Minutes – Executive Policy Committee – May 22, 2020

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – May 21, 2020

Item No. 3 Declaration of Surplus City Property and Proposed Land Exchange Agreement with Canadian National Railway Company for the Southwest Rapid Transitway – Stage I Project

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 City-owned property identified as "Available Property to Sell" on Misc. Plan No. 13430/22, attached hereto as Schedule A, be declared surplus to the needs of the City.

2. That the City-owned property identified as "Available Property to Sell' on Misc. Plan No. 13430/23, attached hereto as Schedule B, be declared surplus to the needs of the City.

3. That the City-owned property identified as "To Be Purchased by Canadian National Railway" on Misc. Plan 14989/6, attached hereto as Schedule C, be declared surplus to the needs of the City.

4. That, subject to the approval of Recommendations 1, 2 and 3, a land exchange between the City and CN be approved that is in accordance with the terms and conditions set out in Schedule D.

5. That the City enter into, execute and deliver a Land Exchange Agreement with CN 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").

6. That the Chief Administrative Officer be authorized to negotiate and approve the terms and conditions of the Land Exchange Agreement and any Ancillary Agreements in accordance with this report and such other terms and conditions determined necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – May 21, 2020

EXECUTIVE POLICY COMMITTEE RECOMMENDATION (continued):

7. 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 – May 21, 2020

DECISION MAKING HISTORY:

Moved by Councillor Rollins,

That Rule 10(3) of The Procedure By-law No. 50/2007 be suspended in order that the following item, which was received less than four business days preceding the committee meeting, be considered by Committee.

Carried

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 May 21, 2020, 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: Declaration of Surplus City Property and Proposed Land Exchange Agreement with Canadian National Railway Company for the Southwest Rapid Transitway - Stage I Project

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	P. Olafson, Interim CFO	M. Ruta, Interim CAO

EXECUTIVE SUMMARY

The City requires land from CN to complete outstanding acquisitions related to the Southwest Rapid Transitway – Stage I Project ("Project"). Through negotiations, CN identified a desire to complete a land exchange wherein the City would acquire land needed for the Project.

The City is proposing a $1.00 land exchange with CN in an effort to conclude the matter and reduce acquisition costs to the City. The transaction provides a net benefit to CN in the amount of $142,000.00. The Public Service supports the land exchange for the following reasons:

- If not for the land exchange, the City would be paying CN $722,100.00;
- CN is not obligated to purchase the City land due to historical crossing rights;
- CN consented to the realignment of the transit corridor to benefit the City;
- The sale resolves a historical transaction dating back to 1906.

The land to be sold to CN was internally circulated and no civic need was identified. The Ward Councillor has been consulted.

RECOMMENDATIONS

1. That the City-owned property identified as "Available Property to Sell" on Misc. Plan No. 13430/22, attached hereto as Schedule A, be declared surplus to the needs of the City.

2. That the City-owned property identified as "Available Property to Sell' on Misc. Plan No. 13430/23, attached hereto as Schedule B, be declared surplus to the needs of the City.

3. That the City-owned property identified as "To Be Purchased by Canadian National Railway" on Misc. Plan 14989/6, attached hereto as Schedule C, be declared surplus to the needs of the City.

4. That, subject to the approval of Recommendations 1, 2 and 3, a land exchange between the City and CN be approved that is in accordance with the terms and conditions set out in Schedule D.

5. That the City enter into, execute and deliver a Land Exchange Agreement with CN 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").

6. That the Chief Administrative Officer be authorized to negotiate and approve the terms and conditions of the Land Exchange Agreement and any Ancillary Agreements in accordance with this report and such other terms and conditions determined necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

7. 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 19, 1979 requires Council approval to declare land surplus to the City's requirements.

Council approval is required to enter into a Land Exchange Agreement.

IMPLICATIONS OF THE RECOMMENDATIONS

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

The Public Service has recommended a $1.00 land exchange with CN due to the reasons identified in the History/Discussion portion of this report. Values for the transaction are as follows:

		City Land Value	CN Land Value
Fort Rouge Yards	Misc. Plan No. 13430/22	$702,500.00*	$ 5,000.00
Fort Rouge Yards	Misc. Plan No. 13430/23	$155,000.00*	$675,000.00
Sub-total		$857,500.00	$680,000.00
Donald Street	Misc. Plan No. 14989/6	$ 6,600.00*	$ 42,100.00*
Total		$864,100.00	$722,100.00

*after discounting

CN receives a positive balance of $142,000 in land value after the exchange. The change in municipal taxes is negligible.

HISTORY/DISCUSSION

On October 22, 2008, Council approved the Southwest Rapid Transit Corridor – Stage I capital project (the "Project"). The Project extends from the Jubilee Avenue Overpass to Queen Elizabeth Way at a budgeted cost of $138,000,000.

On November 19, 2008, Council authorized the Director of Planning, Property and Development to negotiate the acquisition of all land interests for the Project.

On December 17, 2008, Council approved an expropriation for the Project which consisted of 11 property holdings. The City also required portions of CN land for the Project but, because the City does not have the authority to expropriate from CN, negotiations commenced to acquire CN's land.

Much of the CN property required for the Project, and the alignment itself, was identified within an agreement with CN that dates back to 1994 ("1994 Agreement"). The City's option to purchase CN property in the 1994 Agreement was exercised prior to the commencement of the Project but, due to design changes, additional CN property was required.

The City and CN worked collaboratively through the design and construction period of the Project to arrive at a mutually acceptable transit corridor but the City has not acquired all of the CN land required for the Project.

Fort Rouge Yards (Misc. Plan No. 13430/22 & 13430/23)

The Project requires 2.84 acres of land within CN's Fort Rouge Yards, as well as a revised tunnel easement extending under the rail yards (Schedule E, Misc. Plan 12170/1). The additional land requirements enabled a western shift to the transit corridor, thereby allowing greater development opportunities along the corridor. The transit corridor has already been constructed on CN's land.

In an effort to reduce Project costs, the City proposed a land exchange with CN. The City owns numerous closed streets and lanes that weave through the rail yards. In total, the City has 7.16 acres of available property.

CN proposed that the City either purchase the required corridor land or exchange the required corridor land for the City's entire 7.16 acre holding.

The City and CN have had a long-time disagreement over the rightful ownership of the 7.16 acre holding, since Council agreed to sell the City's holding to CN for $1.00 in 1906 subject to certain conditions. The City does not believe CN satisfied the original 1906 conditions, but due to the passage of time, it becomes increasingly more difficult to resolve the dispute.

In an effort to advance negotiations, the Public Service engaged an external appraiser to value the City's land and CN's land. The City's land was valued at $1,715,000.00 and CN's land was valued at $680,000.00. The highest and best use of the properties was considered to be a corridor use based on the long narrow shape of the parcels and their current use as a rail yard. Corridor appraisals analyze property without regard to site constraints or impacts.

It should be noted that the sale of closed roads and lanes are unique, as this type of transaction is virtually monopolized by the City. Purchasers are simply unwilling to pay full market value for land where there is a limited market, development constraints and/or easement impacts. The City applies a range of sale discounts depending on site conditions and in this instance a 50% discount is applicable. Applying a 50% discount to the City's land reduces the value to $857,500. A discount to CN's land value is not required since their holding is a developable site.

The Public Service circulated the land identified as "Available Property to Sell" on Misc. Plan No. 13430/22 and 13430/23 to City departments and no civic need was identified. CN has also requested a revision to the existing access easement to the Fort Rouge Yards from Brandon Avenue (Schedule F, Misc. Plan 11365/1).

An Environmental Site Assessment was completed for the Project, and no concerns were identified.

Although the difference in values benefits CN, the City has proposed a $1.00 exchange with CN for the following reasons:

- If not for the land exchange, the City would be paying CN $680,000.00;
- CN is not obligated to purchase the City land due to historical crossing rights;
- CN consented to the realignment of the transit corridor to benefit the City;
- The sale resolves a historical transaction dating back to 1906.

The Ward Councillor has been advised on the intentions of the Public Service.

<u>Donald Street (Misc. Plan 14989/6)</u>

The Project requires 14,040 square feet of land within CN's rail corridor along Donald Street. The additional corridor land reduced the impact to existing road alignments and private property. The transit corridor has already been constructed on CN's land.

In an effort to reduce Project costs, the City proposed a land exchange with CN. The City has a small amount of property that should be transferred to CN to ensure that all of CN's facilities (i.e. signal box) are located within the rail corridor.

The Public Service circulated the land identified as "To Be Purchased by Canadian National Railway" on Misc. Plan 14989/6 to City departments and no civic needs were identified except for a pipe easement.

The Public Service engaged an external appraiser to value the City's land and CN's land. The City's land was valued at $13,200.00 and CN's land was valued at $84,200.00. The highest and best use of the properties was considered to be a corridor use based on the long narrow shape of the parcels and their current use as a rail/transit corridor.

Consistent with the rationale in the Fort Rouge Yard, a 50% discount is applicable to both the City's land <u>and</u> CN's land. Applying a 50% discount reduces the value of the City to $6,600.00 and CN's land to $42,100.00.

An Environmental Site Assessment was completed for the Project, and no concerns were identified.

The difference in value benefits the City and partially offsets the shortfall identified in the Fort Rouge Yards land exchange.

The Ward Councillor has been advised on the intentions of the Public Service.

FINANCIAL IMPACT

Financial Impact Statement Date: March 5, 2020

Project Name:

Proposed Land Exchange Agreement with Canadian National Railway Company for the Southwest Rapid Transitway - Stage I Project and Declaration of Surplus City Property

COMMENTS:

The proposed exchange transaction involves nominal consideration of $1. As such, 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)
Transit

OURWINNIPEG POLICY ALIGNMENT

Under section 1-1b of OurWinnipeg the following policies apply:

- Create a safe, efficient and equitable transportation system for people, goods and services.
- Create a transportation system that supports active, accessible and healthy lifestyle options.

Section 3-2b of the Complete Communities Direction Strategy identifies Rapid Transit Corridors as a "special, fourth type of corridor" that follow rapid transit lines and are characterized by nodal development at stations. The following policies apply:

- Promote corridors as a link between neighbourhood, community and regional scale centres.
- Ensure multi-modal connectivity.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

Strategic Opportunity #3
Advancing Sustainable Transportation – Increasing Mobility Options and Shift to Zero Emission Vehicles

- Increasing access to mobility options and fuel switching are key directions for reducing emissions from transportation. Key directions aim to directly shift residents out of single occupancy vehicles through sustainable transportation options with lower or no emissions (walking, cycling, public transit, carshare, and carpooling) or indirectly enable diverse mobility choices through the development of higher density, and more complete communities. A key opportunity to advance fuel switching in Winnipeg is through electric vehicles for both private vehicles and public transit.

Strategic Opportunity #4
Facilitate Compact, Complete Development and Increase Density

- Winnipeg's built environment and public realm are a key part of how citizens and visitors choose to get around the City. Research shows that energy used for transportation increases as a city becomes more spread out and as housing, jobs, daily needs and recreation or community destinations become more dispersed. Complete communities and increased density throughout the City allow new growth and development to create the conditions for sustainable transportation choices leading to reduced greenhouse gas emissions. These actions have co-benefits related to public health including increased outdoor physical activity and access to healthy foods. As well, amenities within close proximity to where people live and work equalize opportunities, especially amongst people disadvantaged by income or other barriers.

SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: Gord Chappell, Real Estate Administrator
Date: March 5, 2020

Attachments:

Schedule A – Misc. Plan No. 13430/22

Schedule B – Misc. Plan No. 13430/23

Schedule C – Misc. Plan 14989/6

Schedule D – Terms and Conditions

Schedule E – Tunnel Easement (Misc. Plan No. 12170/1)

Schedule F – Access Easement (Misc. Plan No. 11365/1)

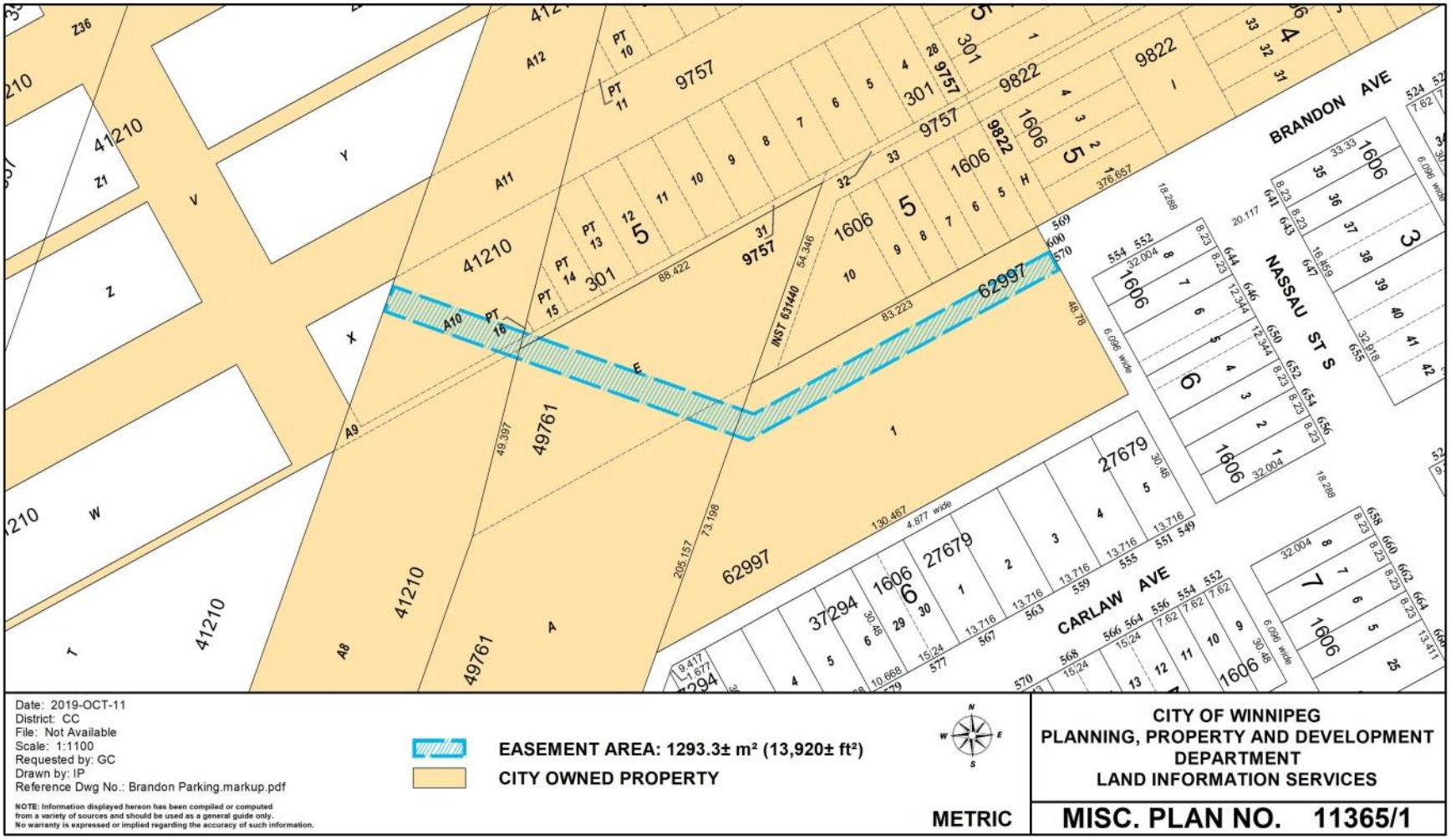
Schedule D

Parties:	The City of Winnipeg Canadian National Railway Company
Price:	$1.00 plus G.S.T.
Lands to be Exchanged:	Misc. Plan No. 13430/22 attached as Schedule A Misc. Plan No. 13430/23 attached as Schedule B Misc. Plan No. 14989/6 attached as Schedule C
Closing Date:	The Date of Closing, Possession and Adjustments shall be at least thirty (30) days following the date of final approval by the City of Winnipeg's Council, or its delegated authority or such other date as mutually agreed to and approved by the City's Director of Planning, Property and Development (hereinafter called the "Director")
Other Terms:	CN to grant revised easement in favour of the City, as indicated on Misc. Plan No. 12170/1 CN to grant a pipe easement in favour of the City for existing infrastructure City to grant easement in favour of CN, as indicated on Misc. Plan No. 11365/1 Both Parties are entitled to conduct an Environmental Site Assessment on the property being acquired; either Party may cancel the land exchange if environmental concerns are discovered

Schedule E


PEMBINA HW
WARSAW AV
OSBORNE ST
NASSAU ST N
FLEET AV
4.0 WIDE
City Property
Land Drainage Sewer Easemant Areas
276.7 sq.m. +/- (2978 sq.ft. +/-)
Revised Easement Area
3403 sq.m. +/- (36,630 sq.ft. +/-)
Date: 2006-JUNE-15
District: CC
File: 5775/A-E V2
Scale: 1:1500
METRIC
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.
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 12170 / 1

Schedule F


BRANDON AVE
NASSAU ST S
CARLAW AVE
INST 631440
Date: 2019-OCT-11
District: CC
File: Not Available
Scale: 1:1100
Requested by: GC
Drawn by: IP
Reference Dwg No.: Brandon Parking.markup.pdf
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.
EASEMENT AREA: 1293.3± m² (13,920± ft²)
CITY OWNED PROPERTY
METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPARTMENT
LAND INFORMATION SERVICES
MISC. PLAN NO. 11365/1