Minute No. 588
Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – September 30, 2019

Item No. 1 Lease Agreement between the City of Winnipeg and the Canadian National Railway Company for the Letellier Transit Corridor, forming part of the Southwest Rapid Transitway

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and adopted the following:

1. That the Land Lease described herein be approved in accordance with the Terms and Conditions as contained in Schedule A, and incorporating such other terms and conditions as deemed necessary by the City Solicitor in order to fulfill the intent of Council.

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

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DECISION MAKING HISTORY:

Moved by Councillor Mayes,

That the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 15, 2019, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 30, 2019, 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 License Agreement between the City of Winnipeg and the Canadian National Railway Company for the Letellier Transit Corridor, forming part of the Southwest Rapid Transitway

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

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Erickson	J. Kiernan	N/A	M. Ruta, Interim CAO

EXECUTIVE SUMMARY

A 71-year Land Lease is being proposed between the Canadian National Railway Company (CN) and the City of Winnipeg for the City's use of the Letellier Corridor, spanning from Chevrier Boulevard to Markham Road (as presented in Schedule B and C, attached). This lease will enable the use of the Southwest Rapid Transitway, a public transit corridor.

RECOMMENDATIONS

1. That the Land Lease described herein be approved in accordance with the Terms and Conditions as contained in Schedule A, and incorporating such other terms and conditions as deemed necessary by the City Solicitor in order to fulfill the intent of Council.

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

As per the Council direction of May 27, 1992, third-party leases with a term over ten (10) years in length, or requiring the payment of rent above a threshold of $1,000,000 for the term, must be approved by Council. The proposed lease is for a term of 71 years; January 1, 2018 - December 31, 2088.

IMPLICATIONS OF THE RECOMMENDATIONS

The approval of the Land Lease between the City of Winnipeg and the Canadian National Railway Company will allow the operation of the Southwest Rapid Transitway located between Chevrier Boulevard and Markham Road in the City of Winnipeg.

HISTORY/DISCUSSION

In 1967, the City of Winnipeg, (formerly Metropolitan Corporation of Greater Winnipeg) and CN negotiated a mutually-beneficial land exchange. CN acquired land around the Fort Garry Hotel from Winnipeg; while the City acquired land within CN's Fort Rouge Yards to construct a roadway connecting Lombard and Jubilee Avenues. This Agreement is commonly known as the "C.N.R. – Metro Land Exchange Agreement" or the "1968 Agreement", (based on the executed date of the agreement).

In 1985, the City and CN reopened the 1968 Agreement to negotiate unresolved issues and modify the intent of the land exchange. In the original negotiations, CN intended to shut down the Fort Rouge Yards to provide the City with 25 acres of land for a 'freeway.' However, CN subsequently determined it could not cease operations of the Fort Rouge Yards, and required the proposed freeway to shift to the east.

The renegotiated terms of the '1968 Agreement' were adopted by Council on December 23, 1987, within the administrative report titled "Task Force – 1968 CN/Metro Agreement Renegotiations". The amended land exchange, (known as the "1994 Agreement" based on its execution date) formalized a different alignment for the City's proposed roadway, which included a 99-year lease along the Letellier Rail Line. The 1994 Agreement indicated that the 99-year Letellier Lease would commence January 1, 1990 for a total rent of $1.00.

On June 25, 2014, Council approved the construction of the 'Southwest Rapid Transitway, Stage 2' and 'Pembina Highway Underpass' projects along the Letellier Corridor Lands. Subsequently, on June 1, 2015, CN entered into an agreement with the City of Winnipeg outlining the terms and conditions related to the design, build, finance, operate, and maintain, in accordance with the Railway's requirements.

As the final stage of this process, the Canadian National Railway Company and the City of Winnipeg have now negotiated the proposed Land Lease for the Southwest Transitway to be completed along the Letellier Corridor, subject to the Terms and Conditions in Schedule A, and incorporating such other terms and conditions as deemed necessary by the City Solicitor in order to fulfill the intent of Council.

The Southwest Transitway is a dedicated high-speed roadway for buses, physically separated from the regular street system linking Downtown to the southwest part of the city. Buses operate at speeds up to 80 km/h, free of any other traffic, providing fast, reliable service.

Stage 1 of the Southwest Transitway, completed in 2012, currently runs from Queen Elizabeth Way and Stradbrook Avenue to Pembina Highway and Jubilee Avenue Stage 2 will operate from Downtown to the neighbourhoods of southwest Winnipeg, including the University of Manitoba.

FINANCIAL IMPACT

Financial Impact Statement Date: September 6, 2019

Project Name:

Proposed Lease Agreement between the City of Winnipeg and the Canadian National Railway Company for the Letellier Transit Corridor, forming part of the Southwest Rapid Transitway

COMMENTS:

The financial terms of the lease include the payment of $1.00 per annum over the 71-year term of the proposed agreement. Other salient terms of the proposed agreement include responsibility of the City for payment of property taxes should the City no longer be exempt; maintenance of the lands in good repair; payment of all costs associated with clearing the lands, payment of all costs and expenses in altering existing access or in providing new access for pedestrian traffic; compliance with environmental laws; any required remediation at its sole cost and; prior to the expiration of the agreement, the removal of all improvements on the lands.

The potential cost associated with these responsibilities is not reasonably estimable at this time. Other than the nominal consideration noted above, there are no financial implications associated with the recommendations contained in this report.

"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)
Winnipeg Transit

OURWINNIPEG POLICY ALIGNMENT

02-2 Environment
The Southwest Rapid Transitway (Stage 2) and Pembina Highway Underpass project is in accordance with Our Winnipeg, section 02-2, Environment that states: "Our environment is the foundation for our economic and social health, and collectively, we need to continue to take responsibility for it. Our actions should contribute to the protection of the natural environment locally, regionally and globally, both for our own well-being and for future generations."

Key Direction > Reduce the environmental impact of our activities, through strategies such as planning for sustainable energy use and greenhouse gas reduction.

05-1 Public Transit System
"Winnipeg has a high quality and efficient public transit system characterized by its focus on key corridors and incremental improvements to service. Sustainable Transportation will take these improvements to the next level, providing improved transit access across the city. We envision that public transit in Winnipeg will be structured into a hierarchy of three main categories: Rapid Transit, Transit Quality Corridors and Conventional Transit Service."

Key Direction > The inclusion of rapid transit in this vision is necessary, since only rapid transit, with its high levels of service frequency and absence of congestion delays, can make public transit fast and convenient enough to compete with the private automobile. In a balanced transportation system, public transit should be an easy and convenient option for moving people.

SUBMITTED BY

Department: Planning, Property and Development
Division: Municipal Accommodations
Prepared by: Sandi Caputo,
Date: September 13, 2019

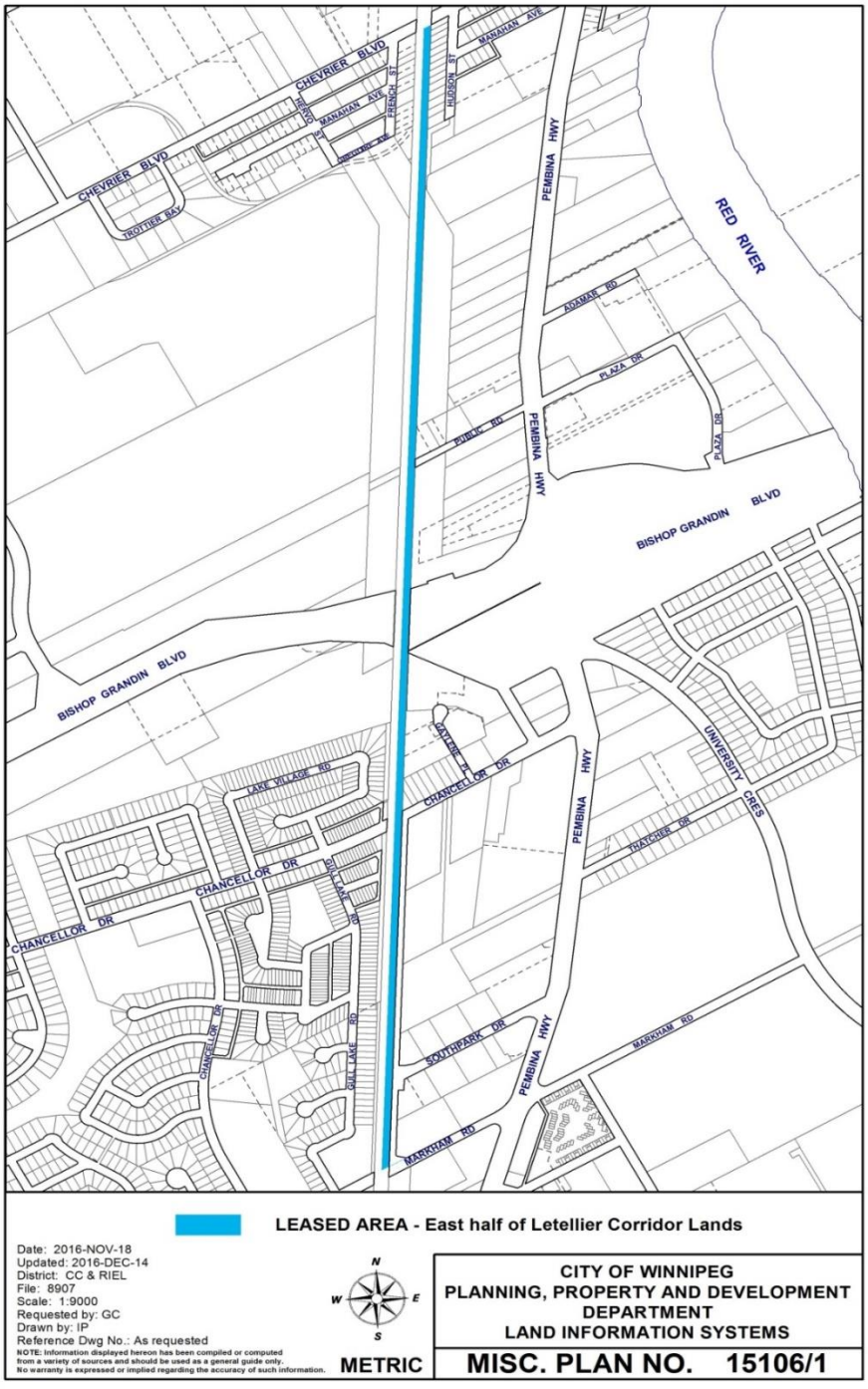
Attachments:

Schedule A - Terms and Conditions
Schedule B - Misc. Plan No. 15106/1
Schedule C - Legal Description of the Leased Premises

SCHEDULE A
TERMS AND CONDITIONS OF THE LEASE OF THE LETELLIER CORRIDOR LANDS

Lessor:	Canadian National Railway Company
Lessee	City of Winnipeg
Lease Lands:	Parcel of land located between Chevrier Blvd. and Markham Road, Shown in the attached Schedule B and described in Schedule C
Term	January 1, 2018 – December 31, 2088 (71 Year Term)
Termination	N/A
Net Lease	$1.00 per annum
City's Responsibilities	Payment of property taxes should the City no longer be exempt; maintain lands in good repair; pay for all costs associated with clearing the lands, pay for all costs and expenses in altering existing access or in providing new access for pedestrian traffic; compliance with environmental laws; within 120 days of the expiration of this term Lessee shall have an environmental inspection performed and be responsible for any required remediation at its sole cost; prior to the expiration the Lessee shall remove all improvements on the lands;
Insurance	A comprehensive general liability of $25,000,000.00 per incident. Following construction of the public transit corridor, the policy shall include injury and death, personal injury, property damage including loss of use, minimum per incident of ten million dollars; a Pollution Legal Liability insurance policy insuring both the lessee and the lessor, the policy shall have a limit of ten million dollars with a $100,000 deductible; Errors & Omissions Liability not less than ten million per claim; Worker's compensation insurance in an amount no less than five million dollars. The Lessee shall provide the Lessor with a Certificate of Insurance.
Assignment and Subletting	Lessee shall not assign, transfer or sublet any part of the Leased Premises, without the prior written consent of the Lessor. Lessee will provide Lessor with a copy of the original assignment or agreement to sublease.
Other	
Option to Renew	Lessee shall have the right to renew for 1 term of twenty-eight (28) years

Schedule B – Misc. Plan No. 15106/1



SCHEDULE C

LEGAL DESCRIPTION OF THE LEASED PREMISES

All that portion of the Easterly 49.5 feet perpendicular of the land taken for Right of Way of the Red River Valley Railway Plan 360 WLTO lying to the south of a line drawn from the NE corner of Lot 1 Block 4 Plan 2140 WLTO to the NW corner of Lot 1 Block 3 in said Plan which lies to the north of the straight production Westerly of the north limit of Markham Road Plan 1279 WLTO in River Lots 6 to 23, both inclusive, Parish of St. Vital.