Agenda – Council – October 24, 2019

Report – Executive Policy Committee – October 8, 2019

Item No. 7 Proposed Expropriation Settlement – 1077 St. James Street – Regional Street Renewal Program – St. James Street – Sargent Avenue to Ellice Avenue (St. James Ward)

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 8, 2019, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the following to Council:

1. That the proposed expropriation settlement (the terms and conditions of which are attached hereto as Schedule A) to be made to the owner of 1077 St. James Street (identified as "Subject Property" on Misc. Plan No. 15072/1 attached hereto as Schedule B), be approved at the negotiated amount of $426,000.00 plus applicable G.S.T. and P.S.T. (excluding interest, legal and appraisal fees).

2. 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 – October 8, 2019

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 8, 2019, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

ADMINISTRATIVE REPORT

Title: Proposed Expropriation Settlement – 1077 St. James Street – Regional Street Renewal Program – St. James Street – Sargent Avenue to Ellice Avenue

Critical Path: Executive Policy Committee - Council

AUTHORIZATION

Author	Department Head	CFO	CAO
M. Pittet	J. Kiernan	P. Olafson, Interim CFO	M. Ruta, Interim CAO

EXECUTIVE SUMMARY

On June 21, 2018, Council approved an expropriation for the Regional Street Renewal Program – St. James Street – Sargent Avenue to Ellice Avenue (the "Project"). The Project includes the renewal, reconstruction and widening of St. James Street between Sargent and Ellice Avenue.

The property located at 1077 St. James Street was affected by the expropriation. The Public Service has negotiated with the property owner and recommends an expropriation settlement in the amount of $426,000.00 plus G.S.T. and P.S.T (as applicable) and excluding interest, legal and appraisal fees (i.e. statutory costs). To date, the property owner has received an initial Offer of Compensation (market value of the land) in the amount of $230,500.00. The remaining compensation payable is $195,500.00 plus applicable G.S.T. and P.S.T and other statutory costs.

Subject to Council approval, the property owner will sign a Release and Quit Claim that would release the City of any further liability related to the expropriation of this property.

The Public Works Department was consulted on the proposed settlement and concurs with the recommendation.

RECOMMENDATIONS

1. That the proposed expropriation settlement (the terms and conditions of which are attached hereto as Schedule A) to be made to the owner of 1077 St. James Street (identified as "Subject Property" on Misc. Plan No. 15072/1 attached hereto as Schedule B), be approved at the negotiated amount of $426,000.00 plus applicable G.S.T. and P.S.T. (excluding interest, legal and appraisal fees).

2. 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

According to Section 4 of the City Organization By-Law 7100/97, the Executive Policy Committee has jurisdiction in the following area:

(13) The approval of settlement of:
- (a) claims against the City;
- (b) claims brought by the City;
- (c) claims arising out of expropriations (excluding interest, legal and appraisal fees) exceeding $100,000.00 and up to a maximum of $250,000.00.

As the proposed expropriation settlement outlined in Schedule A exceeds the authority of the Executive Policy Committee, Council approval is required.

IMPLICATIONS OF THE RECOMMENDATIONS

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

If the recommendations in this report are approved, the property owner will be required to sign a Release and Quit Claim releasing the City of any further liability with respect to the expropriation of the property.

The net payment to the property owner will be $195,500.00 plus applicable G.S.T. and P.S.T., as the remaining settlement amount has already been paid through a separate Offer of Compensation.

The Public Works Department has advised there is adequate funding for the settlement in Capital Account No. 003-181000-180604-1804100717-Property.

Claim	Compensation	G.S.T.	P.S.T.	Total
Market Value of Land	$250,250.00	Self-Assessed	N/A	$250,250.00
Injurious Affection	Incl. Above	Incl. Above	N/A	$0.00
Damages (reconstruction)	$140,250.00	$7,012.50	$0.00	$147,262.50
Damages (pylon sign)	$35,500.00	$1,775.00	$2,840.00	$40,115.00
Sub-Total	$426,000.00	$8,787.50	$2,840.00	$437,627.50
Interest	$6,052.77	N/A	N/A	$6,052.77

Payment of statutory interest has been calculated to October 31, 2019, on the assumption that the proposed expropriation settlement will be executed on or prior to October 31, 2019, the amount of which is $6,052.77. However, the City is obligated to pay statutory interest up to the date of execution of the settlement, which could occur before or after the anticipated settlement date of October 31, 2019.

HISTORY/DISCUSSION

On June 21, 2018, Council approved the expropriation to acquire the land interests needed for the Regional Street Renewal Program – St. James Street – Sargent Avenue to Ellice Avenue (the "Project"). The Project includes two expropriations and one property acquisition, that will allow for the renewal, reconstruction and widening of St. James Street between Sargent and Ellice Avenue.

One of the affected properties was 1077 St. James Street, which operates as a religious institution. Approximately 4.4m was expropriated from 1077 St. James Street in order to widen the roadway for the installation of a median and storage lane.

On September 20, 2018, Council confirmed the expropriation and the associated by-law.

On January 7, 2019, the Standing Policy Committee on Property and Development, Heritage and Downtown Development approved an Offer of Compensation in the amount of $230,500.00 for the Subject Property. The Offer was derived from an external appraisal which included a highest and best commercial use. The appraiser's highest and best use was based on the location, zoning and visibility of the site, in addition to the surrounding land uses. The appraised value also included consideration of injurious affection due to the impairment of access. Disturbance damages in the appraisal report were listed as "to be determined", as the appraiser was not in a position to evaluate the specific disturbances.

The property owner also undertook their own appraisal which indicated a market value and injurious affection of $270,000.00. For settlement purposes, the Public Service recommends the amount of $250,250.00 as the final negotiated amount for market value and injurious affection, resulting in an additional payment of $19,750.00 to the property owner.

In addition to the market value of the land and injurious affection, the property owner indicated that the expropriation caused the following disturbance damages to the property:

- Loss and / or damage to the existing front entranceway to the building - the proximity to the proposed roadway will not allow for proper access to the building or a drive-through aisle; and
- Loss of a pylon sign which is located in the expropriated area.

The property owner supplied information related to the above noted damages which were reviewed by the Public Service. The following compensation for disturbance damages are recommended:

- $140,250.00 Compensation for the reconstruction / modification of the front entrance;
- $35,500.00 Compensation for relocation / reconstruction of the pylon sign;
-

In summary, the Public Service recommends an overall settlement of $426,000.00 (plus applicable G.S.T., P.S.T. and statutory costs).

Should Council approve the Public Service recommendation, the property owner will sign a Release and Quit Claim that will release the City of any further expropriation liability as related to this property holding. It is anticipated that the settlement will be completed on or before October 31, 2019.

Public Works was consulted and concurs with the recommendation. No Environmental Site Assessment was conducted for this acquisition as it was not required by Public Works based on the proposed use of the expropriated property.

FINANCIAL IMPACT

Financial Impact Statement

Date: August 16, 2019

Project Name:

First Year of Program 2019

Proposed Expropriation Settlement – 1077 St. James Street – Regional Street Renewal Program – St. James Street – Sargent Avenue to Ellice Avenue

	2019	2020	2021	2022	2023
Capital					
Capital Expenditures Required	$ 211,036	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	211,036	-	-	-	-
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	6,643	-	-	-	-
Net Cost/(Benefit)	$ (6,643)	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	(6,643)	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Capital expenditures consist of the remaining settlement amount of $195,500, statutory interest of $6,053, PST of $2,840 and short-term financing and corporate admin fees of $6,643. The latter amount is offset by an equal recovery in the current budget of the Corporate Finance Department.

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

CONSULTATION

This Report has been prepared in consultation with:

Legal Services (as to legal issues)
Public Works Department

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: September 9, 2019
File No:

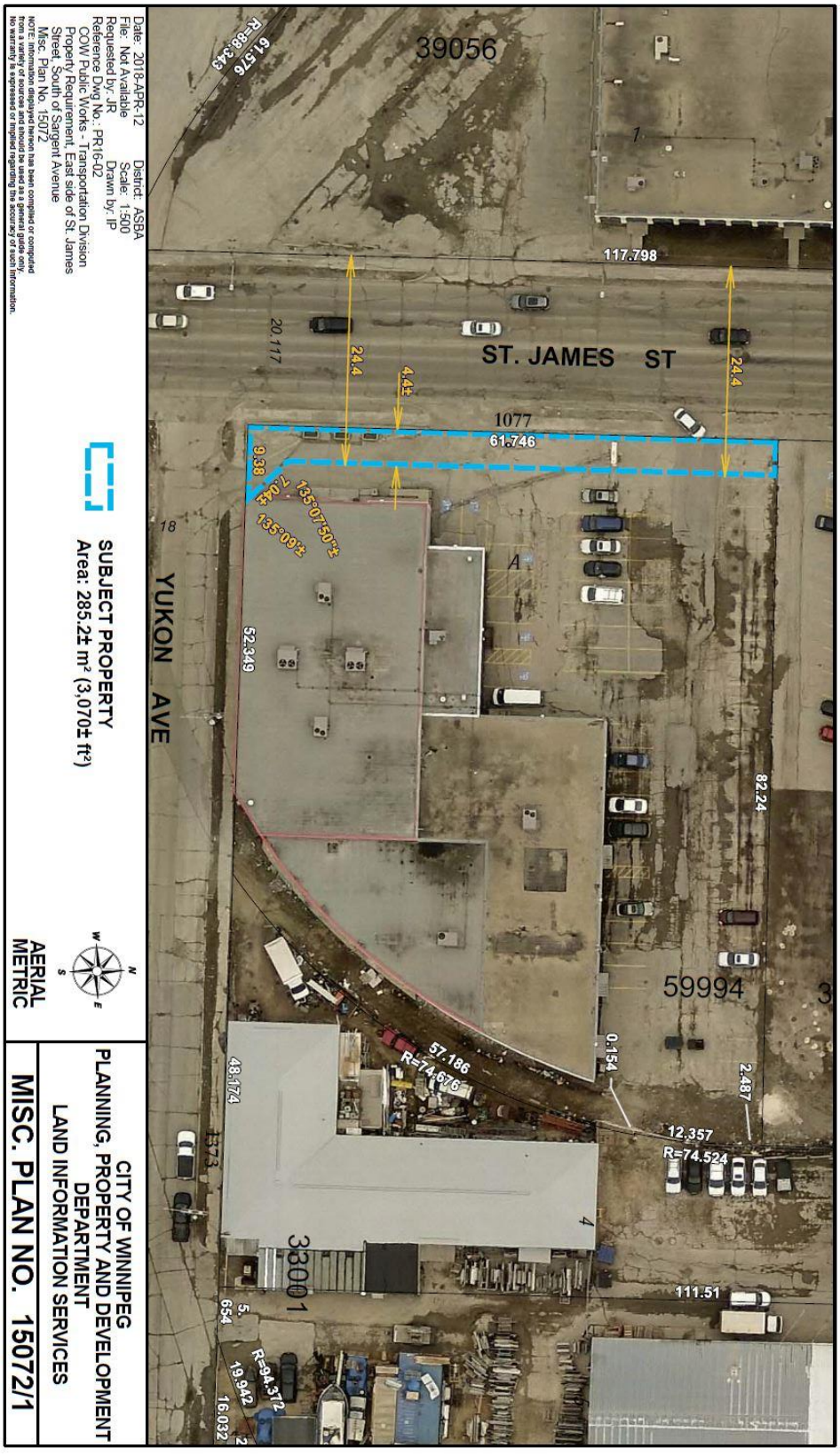
Attachments:

Schedule A – Terms and Conditions
Schedule B – Misc. Plan No. 15072/1

Schedule A

Property Address:	1077 St. James Street	
Misc. Plan No.	15072/1	
Claimants Compensation:	$250,250.00	Market Value and Injurious Affection of the partial taking;
	$140,250.00	Compensation for the reconstruction / modification of the front entrance;
	$35,500.00	Compensation for relocation of the pylon sign;
	$426,000.00	Total Compensation (excluding appraisal, legal and other costs).
Advance Payments:	$230,500.00	(Offer of Compensation)
Statutory Costs:	$6,052.77 (interest) plus other reasonable costs related to the expropriation (legal fees, appraisal, etc.).	
Claimants Obligations:	Execute a Release and Quit Claim and withdraw their claim at the Land Value Appraisal Commission.	

Schedule B



Date: 2018-APR-12
District: ASBA
File: Not Available
Scale: 1:500
Requested by: JR
Drawn by: IP
Reference Dwg No.: PR16-02
COW Public Works - Transportation Division
Property Requirement, East side of St. James Street, South of Sargent Avenue
Misc. Plan No. 15072
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.
SUBJECT PROPERTY
Area: 285.2± m² (3,070± ft²)
AERIAL METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPARTMENT
LAND INFORMATION SERVICES
MISC. PLAN NO. 15072/1
39056
ST. JAMES ST
YUKON AVE
1077
61.746
117.798
24.4
4.4±
9.38
7.04±
135°07'50"±
135°09'±
52.349
82.24
59994
57.186
R=74.676
48.174
0.154
2.487
12.357
R=74.524
111.51
33001
R=94.372
19.942
16.032
61.576
R=88.343
20.117