Minute No. 435
Report – Executive Policy Committee – July 6, 2016

Item No. 2 **Amendment to Settlement of Claim – Aquatic Hall of Fame and Museum of Canada Inc.**

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That Recommendation 1.C. of the Settlement of Claim – Aquatics Hall of Fame and Museum Canada Inc. as adopted by Council on March 26, 2014 attached as Schedule "B" be deleted and replaced with the following:

   A. "1.C. The City will allocate a maximum of $600,000.00 from the 2014 Indoor Aquatics Capital Program Budget for capital improvements to the Aquatic Hall of Fame and Museum Lease Premises located at 75 Poseidon Bay."

2. That the City enter into an agreement to amend the Lease Agreement between the City and the Aquatic Hall of Fame and Museum of Canada Inc. dated April 23, 2014 and settlement of claim in accordance with the foregoing and such other agreements as determined necessary by the Director of Legal Services and City Solicitor to implement the intent of the foregoing.

3. That the authority be delegated to the Director of Planning, Property and Development to negotiate and approve the final terms and conditions of an amending agreement and such other agreements as determined necessary by the Director of Legal Services and City Solicitor in accordance with the foregoing and such other terms and conditions deemed necessary by the Director of Legal Services and City Solicitor to protect the interests of the City.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report – Executive Policy Committee – July 6, 2016

DECISION MAKING HISTORY:

Moved by His Worship Mayor Bowman,
That the recommendation of the Executive Policy Committee be adopted.

Carried

(See Minute No. 433 for disclosure of a potential conflict by Councillor Mayes)

Councillor Mayes hereby returned to the Chamber.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 6, 2016, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

ADMINISTRATIVE REPORT

Title: Amendment to Settlement of Claim – Aquatic Hall of Fame and Museum of Canada Inc.

Critical Path: Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	COO
B. Erickson	J. Kiernan	M. Ruta	M. Jack COO

RECOMMENDATIONS

1. That Recommendation 1.C. of the Settlement of Claim – Aquatics Hall of Fame and Museum Canada Inc. as adopted by Council on March 26, 2014 attached as Schedule "B" be deleted and replaced with the following:

    a. The City will allocate a maximum of $600,000.00 from the 2014 Indoor Aquatics Capital Program Budget for capital improvements to the Aquatic Hall of Fame and Museum Lease Premises located at 75 Poseidon Bay.

2. That the City enter into an agreement to amend the Lease Agreement between the City and the Aquatic Hall of Fame and Museum of Canada Inc. dated April 23, 2014 and settlement of claim in accordance with the foregoing and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing.

3. That the authority be delegated to the Director of Planning, Property & Development to negotiate and approve the final terms and conditions of an amending agreement and such other agreements as determined necessary by the City Solicitor/Director of Legal Services, in accordance with the foregoing and such other terms and conditions deemed necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

The Aquatic Hall of Fame and Museum of Canada Inc. has requested that the terms of the Settlement of Claim be amended to reflect a reallocation of funds for capital improvements at 75 Poseidon Bay, identified as "Leased Premises" on Misc. Plan No. 14659.

EXECUTIVE SUMMARY

Request for the Aquatic Hall of Fame and Museum of Canada Inc. to reallocate existing funds from the Settlement of Claim for the purpose of conducting capital improvements at 75 Poseidon Bay, identified as “Leased Premises” on Misc. Plan No. 14659.

IMPLICATIONS OF THE RECOMMENDATIONS

1. The Settlement of Claim will be amended to permit for the reallocation of $600,000.00 in existing funds for capital improvements at 75 Poseidon Bay rather than for the installation of cabinets in the Pan-Am Pool, as indicated and outstanding from the original Settlement of Claim.

2. The Planning, Property and Development Department has determined that there are no general, policy, regulatory, environmental or human resource implications by amending the Settlement of Claim as proposed in the attached signed letter, identified as Schedule “A”.

HISTORY/DISCUSSION

The Aquatic Hall of Fame and Museum became an occupier of space in the Pan-Am Pool in 1967, pursuant to a verbal agreement between the organization and the City of Winnipeg.

A written agreement was entered into between the organization and the City of Winnipeg in 1973.

In 1998, the Pan-Am Pool underwent an expansion and the parties began negotiations to extend the Aquatic Hall of Fame and Museum into the newly constructed areas.

These negotiations ceased in 2006, and the Aquatic Hall of Fame and Museum vacated its presence in the Pan-Am Pool entirely.

In 2007, the Aquatic Hall of Fame and Museum sued the City of Winnipeg on the basis of the fiduciary duty that the City of Winnipeg owed to the organization based on the 1973 agreement.

On March 26, 2014, Council approved a Settlement of Claim detailing a number of remedies and damages to be remunerated to the Aquatic Hall of Fame and Museum in an effort to cease litigation.

The Aquatic Hall of Fame and Museum took possession of the Leased Premises in 2015 as a provision of the Settlement of Claim.

A letter was received by the City of Winnipeg on May 6, 2016 from the Aquatic Hall of Fame and Museum indicating their desire to amend the outstanding provisions of the Settlement of Claim, as referenced and attached herein as Schedule “B”.

Specifically, item letter “1.C.” referencing the obligation of the City of Winnipeg to construct and install cabinets for the display of its collection, at a cost of $600,000.00, be amended to permit for the reallocation of these funds to be used for capital improvements in the space.

This report seeks approval to amend the Settlement of Claim and such other agreements as determined necessary by the City Solicitor/Director of Legal Services as originally negotiated.

FINANCIAL IMPACT

Financial Impact Statement

Date: May 12, 2016

Project Name:

First Year of Program **2016**

Amendment to Settlement of Claim – Aquatic Hall of Fame and Museum of Canada Inc.

	2016	2017	2018	2019	2020
Capital					
Capital Expenditures Required	$ 600,000	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	600,000	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	13,147	-	-	-	-
Net Cost/(Benefit)	$ (13,147)	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	(13,147)	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Capital expenditures represent amounts to be spent on improvements in the Aquatic Hall of Fame and Museum space within the Pan-Am Pool facility ($586,853) + short-term financing charges and corporate admin fees of $13,147. The latter amount is offset by an equal recovery in the current budget of the Corporate Finance Department. The $600,000 in capital expenditures is to be charged to the 2014 Indoor Aquatics Capital Program Budget.

"Original signed by"
Mike McGinn, CPA, CA
Manager of Finance

CONSULTATION

In preparing this report there was consultation with:
Legal Services (as to legal issues)

OURWINNIPEG POLICY ALIGNMENT

03-3 Creativity: (Direction #3): Support a Wide Range of Arts and Cultural Facilities

The Aquatic Hall of Fame and Museum of Canada is a national institution which exhibits one of the largest archives and collections of aquatic memorabilia in the country. Reallocation of the funds to permit for capital improvements in this facility will support the museum and assist with the opening of this facility, which will be an attraction for all residents of the City as well as on a national scale.

01-3 Prosperity: (Direction #8): Encourage Activity Beneficial to the Winnipeg Economy

The Aquatic Hall of Fame and Museum of Canada will be a world-class venue and a national tourism destination. Operation of this facility will in turn be beneficial to the Winnipeg economy.

SUBMITTED BY

Department:	Planning, Property and Development Department
Division:	Municipal Accommodations
Prepared by:	Julian Roberts
Date:	May 19, 2016
PPD. File No.:	MA2016-101

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Schedule "A"

AQUATIC HALL OF FAME AND MUSEUM OF CANADA, INC.
La Galerie de la Renommée et le Musée Nautiques du Canada, Inc.

May 10, 2016

Please let it be known that it is the intent of the Aquatic Hall of Fame and Museum of Canada Inc. (AHFMC) to amend the Settlement of Claim, Lease Agreement, and any other agreements as determined necessary between the Aquatic Hall of Fame and Museum Inc. and the City of Winnipeg to reflect that the $600,000 that was allotted to constructing and installing display cabinets only can be additionally used for the procurement, installation and construction of capital improvements to the AHFMC, located at 75 Poseidon Bay.

Sincerely,

Dr. Luke Small, Optometrist

President

Aquatic Hall of Fame and Museum of Canada, Inc.

Schedule "B"

Minute No. 333
Report – Executive Policy Committee – March 25, 2014

Item No. 2 **Settlement of Claim – Aquatics Hall of Fame and Museum Canada Inc.**

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That the Acting Director of Legal Services and City Solicitor be authorized to enter into a settlement of the claim by:

   A. Entering into a lease with the Aquatics Hall of Fame and Museum of Canada Inc. (AHFM) on the terms and conditions set forth in Schedule "A" hereto and such other terms and conditions deemed necessary by the Director of Planning, Property and Development and the Acting Director of Legal Services and City Solicitor to protect the interests of the City;

   B. Paying the sum of $250,000 to the AHFM;

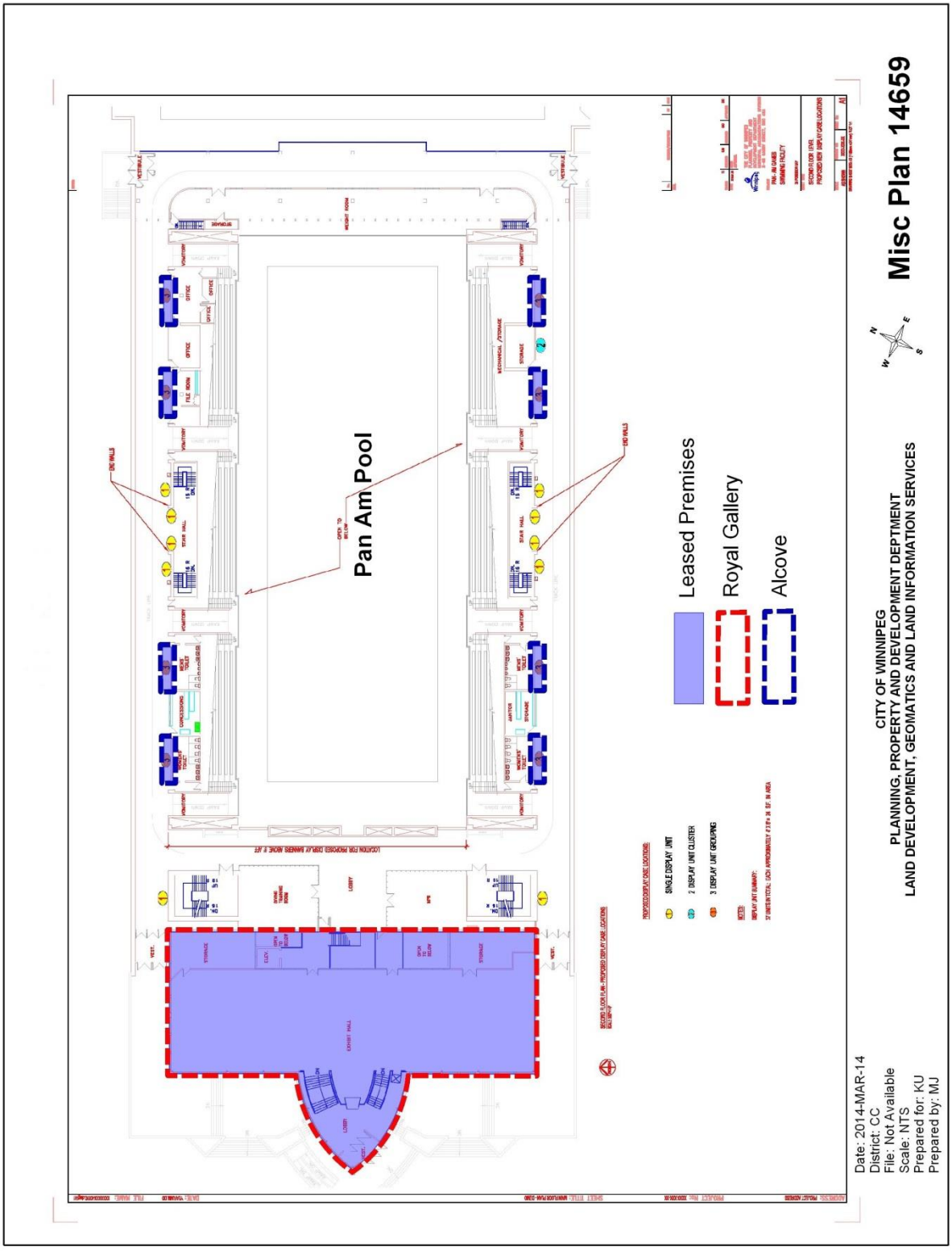
   C. Installing cabinets in the Pan-Am Pool for the display of its collection at a cost of $600,000, to be funded from the existing Indoor Aquatics Facilities capital programs;

   D. Permitting the AHFM to establish a link to its website through the City's home page;

   E. Requiring a Notice of Discontinuance of the Claim;

   F. Requiring a Release in a form satisfactory to the Acting City Solicitor.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.


Misc Plan 14659
Pan Am Pool
Leased Premises
Royal Gallery
Alcove
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPTMENT
LAND DEVELOPMENT, GEOMATICS AND LAND INFORMATION SERVICES
Date: 2014-MAR-14
District: CC
File: Not Available
Scale: NTS
Prepared for: KU
Prepared by: MJ