about November 21, 2016 and be substantially complete by August 31, 2018.

### **Traffic Restrictions**

In order to facilitate reconstruction of the bridge superstructure, Fountain Street from Blair Road to west of Linden Drive will be fully closed to all motorized traffic for the duration of the contract; however, passage for pedestrians and cyclists will be maintained. Signed detours will be provided to direct motorists during the road closure. The detour route will include Fountain Street west of Blair Road, a short section of Highway 401 and Shantz Hill Road from Highway 401 to Fountain Street.

Construction on Fountain Street, from Linden Drive to Shantz Hill Road, will not commence until April 1, 2018 and is expected to be completed by September 30, 2018. Two-way traffic will be maintained on this section of Fountain Street at most times with periodic lane restrictions in effect. Surface asphalt will be placed under a full closure to through traffic during an overnight or weekend period in September 2018. During placement of surface asphalt and permanent line painting, signed detours will be provided to direct motorists during the road closure.

**Corporate Strategic Plan:**

Award of this contract meets the 2015-2018 Corporate Strategic Plan objective to optimize road capacity to safely manage traffic and congestion under Strategic Focus Area 2 Sustainable Transportation.

**Financial Implications:**

## Region of Waterloo Transportation Division Costs

T2016-179	\$12,768,300
Consulting Fees	1,956,000
Region Engineering	327,900
Utilities, Property	115,000
Landscaping	90,000
Detours, Signing, Line Painting	<u>22,000</u>
	Sub-total \$15,279,200
Plus: Applicable Net HST of 1.76%	<u>262,800</u>
	Total <u>\$15,542,000</u>

Note: All figures are rounded to the nearest \$100.

The Region's approved 2016-2025 Transportation Capital Program includes a budget of \$1,690,000 in 2016 and \$13,460,000 in 2017-2019 for these works (projects 05459, 05590 and 07309) for a total of \$15,150,000 to be funded from the Roads Rehabilitation Reserve fund (97%; \$14,635,000) and from the Roads Development Charge Reserve Fund (3%; \$515,000). The total project cost exceeds the budget amount by \$392,000 (2.6%).

**Roads Rehabilitation Reserve Funding**

Based on the low tender, the total estimated cost of these works to be funded from the Roads Rehabilitation Reserve Fund is \$15,063,000 (including applicable HST) resulting in a funding shortfall of \$428,000. The shortfall is primarily attributable to a number of additional scope items added to the roadworks after the project budget was established, including extension of the project limits, major rehabilitation of the Blair Creek culvert, rehabilitation of boulevard retaining walls and more substantial roadway reconstruction requirements in some areas.

The additional \$428,000 in funding required for these projects will be identified in the Draft 2017 Transportation Capital Program.

The approved 2016 Transportation Capital Program includes sufficient funds for these projects in 2016 to cover costs incurred to date in 2016 and projected new spending to December 31, 2016.

### **Development Charge Reserve Funding**

The Region of Waterloo's approved 2016-2025 Transportation Capital Program includes funding of \$515,000 in 2016 through 2018. Based on the low tender, the total estimated cost of these works to be funded from the Development Charge Reserve Fund is \$479,000 (including applicable HST) which is \$36,000 less than budget.

The approved 2016 Transportation Capital Program includes sufficient funds for these projects in 2016 to cover costs incurred to date in 2016 and projected new spending to December 31, 2016.

Staff recommends that the above work proceed without delay because the bridge is at the end of its service life and considerable additional costs would be required for interim bridge repairs if the bridge work were to be deferred. The road work is closely tied with the bridge work and certain key portions of the road work cannot be separated from the bridge work.

The final date of acceptance for this tender is January 17, 2017.

### **Other Department Consultations/Concurrence:**

Transportation and Environmental Services staff was 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

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The Planning and Works Committee recommends as follows:

1. That the Region of Waterloo accept PDL-CPL-16-46, Monthly Report of Development Activity for September 2016.
2. That the Regional Municipality of Waterloo take the following actions with respect to the Ministry of Natural Resources and Forestry's document "Draft: A Wetland Conservation Strategy for Ontario 2016-2030":
  - a) Endorse the seven guiding principles in the document, but request that greater emphasis be given to the role of wetlands in adapting to the effects of climate change;
  - b) Request the Province to initiate extensive and detailed consultations with the scientific and ecological planning community prior to further consideration of a "no net loss" approach to wetland conservation policy in Ontario; and
  - c) Forward Report PDL-CPL-16-47, dated November 1, 2016 to the Ministry of Natural Resources and Forestry for consideration in the ongoing consultation on wetland conservation policies.
3. That the Regional Municipality of Waterloo take the following actions regarding the development of a new GO Station at Greenhouse Road, Breslau in the Township of Woolwich:
  - (a) Endorse the location of the GO station as identified in Attachment "B" to Report PDL-CPL-16-48.
  - (b) Request the Ministry of Transportation and Metrolinx to fully fund all costs associated with the new GO station as part of the Regional Express Rail 10-Year Program.
  - (c) Forward Report PLD-CPL-16-48, dated November 1, 2016, to Metrolinx, the Ontario Ministry of Transportation, and the Township of Woolwich.

PS-161101

4. That The Regional Municipality of Waterloo direct and authorize the Regional Solicitor to take the following actions with respect to the expropriation of lands for the reconstruction of Fountain Street North, City of Cambridge, in the Region of Waterloo as detailed in report PDL-LEG-16-74 dated November 1, 2016:
  1. Complete application(s) to the Council of the Regional Municipality of Waterloo, as may be required from time to time, for approval to expropriate land, which is required for the improvements to Fountain Street North and described as follows:

**Temporary Easement Partial Taking:**

The right and easement, being a temporary easement in gross, for the free and unobstructed, right, interest and easement terminating on the 31st day of December, 2021, for itself, its successors and assigns, and anyone authorized by it, on over, under and through the following properties for the purposes of excavation, construction, installation, replacement, alteration, grading, and landscaping as required in connection with road widening improvements to Fountain Street (Regional Road 17) from Kossuth Road / Fairway Road to Cherry Blossom Road, City of Cambridge, Regional Municipality of Waterloo, and all related improvements works ancillary thereto and for such purposes, the free, unimpeded and unobstructed access to the lands at all times by employees, agents, contractors, workers and anyone authorized by it, and vehicles, supplies and equipment at all times and for all purposes and things necessary for or incidental to the exercise and enjoyment of the right and easement:

- a) Part of Lot 18, Beasley's Broken Front Concession being Parts 1, 2, 3 and 4, on 58R-19087 being Part of PIN 03755-0043 (LT) (Part of 1105 Fountain Street N.) all in the City of Cambridge, Regional Municipality of Waterloo;
- b) Part of Lots 18 and 19, Beasley's Broken Front Concession being Part 1 on 58R-19088 being Part of PIN 03755-0043 (LT) (Part of 1105 Fountain Street N.) all in the City of Cambridge, Regional Municipality of Waterloo;
- c) Part of Lot 19, Beasley's Broken Front Concession being Part 2 58R-19089 being Part of PIN 03755-0043 (LT) (Part of 1105 Fountain Street N.) all in the City of Cambridge, Regional Municipality of Waterloo;

**Temporary Easement Partial Taking:**

2261422

PS-161101

The right and easement, being a temporary easement in gross, for the free and unobstructed, right, interest and easement terminating on the 31st day of December, 2021, for itself, its successors and assigns, and anyone authorized by it, on over, under and through the following properties for the purposes of construction and installation of alterations to an existing Storm Water Management Facility and appurtenances thereto as required in connection with road widening improvements to Fountain Street (Regional Road 17) from Kossuth Road / Fairway Road to Cherry Blossom Road, City of Cambridge, Regional Municipality of Waterloo, and all related improvements works ancillary thereto and for such purposes, the free, unimpeded and unobstructed access to the lands at all times by employees, agents, contractors, workers and anyone authorized by it, and vehicles, supplies and equipment at all times and for all purposes and things necessary for or incidental to the exercise and enjoyment of the right and easement:

- a) Part of Lot 19, Beasley's Broken Front Concession, being Part 1, on 58R-19089 being Part of PIN 03755-0043 (LT) (Part of 1105 Fountain Street N.) all in the City of Cambridge, Regional Municipality of Waterloo;
2. Serve notices of the above application(s) required by the Expropriations Act;
3. Forward to the Chief Inquiry Officer any requests for a hearing that may be received;
4. Attend, with appropriate Regional staff, at any hearing that may be scheduled;
5. Discontinue expropriation proceedings or any part thereof, in respect of the above described lands, or any part thereof, upon the registration on title of the required documentation to complete a transaction whereby the required interests in the lands are conveyed or if determined by the Commissioner of Transportation and Environmental Services that such lands, or any part or interest thereof, are not required for the subject project; and
6. Do all things necessary and proper to be done, and report thereon to Regional Council in due course.

PS-161101

5. That the Region of Waterloo distribute 2,400 rain barrels at a cost of \$40 per unit, promote low water use landscaping, and enforce By-law 07-069, A By-law Respecting the Conservation of Water in 2017; as detailed in Report TES-WAS-16-19.1.
6. That the Regional Municipality of Waterloo approve amendments to the Source Water Protection Incentive Program maximum grants as outlined in report TES-WAS-16-23 dated November 1, 2016;

And that The Regional Municipality of Waterloo approve amendments to the proposed Clean Water Act Risk Management By-law as outlined in report TES-WAS-16-23 dated November 1, 2016.

November 1, 2016



Report: PDL-LEG-16-71

## Region of Waterloo

### Planning Development and Legislative Services

### Legal Services

**To:** Chair Ken Seiling and Members of Regional Council

**Date:** November 9, 2016                      **File Code:** L07-90

**Subject: Authorization to Expropriate Lands (2<sup>nd</sup> Report) for Grand River Transit Facilities – 296 Fairway Road S., Kitchener and 300 Fairway Road S., 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 public transit purposes including for the construction and operation of a Grand River Transit (“GRT”) Passenger Facility in accordance with the GRT Business Plan and for transit parking facility purposes to be utilized by GRT and ION operators and users as detailed in Report PDL-16-71 dated November 1, 2016, and described as follows:

#### Fee Simple Full Taking:

1. Part Lots 3 and 4, Plan 962 as in 641088, PIN 22590-0181 (LT), City of Kitchener, Regional Municipality of Waterloo (300 Fairway Road S., Kitchener, ON N2C 1W9);
2. Part Lot 4, Plan 962, being Parts 6 & 7, Plan 58R1271 s/t 667083 and t/w 542189 and t/w 377327 as amended by 719746, PIN 22590-0180 (LT), City of Kitchener, Regional Municipality of Waterloo (296 Fairway Road S., Kitchener, ON N2C 1W9);

And that staff be instructed to register a Plan of Expropriation with respect to the said properties, or such lesser portions or interests of any of the said properties as may be determined through the design process, within three months of the granting of approval to expropriate said properties, in accordance with the “Expropriations Act” (Ontario) (the “Act”);

And that the registered owners be served with a Notice of Expropriation and a Notice of Possession with respect to the said properties 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 Expropriations Act;

And that if no agreement as to compensation is made with an owner, the statutory Offer of Compensation and payment be served upon the registered owners of applicable properties in the amount of the market value of the interests in such 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 above described lands, or any part thereof, upon the registration on title of the required documentation to complete the transaction 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 Details

Currently, there is a Grand River Transit (GRT) bus passenger facility located on the Fairview Park Mall property, adjacent to the lands that are the subject of the recommended expropriation of this Report (the "subject lands"). The Mall owner has indicated in recent years that it has alternate plans for the lands currently occupied by GRT at the Mall and requires the removal of the GRT bus passenger facility from its lands. As a consequence, staff has developed the proposed plan for the GRT passenger facility to be relocated to the subject lands from the Mall lands. As part of a comprehensive redesign of the transit network to ensure full integration of conventional and rapid transit services, staff identified that a key element of integration is the provision of passenger facilities to accommodate convenient transfers at strategic locations where routes converge, including the subject location at Fairway Road in the City of Kitchener. Accordingly, the proposed relocated GRT passenger facility will be in a location integrated with the future Fairway Road ION to allow for optimal ION/GRT integration. The subject lands are best positioned to accommodate this requirement. Security of tenure for the GRT passenger facility will also be achieved. The subject lands will also provide an area where GRT and ION transit users can "park and ride" to address parking concerns of the surrounding private commercial properties.

The new facility would provide platforms for 8 buses and would include a driver facility for lunch and shift changes, as well as a customer park and ride facility. Customer amenities in the transit facility would include shelters, benches, bike parking and real-time LED displays. Space for an additional 4-5 bus bays will be provided adjacent to the north side of the LRT platform, for a total of 12-13 bus bays at the integrated transit facility. There would be parking for at least 200 vehicles. The total amount of parking may vary depending on the final configuration of the site.

The existing transit passenger facility adjacent to Hudson's Bay on the Fairview Park Mall property would be decommissioned and the site would be restored to surface parking. The planned schedule is to complete the detailed design in 2016, begin construction in 2017 and have the new facility operational by late 2017 in anticipation of the start of ION LRT revenue service. The Region and the Mall owner continue to collaborate in connection with the logistics and timing of the relocation of the GRT passenger facility.

Should a negotiated settlement be reached with any property owner and a conveyance of the required lands, or any of them, is completed before the expropriation process is complete, the expropriation process with respect to such lands would be discontinued by the Regional Solicitor.

The commencement of the expropriation process for the properties that are the subject of this Report was approved by Regional Council on March 30, 2016 pursuant to Report PDL-LEG-16-08. The appropriate forms were served to initiate formal proceedings under the Act for these properties. Legal Services staff contacted all property owners that are affected by this Report and informed them of the Region's intention to continue with the expropriation process including this Report PDL-LEG-16-71 in order to ensure that the construction timeline is maintained. Legal Services staff will continue to correspond with all property owners affected by the planned GRT facilities in order to reach a negotiated settlement with as many as possible. The Region did receive Notices for a Hearing of Necessity for both properties, however, both requests were withdrawn and, therefore, no Hearings of Necessity were held.

The next step in the expropriation process for the above-listed properties is for Council to approve the expropriation of the property interests identified above. This approval will ultimately be endorsed upon a certificate of approval on one or more Plans of Expropriation (the "Plans") for those properties not acquired under agreement. The Plans must then be registered within three months of Regional Council's approval. Ownership of affected properties vests with the Region upon the registration of the Plans. Notices of Expropriation are then served upon all registered owners, including tenants as shown on the assessment roll.

Once ownership by the Region is secured through the registration of the Plans, 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 all the lands that are the subject of this Report will be secured by the end of February, 2017. Accordingly, Legal Services staff will be proceeding expeditiously to register the Plans and serve the Notices of Expropriation and Notices of Possession following approval by Regional Council.

After registration of the Plans and prior to the taking of possession of affected properties, 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 the Subject Properties are on an "as is" basis and, therefore, the Region assumes all responsibility for the said lands upon assumption of title.

The subject properties are shown on the map attached as Appendix "A" hereto and are currently occupied by a Burger King and Crabby Joe's restaurant. The names of the fee simple owners and tenants of the subject properties, along with the most current available corporate profile information, as applicable, are set out in Appendix "B" hereto. Appendix "B" does not, however, 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**

Since the new terminal location will provide services for both GRT and LRT park and ride passengers, the costs of the project will be shared approximately 50/50 with funding of \$5.7 million in the GRT capital budget and \$5.6 million included in the RT capital project of \$818 million.

The approved 2016 GRT capital budget includes \$500,000 in 2016 and \$3.5 million in 2017 for the construction of the GRT transit facility. This cost estimate will be reviewed once the property is acquired and detailed design is complete. (Should additional funding be required, this will be reflected in the 2017 – 2026 GRT Capital Budget to be



submitted as part of the 2017 budget process). The GRT portion of this project will be funded from RDCs (18.2%) and debentures (82.8%). These amounts could change as a result of the Development Charges Background Study for Transit and Waste Management which will be considered by Council later this year.

The GRT share of the transit infrastructure to be constructed on site is estimated to be \$2 million. This portion of the project has been submitted for 50% funding under the Public Transit Infrastructure Fund program.

The LRT portion of the project will be funded from the land acquisition budget for the rapid transit project which is being carried out by the Region outside of the DBFOM contract with GrandLinq. The budget for all the land acquisition and associated costs is \$42.2 million. As of September 30, 2016 \$28.0 million has been spent. The Rapid Transit project's share of the estimated capital cost of the transit facility will be accommodated within the land acquisition budget.

**Other Department Consultations/Concurrence:**

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

**Attachments**

Appendix "A" – map

Appendix "B" – corporate search

**Prepared By:** Fiona McCrea, Solicitor, Property

**Approved By:** Richard Brookes, Acting Regional Solicitor

Appendix "A"



**Appendix "B"**

## Corporate Profiles:

1. Address: 296 Fairway Road S., Kitchener  
Owner: 2243902 Ontario Ltd.  
Annual Return: July 3, 2016  
Directors/Officers: Paramjit Kaur Virk; Navtej Singh Virk  
Ontario Business Corporation  
  
Tenant: Redberry Franchising Corp./La Corporation Des Franchises Redberry  
aka Burger King  
Annual Return: March 15, 2016  
Directors/Officers: Andreas Kragaris, Robert Laverdure, Christian LeBrun,  
Ontario Business Corporation
  
2. Address: 300 Fairway Road S., Kitchener  
**Part Owner:** Amalfi Investments Limited  
Annual Return: January 3, 2009  
Directors/Officers: Louis A. Strauss; Harry M. Strauss; Gordon S. Strauss  
**Part Owner:** 397219 Ontario Limited  
Annual Return: July 17, 2016  
Directors/Officers: Adam Spylo; Ahren Spylo  
Ontario Business Corporation  
  
**Franchisor: Obsidian Group Inc.**  
aka Crabby Joe's Tap & Grill  
**Annual return: February 20, 2016**  
**Directors/Officers: Gus Karamountzos**  
**Ontario Business Corporation**