



OAKVILLE

REPORT

PLANNING AND DEVELOPMENT COUNCIL MEETING

MEETING DATE: APRIL 16, 2018

FROM: Engineering and Construction Department

DATE: March 15, 2018

SUBJECT: **Burloak Dr & Kerr St Grade Separation Projects Fundamental Principles for Cost Sharing Agreements with Metrolinx**

LOCATION:

WARD: Multiple Wards: Page 1
Wards 1 & 2

RECOMMENDATIONS:

1. That the staff report *Burloak Dr & Kerr Street Grade Separation Projects, Fundamental Principles for Cost Sharing Agreements with Metrolinx*, from the Engineering & Construction Department dated March 15, 2018, be received; and
2. That the CAO and Town Solicitor be delegated the authority to execute agreements with Metrolinx based on the fundamental principles outlined in the report.

KEY FACTS:

The following are key points for consideration with respect to this report:

- The need for road/rail grade separations (underpasses) at the Lakeshore West Rail corridor at both Burloak Drive and Kerr Street have previously been identified through environmental assessment studies.
- Metrolinx, as part of its Regional Express Rail (RER) program, will be issuing Alternative and Financing and Procurement (AFP) call to interested consortiums through Infrastructure Ontario for the financing, design and construction of the various civil requirements necessary to electrify the Lakeshore West Rail Corridor; Metrolinx has advised will include both the Burloak and Kerr Grade Separation Projects and will partner in the funding of both.
- This report outlines the fundamental principles for a cost sharing agreement for the grade separation projects at Burloak/Kerr and staff are recommending approval to delegate the authority for the execution of the agreements to the CAO and town solicitor, based on these principles.

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BACKGROUND:

Through previous transportation master planning and environmental assessment (EA) studies, the town has identified the need and justification for the construction of rail/road grade separations along the Lakeshore West Rail Corridor at both Burloak Drive and Kerr Street.

In 1994, the town of Oakville, in conjunction with the City of Burlington, completed an EA study for *The Twelve Mile Creek/Burloak Drive Area* that provided a number of recommendations to the overall transportation network in the area. One of the recommendations of the study was the widening/reconstruction of Burloak Drive from Great Lakes Boulevard/Michigan Drive/Burloak Drive to Wyecroft Road/Harvester Road and to construct a rail/road grade separated structure (underpass) at the Lakeshore Road West Rail Corridor. Burloak Drive is a boundary road with the City of Burlington and the operation, maintenance and capital improvements are shared equally between Oakville and Burlington.

In 2009, the town completed an EA study for Kerr Street, from Speers Road to north of the QEW, which recommended the reconstruction and widening of Kerr Street as well as the construction of an underpass at the Lakeshore West Rail Corridor.

Both EA's were endorsed by town Council and the projects have been planned in the capital forecast for quite some time. Both projects are primarily attributed to growth and funding is development charged based; however, it has been challenging to implement them as they are very large and costly civil construction contracts involving significant utility relocations and land acquisitions. The cost of a single grade separation project alone represents nearly the total transportation network capital investment Oakville would typically program in any given year of its capital budget.

In July of 2015, the sitting MP for Oakville and the Ontario Minister of Transportation announced joint funding for grade separation projects throughout the Lakeshore West Rail Corridor. The announcement was interpreted by both Burlington and Oakville that the Burloak Drive Grade Separation Project was 100% funded by the provincial and federal governments. In 2016, Metrolinx staff advised Burlington and Oakville this interpretation was incorrect – the funding was to be applied to several projects along the corridor and Oakville/Burlington would be required to cost share the project.

Metrolinx, as part of its Regional Express Rail (RER) program, is in the process of issuing Alternative and Financing and Procurement (AFP) calls to interested consortiums through Infrastructure Ontario for the financing, design and construction of the various civil requirements necessary to electrify the Lakeshore West Rail Corridor. Metrolinx has advised they are prepared to include both the Burloak and

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Kerr Grade Separation Projects as part of their AFP calls and wish to partner in the funding of both.

This report outlines the fundamental principles for a cost sharing agreement for the grade separation projects at Burloak/Kerr and staff are recommending approval to delegate the authority for the execution of the agreements to the CAO and town solicitor, based on these principles.

COMMENT/OPTIONS:

Canadian Transportation Agency Guidelines:

Road/rail grade separation projects are subject to Canadian Transportation Agency (CTA) requirements. The CTA is a federal agency that under the *Canada Transportation Act* is responsible for making cost apportionment decisions concerning the construction and reconstruction of road/road grade separations. They provide guidelines for cost sharing agreements between rail authorities and municipalities. Where disagreements exist between rail authorities and municipalities on cost sharing, the CTA acts as an arbitrating body and would issue a binding board order to the respective parties.

CTA guidelines outline the responsibilities for cost sharing in its document *Apportionment of Costs of Grade Separations – A Resource Tool*.

The CTA outlines that parties involved in a grade separation project attempt to come to an agreement on all issues related to the project, including apportionment of costs. When parties cannot reach agreement, the CTA will rule on any outstanding issues. Typically, costs would be apportioned based on three (3) scenarios:

1. On projects due primarily road development, the municipality pays 85% of the basic costs of a rail/road grade separation; the rail authority 15%
2. On projects due primarily to railway development, the rail authority pays 85% of the rail/road grade separation, the municipality 15%
3. On projects where both the road and railway development have contributed largely to the need for the project, both parties contribute 50% of the basic costs of a rail/road grade separation.

The overriding mechanism to determine which party is primarily responsible for the need of a grade separation is the concept of an *Exposure Index* (EI). An EI is a formula that takes into account the product of two factors:

1. Average annual daily traffic (AADT) volume (municipal related traffic) that would cross at an existing road/rail level (at grade) crossing.
2. Average annual daily number of trains (rail responsible traffic) that would cross at an existing road/rail level crossing.

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Where the value of the EI exceeds a specific threshold, the construction of a road/rail grade separation is warranted. How each factor contributes to the product would determine the cost apportionment.

The CTA also outlines what specific costs are shared between the two parties. Generally, this is limited to the basic cost of a road/rail structure itself, which is defined as the portion of work that is required to provide adequate facilities for present day needs at the time of the construction/reconstruction of the grade separation. Typically, the basic cost of a grade separation would include the construction of the structure, excavation and grading of the road, road/rail detours during construction, relocation of existing utilities and land requirements. Typically, the addition of new features that previously did not exist (e.g. sidewalks/paths, additional lanes, etc.) are generally not subject to cost sharing - they would be at 100% cost to the municipality.

Burloak Drive Project:

Burloak Drive is a boundary road with the City of Burlington and the operation, maintenance and capital improvements relating to the roadway are shared equally between Oakville and Burlington.

Cost Apportionment:

Based on CTA guidelines, this project is a result of both road and rail traffic increasing at the existing level crossing. Municipal staff (Oakville and Burlington) and Metrolinx staff have agreed that a 50/50 basic cost apportionment is appropriate.

This apportionment will be applied to include all project elements (design, utilities, construction and quality assurance) between Superior Court to the south and Wyecroft Road to the north. The underpass structure will be constructed to accommodate a future widening of Burloak Drive to 6 lanes.

Costs Previously Incurred and Other Costs:

Metrolinx has agreed that Oakville and Burlington may include previous costs each municipality had incurred in developing this project (e.g. land/engineering costs, storm sewer outlet construction, etc.). Staff costs may also be included.

Project Cost Estimate:

Oakville and Burlington staff have previously included a \$54 million gross project estimate within their respective capital forecasts. The primary source of funding is development charge based.

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Staff are currently working with Metrolinx to review/confirm a final project estimate that will be included in the agreement. AFP procurement fees/management costs may be applied through Infrastructure Ontario; these costs were not included in staff's previous estimate.

Based on the 50/50 cost apportionment scheme, and using the \$54 million estimate, the municipal share would be \$27 million; the boundary road agreement would divide the municipal share equally between Oakville and Burlington, or \$13.5 million each

Metrolinx has advised they are will accept the municipal cost payback to align with their respective capital forecast cash flow plans.

Kerr Street Project:

The Kerr Street project is a more complex project to implement; it requires significant property acquisitions and utility relocation work.

Cost Apportionment:

Similar to Burloak Drive, Town and Metrolinx staff have agreed the CTA recommended 50/50 cost apportionment scheme is appropriate as this project is a result of both road and rail traffic increasing at the existing level crossing.

This apportionment will be applied to include all project elements (design, land acquisition/expropriation, utilities, construction and quality assurance) between the north leg of Kerr/Speers intersection and the south leg of the Kerr/Wyecroft intersection.

There will be some elements that will be excluded from the apportionment scheme as the overall project limits extend beyond the required grading limits to for the new underpass and there are specific streetscape elements that are also included in the town's plans for this project. The cost for the works beyond the project limits and the premium cost associated with streetscape elements would be at the town's expense.

Land Related Costs:

In total, 14 properties are impacted. One was previously acquired in whole by the town (former *Big Al's* property at the southeast corner of Kerr Street/Shepherd Road); the balance of the properties requires partial acquisitions and are currently in various stages of the acquisition/expropriation process.

Metrolinx has agreed to take on the acquisition/expropriation responsibilities for the following properties:

- All the properties (4) forming the plaza at the northwest corner of Kerr/Speers;

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- The plaza at the northeast corner of Kerr/Shepherd;
- Infrastructure Ontario lands on the west side of Kerr Street immediately north of the rail corridor (Hydro One corridor)

The town will be responsible for the acquisition/expropriation process relating to the following properties:

- 656 Kerr Street (Dana Corporation);
- 700 Kerr Street (AMCTO Building);
- 175 Wyecroft Road (Lockwood Chrysler);
- 41 Speers Road (apartment building),
- 506 Kerr Street (medical offices)
- 80 Speers Road (apartment building)

The town will also need to acquire an easement from Conservation Halton for a storm sewer outfall into Sixteen Mile Creek.

All lands required for the project will be apportioned 50/50 between the Town and Metrolinx. However, the acquisition of the following specific properties will be at the town's expense as they fall outside the project limits and are related to future town projects.

- 175 Wyecroft Road
- 41 Speers Road
- 506 Kerr Street
- 80 Speers Road

Costs Previously Incurred and Other Costs:

Metrolinx has agreed that Oakville may include previous costs it previously incurred in developing this project. This would include engineering/survey costs to date, 2009 EA costs, acquisition of *Big Al's* property. Staff costs may also be included.

Project Cost Estimate:

Oakville has capital works in progress (budget to date) totaling \$17.8 million, with a further \$52.1 million identified in the forecast (2022-2024) for a gross project estimate of \$69.8 million. The primary source of funding is development charge based.

Staff are currently working with Metrolinx to review/confirm a final project estimate that will be included in the agreement. AFP procurement fees/management costs may be applied through Infrastructure Ontario; these costs were not included in staff's previous estimate.

Based on the 50/50 cost apportionment scheme, and using the \$69.8 million estimate, the Oakville's share would be \$34.9 million

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Metrolinx has advised that they are willing to consider the municipal payback to align with Oakville's capital forecast cash flow plans.

Next Steps

Burloak Drive Project:

While Oakville and Burlington had previously completed an EA in 1994 for this project, Metrolinx initiated a *Transit Project Assessment Process* (TPAP) to update the previous EA. A TPAP is a streamlined process specific to transit Projects in Ontario to satisfy the requirements of the Environmental Assessment Act. The TPAP was completed by Metrolinx in 2017 and it was recently approved by the Minister of Environment and Climate Change.

Metrolinx has completed a preliminary design concept which was presented to the public and stakeholders at two public information centres (PIC) in 2017 - this will be included as part of the AFP release. The final design will be completed through by the successful consortium and a final PIC will be held to prior to project start up. Oakville and Burlington staff will be involved in the final design process.

The AFP will be issued in the spring of 2018 and Metrolinx has advised they expect to execute a contract with the successful consortium by the end of 2018 or early 2019. While still to be confirmed through the AFP process, staff anticipate that construction would commence as early as 2019. A project of this nature can take 18-24 months to complete.

Kerr Street Project:

Metrolinx has relied on the Oakville's approved EA from 2009. In addition, the preliminary design developed by the town to date has been provided to Metrolinx for inclusion in the AFP release later this spring. Specific items pertaining to streetscape elements are still under review by the town. The successful consortium will be responsible to complete the final design and staff will be involved throughout this process.

Public meetings will be scheduled for 2018 with the first meeting planned for early May. The town and Metrolinx will continue to deal with land acquisitions/expropriations with the intention of securing all the necessary property in time for an April 1 2020 construction start timeframe for the main work. Advance works relating to tunneling a storm sewer outlet, Oakville Hydro relocations along the rail corridor and the lowering of the existing Trans Northern high pressure oil pipeline may commence as early as 2019. A project of this nature would take 24-30 months to complete.

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The Kerr Street Project will be included in the same AFP release with Burloak later this spring and a contract is expected to be executed by the end of 2018 or early 2019.

Agreements:

An agreement for the Burloak Project is currently in draft form; town engineering/legal staff have provided preliminary comments on the draft agreement and a final agreement is expected later this spring/summer for execution.

An agreement for Kerr Street has not been drafted as of the writing of this report; however, staff anticipate that a draft will be available later this spring with a final version ready for execution later this summer. The land acquisition components of the Kerr Project may require separate realty agreements between Metrolinx and the town.

Summary

This report has outlined to Council the fundamental principles of the agreements with Metrolinx to co-fund and construct both the Burloak Drive and Kerr Street Projects. Staff are recommending that Council delegate authority to the CAO and Town Solicitor to execute these agreements based on the fundamental principles outlined.

CONSIDERATIONS:

(A) PUBLIC

Public meetings for the Burloak Drive Project were undertaken in 2017 as part of Metrolinx's TPAP process. A final meeting will be scheduled prior to construction commencing in order to provide the public with an update on the construction timing.

Public meetings for the Kerr Street Project are being scheduled for 2018.

(B) FINANCIAL

The town has included funding for both projects in its capital works in progress and forecast. The primary source of funding for both projects is development charge based. The project estimates will be confirmed with the agreements.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

Road and Works, Planning and Oakville Transit have or will be involved with the both projects. Legal will be assisting in reviewing the agreements.

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(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS

This report addresses the corporate strategic goal to:

- enhance our economic environment
- provide outstanding service to our residents and businesses
- be accountable in everything we do
- be valued/celebrated for outstanding service

(E) COMMUNITY SUSTAINABILITY

The Burloak and Kerr Projects address all four pillars of sustainability.

Prepared and Submitted by:

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