SUBJECT: Sale of two City owned properties known as 445-477 Nash Road North and 490 Nash Road North, Hamilton, to Paling Industries Ltd. (John Evans) and Snave Holdings Ltd. (John Evans) (PED10008) (Ward 5)

RECOMMENDATION:

(a) That an Offer to Purchase City property known as 445 – 477 Nash Road North, as shown on Appendix “A” to Report PED10008 attached, and described as Parts 1 to 6 on Plan RC-H-661, being 0.4215 ha (1.042 acres), subject to an easement in favour of the City over Part 5, from Paling Industries Ltd. and Snave Holdings Ltd. for the price of $231,813 be completed on or before April 30, 2010, subject to conditions noted below, be approved by Council.

(b) That an Offer to Purchase City property known as 490 Nash Road North, as shown on Appendix “A” to Report PED10008 attached, and designated as Parts 9, 10 and 28 on Plan 62R-15125, being 0.819 ha (2.024 acres), from Snave Holdings Ltd. for the price of $450,277, be completed on or before April 30, 2010, subject to conditions noted below, be approved by Council.

(c) That the required deposits of $23,181.27 and $45,027.70, respectively, being 10% of each purchase price, be held by the General Manager of Finance and Corporate Services pending acceptance and completion of the transaction(s).

(d) That the proceeds from the transactions totalling $682,090 be deposited to Account No. 47702-4060087001 (Red Hill Valley Project). That the sum of $22,052 for general administrative and appraisal costs incurred by the Real Estate Section be funded from Account No. 4060087001 (Red Hill Valley Project) and credited to Account No. 45408-3560150200 (Land Sales and Purchases). Any Legal Services Section expenses are to be funded from Account No. 47702-4060087001 (Red Hill Valley Project).
Subject: Sale of two City owned properties known as 445 - 477 Nash Road North and 490 Nash Road North, Hamilton, to Paling Industries Ltd. (John Evans) and Snave Holdings Ltd. (John Evans) (PED10008) (Ward 5) - Page 2 of 5

(e) That the following conditions be included in the Offer to Purchase for 445 Nash Road North:

(i) The Purchaser acknowledges and agrees that there shall be no discharging of drainage or any other materials or liquid substances from the subject property off site, and in particular into the Red Hill Valley immediately west of the property municipally known as 445 - 477 Nash Road North;

(ii) The Purchaser acknowledges and agrees that the existing Lease of Parts 3 and 4 on Plan 62R-13167 between the former Regional Municipality of Hamilton-Wentworth and Paling Industries Ltd. / Snave Holdings Ltd., registered as VM210906 on June 1, 1995, amended by an Amending Agreement registered on January 5, 1996 as VM223853, shall expire and merge upon closing of this transaction. The Purchaser further acknowledges and agrees that it will surrender the aforesaid Lease registered as VM210906, as amended by Amending Agreement registered as VM223853, and register a discharge of same on title to the lands set out in the Lease, on or before closing.

(iii) That the Purchaser shall have sixty (60) days after the acceptance by the Vendor of the Offer to Purchase, to undertake at its own expense, soil tests and all other environmental examinations and testing to determine that there are no contaminated substances or hazardous conditions in or about the property and that all environmental laws and regulations have been complied with, all to the satisfaction of the Purchaser, in the Purchaser’s sole, absolute and unfettered discretion. Unless the Purchaser gives notice in writing, delivered to the Vendor, not later than sixty (60) days after the Vendor has accepted the offer that this condition is fulfilled, this offer shall be null and void and the Purchaser’s deposit shall be returned to the Purchaser in full without deduction.

(f) That the following conditions be included in the Offer to Purchase for 490 Nash Road North:

(i) The Purchaser acknowledges and agrees that there shall be no discharging of drainage or any other materials or liquid substances from the subject property off site, and in particular into the Red Hill Valley immediately west of 445 - 477 Nash Road North.

(ii) The Purchaser acknowledges and agrees that it will surrender the existing lease of the subject lands, and register a discharge of same, if required by the Vendor, on the title to the subject lands on or before closing.
(g) That each Offer to Purchase shall be conditional upon the City accepting and approving the other Offer to Purchase, and that the closing of both transactions shall be contemporaneous.

(h) That Section 3 of By-Law 04-299, the Procedural By-law for the Sale of Land, requiring that land be declared surplus, that an appraisal of fair market value be obtained and that notice to the public of the proposed sale be given, does not apply to industrial land, according to Section 8 of By-Law 04-299. The subject properties have been and are intended to be used for industrial purposes. Nevertheless, an internal opinion of value for the subject property was completed in September, 2009 and the selling price of each parcel reflects appraised market value.

(i) That a land Lease between the Regional Municipality of Hamilton-Wentworth and Paling Industries Ltd. and Snave Holdings Ltd. dated January 10, 1995 and registered as instrument VM210906, regarding property at 445 Nash Road North, provides that if during the term of the Lease and up to two years after termination of the lease, the lands are deemed surplus to the Lessor and not required for the Red Hill Creek Expressway, then the Lessor may grant to the Lessee an option to purchase the lands at fair market value at that time. Since the Lessee currently occupies the premises as an overholding tenant, the City’s proposed sale of the surplus portion of the leased lands to the Lessee is in accordance with the option to purchase provided for in the Lease.

Tim McCabe  
General Manager  
Planning and Economic Development Department

**EXECUTIVE SUMMARY:**

The purpose of this report is to request Council’s approval to sell lands deemed surplus to the Red Hill Valley Project to an adjacent land owner. The subject consists of two vacant parcels situated opposite one another along Nash Road North, with a total area of 1.24 ha (3.066 acres). The adjoining owner(s), Paling Industries Ltd. / Snave Holdings Ltd. currently lease the subject parcels from the City. The lease provides the Lessees with an option to purchase the lands, which would be exercised via this transaction.


BACKGROUND:

The subject lands were acquired many years ago by the City and Region as part of the lands required for the Red Hill Valley Parkway. The lands are now deemed surplus to the requirements of the expressway and therefore can be sold.

The Real Estate Section was requested by Public Works to dispose of the subject parcels. These properties are being sold at current market value for industrial purposes to the abutting property owner at 409 Nash Road and long time tenant, in accordance with an option to purchase clause in the Lease.

ANALYSIS/RATIONALE:

There is no municipal requirement for the subject lands and the project for which the lands were acquired – the Red Hill Valley Parkway, is now complete, and the subject parcels are deemed surplus.

Disposal of the subject lands to the adjacent land owner was contemplated in the Lease given the option to purchase that was granted to the tenant, in the event the City did not require the land for the Red Hill Valley Parkway. The City of Hamilton will receive a financial benefit from the sale of the subject lands through future real estate taxes, potential development fees and would eliminate any future liability or maintenance costs for the City.

ALTERNATIVES FOR CONSIDERATION:

The alternative not to sell these surplus lands would mean the City would be retaining property for which it has no intended purpose or use, incurring ongoing maintenance costs and foregoing potential realty taxes and other benefits flowing from its development by the private sector. The alternative of selling the lands to another purchaser is only legally possible should the current tenant decline to purchase.

FINANCIAL/STAFFING/LEGAL IMPLICATIONS:

Financial: The sale of the lands will net $682,090 less Real Estate and legal expenses, to Public Works – Red Hill Valley Project to offset costs of that project.

Staffing: There is no staffing implication arising from this recommendation.

Legal: Legal Services has assisted in the preparation of the Offers to Purchase and will be required to assist in the completion of the sale transactions.
Subject: Sale of two City owned properties known as 445 - 477 Nash Road North and 490 Nash Road North, Hamilton, to Paling Industries Ltd. (John Evans) and Snave Holdings Ltd. (John Evans) (PED10008) (Ward 5) - Page 5 of 5

POLICIES AFFECTING PROPOSAL:

The recommendation to approve the sale of lands is consistent with the Real Estate Management Portfolio Strategy to dispose of surplus property, as approved by City Council on November 24, 2004, and the “Procedural By-law for the Sale of Land”, By-law No. 04-299.

RELEVANT CONSULTATION:

- Public Works, Operations and Waste Management Division, Support Services Section
- Corporate Services, Legal Services Division, Commercial/Development/Policy Section

CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☐Yes ☐No
The sale of the subject properties will add lands to the City’s inventory of employment land.

Environmental Well-Being is enhanced. ☐Yes ☐No

Economic Well-Being is enhanced. ☐Yes ☐No
The lands to be sold will result in increased realty taxes, and if developed may result in industrial activity that provides for employment and contributes to the GNP.

Does the option you are recommending create value across all three bottom lines? ☐Yes ☐No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐Yes ☐No

KA/sd
Attach. (1)