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**HALIFAX**  
REGIONAL MUNICIPALITY

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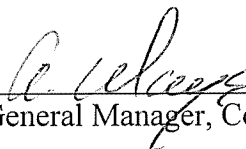
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Halifax Regional Council  
December 17, 2002

**TO:** Mayor Kelly and Members of Halifax Regional Council

**SUBMITTED BY:**

  
George McLellan, Chief Administrative Officer

  
Allan Waye, General Manager, Community Projects

**DATE:** December 10, 2002

**SUBJECT:** Quotation # 2002M860 for Retaining Wall and Excavation Work  
38-44 Peter Buckley Drive, Lower Sackville, Nova Scotia

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**ORIGIN**

On August 8, 2001 Orders to Remedy Dangerous or Unsightly Conditions were issued to the property owners of 38, 40, 42 and 44 Peter Buckley Drive, Lower Sackville, Nova Scotia. The owners did not comply with the direction provided in the Orders and as a result staff is undertaking action to remediate the dangerous conditions.

**RECOMMENDATION**

It is recommended that:

Regional Council authorize the award of the work tendered in Quotation #2002M860 for the retaining wall and excavation work on the 4 properties identified as 38, 40, 42 and 44 Peter Buckley Drive, Lower Sackville, Nova Scotia to the lowest bidder meeting the specifications, W. Eric Whebby Ltd, at a cost of \$ 55,130.22 (tax included) with funding as outlined in the Budget Implications section of this report.

**Note: All prices include the non-refundable portion of the HST.**

## BACKGROUND

### Receipt of Complaint and Action Initiated

Staff received complaints about a collapsing retaining wall that abuts the rear of the properties located at 38 - 44 Peter Buckley Drive, Lower Sackville. In response By-Law Enforcement staff commenced an investigation. The investigation determined that the collapsing retaining wall constituted a dangerous or unsightly condition as defined in Municipal Government Act.

### Issuance of Order to Remedy Dangerous or Unsightly Conditions

Following dialogue with the property owners, on August 8, 2001 Orders to Remedy Dangerous or Unsightly Conditions were issued to the property owners. The Orders directed the property owners take action by repairing or replacing the retaining wall, remove wood debris and other unsightly material. The Orders provided the owners thirty days to initiate appropriate remedial action. The condition of the retaining wall puts third party property owners at risk and the intention of the Orders is to protect third parties.

Due to the lack of action by the property owners, staff executed the Orders and contracted Maritime Testing Limited to determine if the collapse of the retaining wall was imminent.

### Owners' Intentions

Following issuance of the Order, staff received correspondence from Paul J. Morrison of Presse Mason Law Office. Paul Morrison indicated that he was hired by the property owners to represent their interests with respect to remediation of the retaining wall. Ongoing correspondence and dialogue with Paul Morrison has confirmed that the property owners believe that the existent condition of the retaining wall is a danger. The four property owners and their legal counsel support efforts to remediate the condition.

It is our understanding the owners may initiate legal action(s) against the HRM. The action may claim that the HRM holds some responsibility for the dangerous condition of the retaining wall. The HRM Legal Services has advised this is a legal matter that will be dealt with separately from the administrative process of remediating the dangerous condition.

**DISCUSSION**

As a consequence of the owners' non-compliance with the Orders to Remedy Dangerous or Unsightly Conditions staff issued Quotation #2002M860 for the required excavation work and construction of a new retaining wall.

Three companies responded to this Quotation.

<u>Name of Company</u>	<u>Amount Bid (tax included)</u>
W. Eric Whebby Ltd.	\$ 55,130.22 ***
Largo Contracting Ltd.	\$ 79,289.61
Humphreys Landscape and Construction Ltd.	\$ 89,964.43

\*\*\* Recommended bidder

Analysis of the low bidder's submission has been completed. W. Eric Whebby Limited is in the business of providing the required goods and or services. They have provided information that they can furnish satisfactory performance based on past work experience, and have the financial, managerial and resource capabilities for the size of the project.

**BUDGET IMPLICATIONS**

For completion of the tendered work the costs will be placed against the Municipal suspense account HROP - 2355. The cost of the work will form debts against the properties located at 38, 40, 42 and 44 Peter Buckley Drive, Lower Sackville, Nova Scotia.. This debt will be collected in the same manner as taxes pursuant to the Assessment Act. Once charges are issued to cover the cost of remediation, costs will be removed from the suspense account.

**MULTI-YEAR FINANCIAL STRATEGY IMPACTS**

This Report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Capital and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Capital and Operating reserves, as well as any relevant legislation.

**ALTERNATIVES**

The state of the property, and dialogue with legal counsel representing the property owners, suggests no viable alternative to staff's recommendation.

ATTACHMENTS

None.

Additional copies of this report, and information on its status, can be obtained by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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