

Memo



Date: September 29, 2010
File: 0912-20-013
To: City Manager
From: Manager, Real Estate & Building Services
Subject: Kelowna Pacific Railway (KnightHawk Inc) - 20 Year Lease Renewal of 16 Expired Crossing Agreements

Recommendation:

THAT Council direct staff to proceed with the steps necessary to renew and make payment on sixteen (16) Kelowna Pacific Railway Crossing Agreements within the City at a cost of \$75,500 as attached to the Report of the Manager, Real Estate & Building Services dated September 29, 2010;

AND THAT the Mayor and City Clerk be authorized to execute all documents necessary to complete these transactions;

AND THAT all costs associated with these renewals, estimated to total \$72,500 be charged to Project No. 1480 and Work Order No. 1480-30 for \$15,000, 1480-40 for \$20,000 and 1480-50 for \$37,500.

Purpose:

To renew 16 utility crossing agreements for a period of 20 years, under the CN rail line operated by Kelowna Pacific Railway Ltd. ("KPR"). In addition, to inform council of ongoing costs associated with rail crossings throughout the City.

Background:

In March of 2010, staff undertook a comprehensive review of the current situation with respect to crossing agreements and invoicing between the City of Kelowna and KPR (operator of the CN tracks through Kelowna). Given that numerous departments work with KPR, the goal was to compile a complete and centralized inventory of crossings and ensure consistent rates, negotiations and transactions were taking place.

The report identified 119 crossing agreements that range from utility crossings under the tracks, to roads on top of the track. As these agreements date back to the 1950's, information is sparse and challenging to locate.

With this work compiled, staff can improve budgeting of the crossing agreements and ensure that funds are available for the future. A summary of the annual crossing costs for the next 10 years is

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provided below. The majority of 'at grade' crossing agreements identify a semi-annual fee for the maintenance of these crossing, these increase annually by the Canadian Transportation Agency and have been assumed to increase at 2% per year in our cost estimates.

'Below grade' crossings (sewer, hydro and water) do not require annual maintenance and are typically paid for by lump sum payments. This year, 16 of these lease renewals were forwarded to the City with a total price of \$72,500.

Financial/Budgetary Considerations:

The 20 year renewals for the subject 16 crossing are estimated as follows:

16 Agreements	<u>\$72,500</u>
Total	<u>\$72,500</u>

The next 10 years of payments for City crossings to KPR are as follows:

	Warning Systems	Private Crossing	Utility Crossing	Airport Crossings	TOTAL
2010	\$57,525.10	\$1,000.00	\$151,625.00	\$11,723.70	\$221,873.80
2011	\$58,675.60	\$1,020.00	-	\$11,958.17	\$71,653.78
2012	\$59,849.11	\$1,040.40	-	\$12,197.34	\$73,086.85
2013	\$61,046.10	\$1,061.21	\$2,500.00	\$12,441.28	\$77,048.59
2014	\$62,267.02	\$1,082.43	-	\$12,690.11	\$76,039.56
2015	\$63,512.36	\$1,104.08	-	\$12,943.91	\$77,560.35
2016	\$64,782.61	\$1,126.16	-	\$13,202.79	\$79,111.56
2017	\$66,078.26	\$1,148.69	-	\$13,466.85	\$80,693.79
2018	\$67,399.82	\$1,171.66	-	\$13,736.18	\$82,307.67
2019	\$68,747.82	\$1,195.09	\$5,000.00	\$14,010.91	\$88,953.82
2020	\$70,122.78	\$1,218.99	-	\$14,291.12	\$85,632.90
2021	\$71,525.23	\$1,243.37	-	\$14,576.95	\$87,345.55

*all prices are exclusive of HST

The \$72,500 provides for the lease costs of 16 crossings over a 20 year period. Payment will be charged to prepaid lease accounts initially and then 1/20th of the cost will be expensed each year.

Internal Circulation:

- Financial Services Director
- Infrastructure Planning Director
- Design & Construction Services Director
- Airport Director
- Traffic Supervisor
- Manager of Transportation Services

Considerations not applicable to this report:

Legal/Statutory Authority:

Legal/statutory Procedural Requirements:

Existing Policy:

Personnel Implications:

External Agency/Public Comments:

Community & Media Relations Considerations:

Alternate Recommendation:

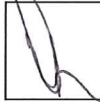
In light of the above, the Real Estate & Building Services department would request Council's support of the recommendations.

Submitted by:



Jordan Hettinga
Manager, Real Estate Services

Approved for inclusion:



Doug Gilchrist, Director, Real Estate & Building Services

cc: J. Vos, General Manager of Community Services
P. Macklem, General Manager of Corporate Sustainability
J. Paterson, General Manager of Community Sustainability
S. Samaddar, Director of Kelowna International Airport



May 19, 2010

TERMS & CONDITIONS LETTER

City of Kelowna
1435 Water Street
Kelowna, B.C.
V1Y 1J4

Attention: Jordan Hettinga

Dear Sirs:

Re: City of Kelowna – 20 Year Lease Renewals – Miles: 109.54WA; 117.50W; 117.74S; 117.04W; 118.91S; 117.60S; 118.44W; 116.22S; 115.74S; 117.50P; 118.44P; 110.01P; 116.25W; 116.68SW; 118.43P; 116.21S

Please be advised that the following contracts have now come up for renewal:

MR 375	MR 239	MR 8641	MR 1575
MR 6814	MR 2564	MR 630	MR 4576
MR 1178	MR 6312	MR 12506	MR 9035
MR 3139	MR 9288	MR 12152	MR 9287

We have reviewed these wire and pipe crossing rentals and in accordance with our current policies we are offering a lump sum administrative contract fee in perpetuity for these crossings. The lump sum offered is \$2500 per crossing of the track by each pipeline/conduit. If a contract has more than one crossing or pipeline then the lump sum offer will increase accordingly (i.e. x 2; x 3; etc.).

This offer is subject to the following terms:

1. All of the terms of the original contract will still be binding and in effect which the pipeline or wire crossing is in existence. In no way will this lump sum extension term remove any of the obligations previously applicable under the original agreements listed above;
2. As an acknowledgement of the property rights of the Railway in the lands of the Railway occupied by the works, the City of Kelowna shall pay to the Railway, in advance, the lump sums in perpetuity, effective as per Schedule A attached;

3. In the event the Railway shall terminate these Licenses within a period of twenty (20) years from the date hereof, by reason of changes or expansion of either party's facilities, the Railway shall reimburse to the City of Kelowna a portion of the above-mentioned payments on the basis of five (5) per cent of the lump-sum payment for each year remaining in the initial twenty (20) year period dating from February 1, 2010. If the Railway terminates these Licenses after January 31, 2030 then there will be no amount reimbursed to the City of Kelowna.

We have attached the following documents for your perusal:

- Twenty year term agreement letter dated April 6, 1989;
- Original contracts for all of the crossings;
- Invoices for lump sum in perpetuity agreements for all crossings.

If you decide to accept the lump sum perpetuity option, would you kindly sign and return the attached duplicate copies of the Schedule "A" within thirty (30) days from the date of this letter.

If we do not hear from you within thirty (3) days we will assume you are not interested in the prepayment feature and you will be billed annually at a minimum rate of \$250.00 per year for each crossing.

You will note that the twenty year term agreement letter dated April 6, 1989, also refers to three private road crossings on Schedule "B". These will now be billed annually and you will receive the invoices shortly.

If you required any further information regarding the enclosed materials please do not hesitate to contact the writer at bmiller@khawk.ca (preferred) or at 250-309-6762.

Sincerely,

Bethan Miller
Real Estate Administrator
Kelowna Pacific Railway Ltd.

City of Kelowna

SCHEDULE "A"

<u>Mileage</u>	<u>Agreement #</u>	<u>Description</u>	<u>Lump Sum</u>
110.01P	MR 239	Powerline – two conduits	\$ 5,000.00
109.54W	MR 375	Waterline – single	\$ 2,500.00
117.50W	MR 630	Waterline – single	\$ 2,500.00
117.74S	MR 1178	Sewerline – 16” pipe	\$ 2,500.00
116.25W to		1.76 Miles Waterline, two pipes	
118.16W	MR 1575	with 10 crossings	\$25,000.00
117.04W	MR 2564	Waterline – single	\$ 2,500.00
118.91S	MR 3139	Sewerline – 10” pipe	\$ 2,500.00
117.60S	MR 4576	Sewerline – 18” pipe	\$ 2,500.00
118.44W	MR 6312	Waterline – 20” pipe	\$ 2,500.00
116.68SW	MR 6814	Waterline – 10” pipe	
		Sewerline – 16” pipe	\$ 5,000.00
116.22S	MR 8641	Sewerline – 10” pipe/ 16” pipe	\$ 5,000.00
118.43P	MR 9035	Powerline – two conduits	\$ 5,000.00
115.74S	MR 9288	Sewerline – 24” pipe	\$ 2,500.00
117.50P	WR 12152	Powerline	\$ 2,500.00
118.44P	WR 12506	Powerline	\$ 2,500.00

We hereby accept the lump sum payments aforementioned:

CITY OF KELOWNA:

Authorized Signatory

Authorized Signatory

Date signed: _____



Kelowna Pacific Railway Ltd.

A KnightHawk Inc Company
2806 - 27th Avenue
Vernon, BC V1T 9K4 Canada

Number IN20102309
Page: 1
Date: 5/30/2010

Sold To: City of Kelowna
1435 WATER STREET
Traffic Operations
PO#503929 (exp 12/31/10)
KELOWNA, B.C. V1Y 1J4

Attn: Fred Wollin

Ship To: 1435 WATER STREET
Traffic Operations
PO#503929 (exp 12/31/10)
KELOWNA, B.C. V1Y 1J4

Attn: Fred Wollin

Reference - P.O. #	Customer No.	Salesperson	Ship Via	Terms Code
MILE 116.21S	KELOW01			NET30

Description/Comments	Amount								
Sewerline at Mile 116.21 Crossing agreement fee for sewerline at Mile 116.21 in perpetuity from the year 2010	2,500.00								
<table border="1"> <thead> <tr> <th>Due Date</th> <th>Amount Due</th> <th>Disc. Date</th> <th>Disc. Amount</th> </tr> </thead> <tbody> <tr> <td>6/29/2010</td> <td>2,800.00</td> <td></td> <td>0.00</td> </tr> </tbody> </table>	Due Date	Amount Due	Disc. Date	Disc. Amount	6/29/2010	2,800.00		0.00	
Due Date	Amount Due	Disc. Date	Disc. Amount						
6/29/2010	2,800.00		0.00						

Remit To:
Kelowna Pacific Railway Ltd.
Accounts Receivable
2806 - 27th Avenue
Vernon, BC V1T 9K4
250.549.9176

FC 300.00

Subtotal before taxes	2,500.00
Total taxes	300.00
Total amount	2,800.00
Payment received	0.00
Discount taken	0.00
Amount due	2,800.00

