Minutes – Executive Policy Committee – December 5, 2018

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – November 19, 2018

Item No. 1 Proposed Sale of City-owned land, commonly known as Murray Industrial Park Spur Line

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the following to Council:

1. That the Subject City Property identified on Misc. Plan No. 15364, attached as Schedule A, be declared surplus to the needs of the City.

2. That the Offers to Purchase City-owned Property Policy, adopted by Council on December 6, 2006, be waived.

3. That the proposed Terms and Conditions for the sale of the Subject City Property, attached hereto as Schedule B, be approved.

4. That the City enter into, execute and deliver a Purchase and Sale Agreement with Cando Rail Services Ltd., and such other agreements as determined necessary by the City Solicitor / Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

5. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions of the Purchase and Sale Agreement and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor / Director of Legal Services to protect the interests of the City.

6. That the proper officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – November 19, 2018

DECISION MAKING HISTORY:

Moved by Councillor Mayes,

That the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On November 19, 2018, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: Proposed Sale of City-owned land, commonly known as Murray Industrial Park Spur Line

Critical Path: Standing Policy Committee on Property and Development, Heritage and Downtown Development - Executive Policy Committee - Council

AUTHORIZATION

Author	Department Head	CFO	CAO
M. Pittet	J. Kiernan	M. Ruta	D. McNeil

EXECUTIVE SUMMARY

Cando Rail Services Ltd. ("Cando") has requested to purchase City-owned lands located in the Murray Industrial Park, shown as "Subject City Property" on Misc. Plan No. 15364 for the purpose of operating a railway spur line.

The Public Service has negotiated a proposed sale of the Subject City Property to Cando and recommends approval of the sale for $1.00 under the terms and conditions contained herein.

RECOMMENDATIONS

1. That the Subject City Property identified on Misc. Plan No. 15364, attached as Schedule A, be declared surplus to the needs of the City.

2. That the Offers to Purchase City-owned Property Policy, adopted by Council on December 6, 2006, be waived.

3. That the proposed Terms and Conditions for the sale of the Subject City Property, attached hereto as Schedule B, be approved.

4. That the City enter into, execute and deliver a Purchase and Sale Agreement with Cando Rail Services Ltd., and such other agreements as determined necessary by the City Solicitor / Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

5. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions of the Purchase and Sale Agreement and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor / Director of Legal Services to protect the interests of the City.

6. 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 Policy for the Sale, Acquisition, Rental, Leasing and Management of Properties, adopted by Council on July 18, 1979, requires Council approval to declare land surplus to the City's requirements.

Further, a waiver of Council policy is required as the proposed sale does not meet the conditions detailed in The Policy for Offers to Purchase City-owned Property, adopted by Council on December 6, 2006.

IMPLICATIONS OF THE RECOMMENDATIONS

There are no regulatory, environmental, human resources or other implications associated with this report.

The City's standard terms and conditions of sale include provisions to protect the City's interests in the event that environmental contamination is discovered.

Approval of the proposed sale to Cando will require termination of the June 16th, 1975 agreement with Canadian Pacific Limited ("CP"). CP has indicated that they are supportive of terminating the agreement.

HISTORY/DISCUSSION

The City and CP entered into an agreement on June 16th, 1975 whereby the City established the Murray Industrial Park (the "Park") and CP provided rail services for the Park. Under the terms of the agreement, the City owns the land where the rail spur is located and is responsible for on-going maintenance of the rail spur. The agreement does not expire and continues on an annual basis unless terminated by both parties.

Since October 2016, the City has spent in excess of $160,000.00 on maintenance and repairs to the rail spur, which is located on the Subject City Property identified on Misc. Plan 15364.

The rail spur services one of the major employers within the Park, but CP no longer has an interest in operating the rail spur and is supportive of terminating the 1975 agreement.

In early 2018, the Real Estate and Land Development Division (the "Division") was contacted by Cando who had expressed an interest in operating the rail spur under the terms and conditions of the 1975 Agreement. Since the City would like to absolve itself of all maintenance and repair obligations associated with the 1975 agreement, the Division explored the possibility of a direct sale of the spur line to Cando.

The City does not have any real estate policies related to the sale of active spur lines. The Public Service issued a public consultation letter to all property owners that are located adjacent to the rail spur or may be impacted by a proposed sale. No concerns were identified as a result of this public consultation, and the main user of the rail spur supports the sale to Cando.

The Public Service also consulted with other City departments and no civic need for the Subject City Property was identified.

An appraisal of the rail spur was not completed because the proposed purchase price is $1.00. The rationale for selecting a $1.00 purchase price as is follows:

- the City's financial liability (maintenance and/or decommissioning) associated with the rail spur will be eliminated;
- The rail spur will be placed on the tax roll at the closing of the sale;
- A $1.00 sale will ensure a continuity of rail service to a major employer.

Approval of the proposed sale will require Council to waive the Offers to Purchase City-owned Property Policy, adopted by Council on December 6, 2006. A direct sale to Cando does not meet the intent of this Policy. Given the specialized nature of the Subject City Property, interested purchasers would be extremely limited or non-existent. Furthermore, the lone user of this rail spur within the Murray Industrial Park is desirous of using Cando as their rail operator.

The Public Service is supportive of pursuing a direct sale to Cando given these considerations.

FINANCIAL IMPACT

Financial Impact Statement

Date: October 19, 2018

Project Name:

Proposed Sale of City-owned land, commonly known as Murray Industrial Park Spur Line

COMMENTS:

While there are no direct financial implications associated with this report, the recommended $1 nominal sale will absolve the City of any future, potentially significant, maintenance obligations and the associated costs for a property that currently generates no revenue. Also, the property will be added to the muncipal tax roll as a result of the sale. The amount of such revenue is not reasonably determinable at this time and has been excluded from this analysis.

"Original Signed By"
Mike McGinn, CPA, CA
Manager of Finance

CONSULTATION

This Report has been prepared in consultation with:

Legal Services Department (as to legal issues)

OURWINNIPEG POLICY ALIGNMENT

N/A

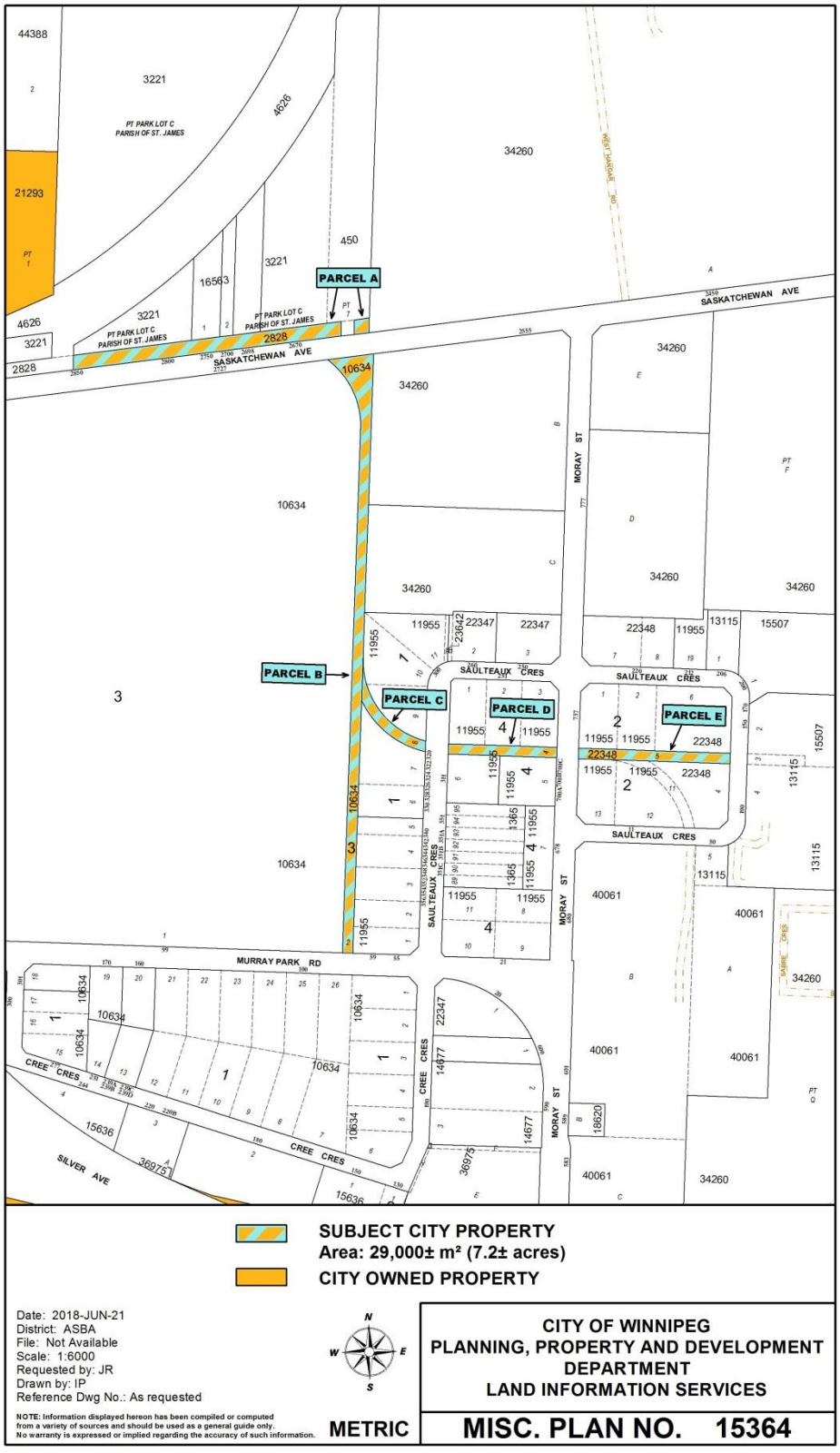
SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: Julian Roberts, Senior Negotiator
Date: October 22, 2018
File No: 4628

Attachments:

Schedule A – Misc. Plan No. 15364
Schedule B – Terms and Conditions

Schedule A


PARCEL A
PARCEL B
PARCEL C
PARCEL D
PARCEL E
SASKATCHEWAN AVE
MORAY ST
SAULTEAUX CRES
MURRAY PARK RD
CREE CRES
SILVER AVE
PT PARK LOT C PARISH OF ST. JAMES
SUBJECT CITY PROPERTY
Area: 29,000± m² (7.2± acres)
CITY OWNED PROPERTY
Date: 2018-JUN-21
District: ASBA
File: Not Available
Scale: 1:6000
Requested by: JR
Drawn by: IP
Reference Dwg No.: As requested
NOTE: Information displayed hereon has been compiled or computed from a variety of sources and should be used as a general guide only. No warranty is expressed or implied regarding the accuracy of such information.
METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPARTMENT
LAND INFORMATION SERVICES
MISC. PLAN NO. 15364

Schedule B

Owner/Vendor:	The City of Winnipeg (the “City”);
Purchaser:	Cando Rail Services Ltd (the “Purchaser”);
Purchase Price:	$1.00 plus applicable taxes, receipt of which is hereby acknowledged;
Additional Consideration:	None;
Lands to be Purchased:	Shown as “Subject City Property” on Misc. Plan No. 15364, including all improvements thereon;
Closing Date:	Sixty (60) days following approval by City Council or its delegated authority, or a date to be mutually agreed to between the parties and approved by the City’s Chief Administrative Officer;
Taxes:	The Purchaser is responsible for the payment of taxes applicable to the Subject City Property on and after the Closing Date, in accordance with the provisions of The Municipal Assessment Act and The City of Winnipeg Charter, S.M. 2002 c. 39, if applicable;
Other Terms:	Adjoining properties north of Saskatchewan Avenue currently have approaches which cross “Parcel A” on Misc. Plan No. 15364. The Purchaser shall at their expense prepare a Plan of Easement for ingress and egress and suitable caveats to be registered against the applicable titles(s), satisfactory to the City; The Owner makes no representations, warranties, or guarantees of any nature or kind whatsoever as to the quality, condition or suitability of the Subject City Property and improvements thereon; The Purchaser may elect to conduct an Environmental Site Assessment of the Subject City Property, if desired; All existing improvements in or on the Subject City Property shall remain as part of the freehold; The Purchaser will enter into a formal Purchase and Sale Agreement with the City embodying the terms and conditions contained herein and such other terms and conditions as the City Solicitor / Director of Legal Services deems necessary.