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Region of Peel
Working for you

REPORT
General Committee

DATE: March 24, 2010

REPORT TITLE: **EXTENSION OF PROFESSIONAL SERVICES FOR THE ROCKFORT ONTARIO MUNICIPAL BOARD HEARING**

FROM: Norma Trim, Chief Financial Officer and Commissioner of Corporate Services
Patrick O'Connor, Regional Solicitor

RECOMMENDATION

That the contracts for external legal and professional services between the Region and its service providers for the Rockfort Quarry Ontario Municipal Board hearing be extended to provide continuing representation in the estimated amount of $200,000 (excluding applicable taxes) under Capital Project 03-7712, for a total commitment of $850,000 (of which $650,000 has been previously approved by Council), in accordance with Purchasing By-law 63-2008;

And further, that additional funding in the amount of $200,000 be provided to Capital Project 03-7712; from Reserve Funding R0252.

REPORT HIGHLIGHTS

- Legal and professional services were retained to assist the Region with the Rockfort Quarry Ontario Municipal Board (OMB) hearing.
- Staff purchasing authority has been reached, and therefore, Regional Council is being asked to extend the purchase orders for external legal and professional services in the amount of $200,000.
- The duration of the hearing has been prolonged by two months necessitating the additional $200,000 budget allocation to the Capital Project.

DISCUSSION

1. Background

On September 18, 2003, Regional Council established Capital Project 03-7712 (Regional Resolution 2003-978) in the amount of $650,000 to fund the Region's participation in the Rockfort Quarry OMB Hearing. The funding enables the Region to participate in the hearing in furtherance of Council's instructions contained in Resolution 2009-250 (see the attached Schedule "A") through representation by external legal counsel and through the provision of expert advice in the fields of hydrogeology, transportation (roads) and ecology.

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2. Proposed Direction

The OMB hearing is currently underway and initial estimates of the length of the hearing have proven to be insufficient. At the request of all the parties to the hearing, roughly another two months have been added to the hearing in addition to the six months originally scheduled. This report accordingly seeks authority from Council to increase the purchasing authority for external professional services in support of the Region's representation at the hearing by $200,000.

The increased length of the hearing triggers the need to allocate additional budget to Capital Project 03-7712. This would increase the budget requirement for the hearing by $200,000.

FINANCIAL IMPLICATIONS

Staff recommends that additional budget be allocated to Capital Project 03-7712 in the amount of $200,000 to be funded from Reserve Funding R0252. Contracts for external legal and professional services between the Region and its service providers for the Rockfort Quarry OMB hearing will be extended to provide continuing service for the prolonged hearing in the corresponding estimated amount of $200,000 (excluding applicable taxes) under Capital Project 03-7712, for a total commitment of $850,000, in accordance with Purchasing By-law 37-2007.

for Norma Trim
Chief Financial Officer
and Commissioner of Corporate Services

Patrick O'Connor
Regional Solicitor

Approved for Submission:

D. Szwarc, Chief Administrative Officer

For further information regarding this report, please contact Patrick O'Connor at extension 4319 or via email at patrick.o'connor@peelregion.ca

Authored By: Simone Banz AP

c. Legislative Services
J. Macintyre, Director, Purchasing
Manager, Financial Support Unit (FSU) BK

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Region of Peel

APPROVED AT REGIONAL COUNCIL
April 2, 2009

ETP-C. PLANNING

ETP-C4. Rockfort Quarry Application

Moved by Councillor Paterak,
Seconded by Councillor Morrison;

Whereas Regional Council resolved on September 18, 2003 to oppose the proposed Rockfort Quarry due to insufficient information provided by the applicant, James Dick Construction Limited, in support of the proposal;

And whereas, Regional Council also resolved on September 18, 2003 that the Region's participation in the Ontario Municipal Board hearing would focus on the following Regional issues, consistent with Regional roles and responsibilities:

- Conformity with the Regional Official Plan – to ensure that all relevant policies of the ROP are fully considered; Hydrogeology and related engineering design issues – to ensure the protection of groundwater and surface water, including natural features and functions and drinking water supplies;
- Natural Environment features and functions – to ensure the protection of wetlands, fisheries, coldwater streams and other components of the Regional Greenlands system;
- Transportation and Traffic issues – to ensure that impacts to the Regional road network are appropriately considered and, if the quarry is approved, that the applicant pay the full costs of any upgrades and/or increased costs that are required as a result of the quarry; and
- Enforcement, Financial Securities and Cost implications to the Region – to ensure that issues of enforcement are appropriately addressed and that the taxpayers of the Region of Peel do not bear the burden of short term or long term costs or risks associated with any of the above issues relating to the proposed quarry;

And whereas, the applicant provided updated technical reports and information during 2008 in support of the proposed Rockfort Quarry relating to these Regional issues;

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And whereas, the Region of Peel, in conjunction with the Town of Caledon, has retained a team of expert Peer Review consultants to review the applicant's updated information and to advise Regional Council on the technical aspects of the proposal that relate to these Regional issues;

And whereas, Regional Council has considered the advice of those Peer Review consultants, the recommendations of Regional staff and legal counsel, the position of the Town of Caledon and Credit Valley Conservation (CVC), the submissions of the applicant and the submissions of the Caledon Coalition of Concerned Citizens (CCC), among others;

Therefore be it resolved, that Regional Council continue to oppose the approval of the proposed Rockfort Quarry, for the following reasons:

a. The applicant has failed to satisfactorily demonstrate that impacts, risks and costs relating to the above Regional issues are now acceptable.

b. Regional Council is not satisfied that the Rockfort Quarry proposal meets the intent of the Regional Official Plan to achieve an appropriate balance between the benefits of aggregate extraction and the protection of the natural environment, community and other resources. Regional Council cannot conclude that the public interest in utilizing the resource, in this instance is sufficient to counterbalance the uncertainties, impacts, risks and costs of the proposal;

c. Although the Regional Official Plan recognizes the potential economic benefits of utilizing high potential mineral aggregate resources and the public interest of having a new source of high quality aggregate close to market, Regional Council has not been satisfied by the applicant that the proposed extraction of the aggregate resource in this location can be undertaken without causing significant adverse impacts, risks and costs to ground and surface water resources, the natural environment, the local community, and the economic interests of the taxpayers and residents of the Region of Peel;

d. The applicant has not demonstrated to the satisfaction of Regional Council that the proposed mitigation plan and adaptive management plan will be capable of ensuring the timely protection of groundwater and surface water resources, natural features and functions and drinking water supplies, during and after operations and during rehabilitation;

e. The applicant has not proposed an appropriate mechanism to ensure that short term and/or long term risks and costs that may be associated with the proposal are appropriately secured in an enforceable manner to ensure that there will not be a burden on Regional taxpayers or members of the public in the Region of Peel;

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f. The Regional roads proposed by the applicant for use as aggregate haul routes are not presently constructed to appropriate standards for use as truck routes and are not presently permitted as truck routes by Regional By-law 57-2005, as amended, and Regional Council is not satisfied that it is in the public interest for the Region to take the steps necessary to reconstruct these Regional roads to the standards that would be necessary to accommodate and permit aggregate truck traffic;

And further, that Regional staff and legal counsel, be instructed to continue to focus the Region's participation in the OMB hearing on Regional issues;

And further, that legal counsel for the Region be instructed to advise the OMB that Regional Council recognizes the importance of local issues, including: compliance with the Town of Caledon Official Plan; social impacts; and other potential impacts on the local community and residents, and that Regional Council requests the OMB to fully and carefully consider such local issues, together with the above Regional issues, in determining whether or not to approve the proposed Rockfort Quarry;

And further, that Regional staff, legal counsel and peer review consultants, be directed to continue to meet with the applicant, the Town of Caledon and other interested parties as appropriate, to discuss and determine whether the applicant is able and willing to provide further information and commitments necessary to address Regional issues to the satisfaction of Regional Council;

And further, that Regional Council direct staff and legal counsel to support the timely, efficient and cost effective completion of this OMB hearing;

And further, that staff and legal counsel provide Regional Council with regular status updates throughout the OMB hearing process.

In Favour:	G. Carlson; C. Corbasson; F. Dale; G. Gibson; A. Groves; N. Iannicca; K. Mahoney; S. McFadden; G. Miles; E. Moore; M. Morrison; P. Mullin; C. Parrish; R. Paterak; M. Prentice; J. Sanderson; J. Sprovieri; A. Thompson; R. Whitehead
Total:	19
Opposed:	Nil
Total:	0
Absent:	E. Adams; S. Fennell; H. McCallion; P. Palleschi; P. Saito
Total:	5

Carried unanimously 2009-250