



ADMINISTRATIVE REPORT

Report Date: February 15, 2011
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Meeting Date: March 1, 2011

TO: Vancouver City Council

FROM: General Manager of Engineering Services in Consultation with the Director of Legal Services

SUBJECT: Encroachment of Road Works on Canadian Pacific Railway Company Lands
Kerr Street Reconstruction - East Fraser Lands Area 2

RECOMMENDATION

- A. THAT, Council authorize Staff to negotiate and enter into one or more encroachment agreements with Canadian Pacific Railway Company (CP) to permit road works installed by or on behalf of the City to encroach on CP lands in connection with the construction, reconstruction and/or upgrade of certain rail crossings and streets within the East Fraser Lands (EFL) Official Development Plan (ODP) area.
- B. THAT, such encroachment agreements will be on terms and conditions, including releases and indemnities in favour of CP, acceptable to the General Manager of Engineering Services and the Director of Legal Services.
- C. THAT, the Director of Legal Services be authorized to execute and deliver the necessary encroachment agreements on behalf of the City.
- D. THAT, no legal rights or obligations will arise hereby and none will arise or be granted hereafter unless and until all legal documentation has been executed and delivered by the Director of Legal Services.

GENERAL MANAGER'S COMMENTS

The general manager of Engineering Services RECOMMENDS approval of the foregoing.

COUNCIL POLICY

The East Fraser Lands Official Development Plan, approved November 14, 2006 and amended October, 2009.

The East Fraser Lands Area 1 CD-1 Policy Report, approved at public hearing September 16, 2008.

The East Fraser Lands Area 2 and Kerr Street Properties CD-1 By-Laws, heard at public hearing January 19, 2010 and in the case of the East Fraser Lands Area 2 CD-1 By-laws, enacted December 14, 2010 (Kerr Street Properties CD-1 By-Law has not yet been enacted).

Indemnities by the City are to be approved by Council.

SUMMARY and PURPOSE

This report seeks Council authority for the Director of Legal Services, in consultation with the General Manager of Engineering Services, to enter into encroachment agreements with CP such that road works required for the servicing of the EFL community may be built on CP land where sufficient road dedication does not exist and cannot otherwise be obtained. CP's standard form encroachment agreement requires a release and indemnity from the City in relation to the City's encroachment on land owned by CP.

The first road to be constructed in EFL is Kerr Street. To construct Kerr Street to its full width of 20.0 metres, road works consisting of street lights, and related electrical junction boxes and conduit (the "Road Works") will be installed on lands owned by CP at the Kerr Street crossing. CP has advised that it will require an encroachment agreement from the City to authorize such encroachments.

BACKGROUND

EFL is a former industrial site that is bisected by the CP rail corridor. Only two crossings - Kerr Street and Boundary Road - are currently constructed and open to the public. The ODP calls for four further vehicular crossings and two pedestrian crossings within the EFL ODP area. Further, portions of East Kent Avenue North, which is immediately adjacent to the CP rail corridor, will be upgraded in connection with the development of EFL. Construction of each of these crossings and construction on East Kent Avenue North may require the installation of road works on CP property and a corresponding encroachment agreement.

Park Lane Homes, the owner of the majority of the lands within the EFL ODP area, is in the process of rezoning large portions of EFL. The western neighbourhood (Area 2) was rezoned to CD-1 on December 14, 2010. Council approved the rezoning of the central neighbourhood (Area 1) to CD-1 following a public hearing on September 16, 2008 but the three CD-1 by-laws for Area 1 have not yet been enacted. The City expects that the balance of the lands within the EFL ODP area will be rezoned through future rezoning applications.

DISCUSSION

The rezoning conditions for Area 1 and Area 2 require the applicant to dedicate land for roads and to construct new roads or reconstruct existing roads to service the new community and to negotiate agreements with CP on behalf of the City with respect to a number of road and pedestrian crossings in EFL.

In connection with the satisfaction of the Area 2 rezoning conditions the City entered into a crossing agreement with CP on September 24, 2010 for the rail crossing at Kerr Street which deals with maintenance responsibility and safety issues. In addition to the crossing agreement, the City was advised in late December 2010 that an encroachment agreement would also be required by CP in order to authorize the construction of the Road Works on the CP lands which abut Kerr Street. It is anticipated that additional road construction in future phases of the development of EFL will require Road Works to be installed on lands owned by CP and will require similar encroachment agreements.

The development of EFL will proceed over the course of many years. As development proceeds, new crossings will be required to be constructed and if infrastructure is required to be constructed on lands owned by CP, the City expects that CP will require the City to enter into an encroachment agreement in each case. This report recommends that Council grant standing authority to staff to negotiate and enter into further encroachment agreements within the EFL ODP area on terms and conditions acceptable to the General Manager of Engineering Services and the Director of Legal Services.

Council authority is required to enable the City to grant an indemnity in favour of CP.

FINANCIAL IMPLICATIONS

The form of encroachment agreement includes an annual fee charge for the duration of the encroachment. The fee is expected to be a nominal amount and will be paid through the Engineering annual operating budget.

PERSONNEL IMPLICATIONS

There are no personnel implications.

CONCLUSION

City Staff recommend that Council authorize staff, on behalf of the City, to negotiate and enter into one or more encroachment agreements with CP over the course of the development of EFL to permit road works installed by or on behalf of the City to encroach on CP lands in connection with the construction, reconstruction and/or upgrade of certain rail crossings and streets within the EFL OPD area

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