

### Section I – Items for Board of Directors Action

**TO:** Chair and Members of the Executive Committee  
Meeting #10/19, Friday, January 10, 2020

**FROM:** Michael Tolensky, Chief Financial and Operating Officer

**RE:** **MINISTRY OF TRANSPORTATION**  
Settlement of compensation for lands required for the construction of the extension of Highway 427, City of Vaughan (CFN 51576)

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#### KEY ISSUE

Settlement of compensation for Toronto and Region Conservation Authority (TRCA) lands required for the construction of the extension of Highway 427, located north of Zenway Boulevard and East of Regional Road 27, City of Vaughan, Regional Municipality of York, Humber River Watershed.

#### RECOMMENDATION

**THE EXECUTIVE COMMITTEE RECOMMENDS THAT** a settlement of compensation be completed with the Ministry of Transportation (MTO) with respect to an expropriation of fee simple interest in 1.5767 hectares (3.896 acres), more or less, of vacant land, being Part of Block 17, Registered Plan 65M-3966, City of Vaughan, Regional Municipality of York, designated as Part 1 on Registered Plan 65R-34775;

**THAT** the total compensation be \$40,500 on account of all claims pursuant to the Expropriations Act. In addition, MTO will pay all of TRCA's costs;

**THAT** TRCA provide MTO with a full and complete release of all claims pursuant to the Expropriations Act;

**THAT** Gardiner Roberts LLP, Barristers and Solicitors be instructed to complete the transaction at the earliest possible date. All reasonable expenses incidental to completing the transaction are to be paid by MTO;

**AND FURTHER THAT** authorized TRCA officials be directed to take whatever actions may be required to give effect thereto including the obtaining of necessary approvals and the signing and execution of any documents.

#### BACKGROUND

At Authority Meeting #8/14 held October 31, 2014, Resolution #A174/14 as amended by Resolution #A175/14 were approved as follows:

*WHEREAS the Toronto and Region Conservation Authority (TRCA) is in receipt of a request from the Ministry of Transportation (MTO) to convey certain lands for the extension of Highway 427 to Major Mackenzie Drive in the City of Vaughan, Regional Municipality of York;*

*WHEREAS it is in the opinion of TRCA that it is in the best interest of TRCA in furthering its objectives as set out in Section 20 of the Conservation Authorities Act to cooperate with MTO in this instance;*

## Item 7.6

*THEREFORE LET IT BE RESOLVED THAT TRCA-owned lands containing 1.5767 hectares (3.896 acres), more or less, be conveyed to MTO for the extension of Highway 427, said lands being Part of Block 17, Registered Plan 65M-3966, City of Vaughan, Regional Municipality of York, designated as Part 1 on Registered Plan 65R-34775;*

*THAT consideration be \$40,000.00 in addition to TRCA's reasonable legal fees and other costs to be paid by MTO;*

*AND FURTHER THAT the authorized TRCA officials be directed to take the necessary action to finalize the transaction including obtaining any necessary approvals and signing and execution of documents*

*THAT the following be inserted after the second paragraph of the main motion:*

*THAT the bridges required for the crossings of the Rainbow Creek valley system associated with the construction of Highway 427 be designed and built so as to provide a safe and attractive pedestrian trail system under the highway that will link to the valley trail system on either side of the highway;*

*THAT TRCA retain an easement for use of the trail under the bridges;*

*THAT staff report back on the issue if required;*

Attachment 1 is a sketch illustrating the location of the subject lands. Attachment 2 is an orthophoto illustrating the location of the subject lands.

The subject lands are described as Part 1 on Registered Plan 65R-34775 and contain 1.5767 hectares (3.896 acres) in the City of Vaughan, Regional Municipality of York. The subject lands form part of a larger parcel acquired by TRCA from 611428 Ontario Limited on April 18, 2007 under the Humber River Flood Plain Component of the Greenlands Acquisition Project 2011-2015.

MTO identified a need to acquire the subject lands for a 6.6-kilometre Highway 427 extension which is bounded by Regional Road 7 at the south to Major Mackenzie Drive to the north, in the City of Vaughan.

In September 2014, a Property Purchase Agreement in the amount of \$40,000, was proposed by MTO to TRCA as representing full and final compensation for the lands.

At Authority Meeting #8/14, held October 31, 2014, Resolution #A174/14 was passed directing staff to investigate and negotiate with MTO with respect to the design of the bridges over the Rainbow Creek valley system associated with the planned construction. The aim of these negotiations was to ensure that the design and construction of the highway would allow for future trails and also included the granting of easements by MTO to TRCA for the use of same.

Due to project timelines, design completion, the uncertainty of TRCA's trail plans and MTO's policy of not granting easements in general, TRCA and MTO staff were unable to reach an amicable agreement and as a result MTO proceeded with the expropriation of the land required for the Highway 427 extension.

## Item 7.6

In April of 2015, TRCA received and accepted, in accordance with Section 25 of the *Expropriations Act*, an offer of compensation for the expropriated lands in the amount of \$39,000. The Section 25 offer provides compensation without prejudicing further claims for compensation including injurious affection and/or disturbance damages as a result of the expropriation.

Negotiations continued between MTO and TRCA staff with the advice and guidance of Jonathan Wigley of Gardiner Roberts LLP through to August 2016. These discussions resulted in a recommendation from Mr. Wigley that further claims respecting the expropriated lands would have no merit as there was no trail system contemplated under Highway 427 at the time of the land taking nor did it appear in any documents.

In an effort to finalize compensation, in October of 2019, discussions took place with Peggy Moore, Real Estate Officer with MTO, regarding TRCA's requirement for the granting of an easement or encroachment agreement in favour of TRCA for future trail possibilities as a requirement to signing by TRCA of a full and final Compensation Agreement.

Staff was advised of MTO's policy stating that any encroachment required by TRCA through MTO lands would have to be obtained via the City of Vaughan (the proponent of a planned trail in the area) who would then acquire the encroachment on TRCA's behalf.

TRCA staff has since confirmed that the City of Vaughan and York Region are currently working with MTO to facilitate the Vaughan "Super Trail" and Bicycle Network link through Rainbow Creek over these same lands rendering an access agreement in favour of TRCA redundant.

### **FINANCIAL DETAILS**

In November of 2019, MTO provided to TRCA an "Agreement As To Compensation And Possession In Land Required By The Minister Of Transportation from MTO" in the amount of \$40,500, representing full and final compensation. That amount of \$40,500 included the original appraised value plus interest.

The Ministry of Transportation has agreed to assume all legal, survey and other TRCA costs involved in completing this transaction.

**Report prepared by: Cheryl Waters, extension 5859**

**Emails: [cheryl.waters@trca.ca](mailto:cheryl.waters@trca.ca)**

**For Information contact: Mike Fenning, extension 5223**

**Cheryl Waters, extension 5859**

**Emails: [mike.fenning@trca.ca](mailto:mike.fenning@trca.ca) or [cheryl.waters@trca.ca](mailto:cheryl.waters@trca.ca)**

**Date: November 7, 2019**

**Attachments: 2**

Attachment 1: Site Plan

Attachment 2: Orthophoto