Minutes – Executive Policy Committee – September 21, 2021

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – September 14, 2021

Item No. 4 P.T.H. #100 and P.R. #200 (Perimeter Highway and St. Mary's Road) Interchange 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, subject to the expropriation of the P.T.H. #100 and P.R. #200 (St. Mary's Road) Interchange Project being confirmed by the Province, Recommendation 4A and 4B of the Council policy for the Approval for "Enter to Construct" Agreements for Panet Road / Molson Street Reconstruction and Twinning and Other Situations be waived for the P.T.H. #100 and P.R. #200 (St. Mary's Road) Interchange Project.

2. 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 – September 14, 2021

DECISION MAKING HISTORY:

Moved by Councillor Gilroy,

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 Gilroy,

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

Yea:	Bowman, Allard, Browaty, Gillingham, Gilroy, Mayes, Rollins	7
Nay:		0

Carried

STANDING COMMITTEE RECOMMENDATION:

On September 14, 2021, 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: P.T.H. #100 and P.R. #200 (Perimeter Highway and St. Mary's Road) Interchange Project

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

AUTHORIZATION

Author	Department Head	CFO	CAO
G. Chappell, Acting	J. Kiernan	N/A	M. Jack

EXECUTIVE SUMMARY

In 2018, Manitoba Infrastructure ("MI") created the South Perimeter Highway Design Study (the "Design Study") that proposes to eliminate at-grade crossings of the Perimeter Highway (P.T.H. #100). The Public Service was included as a stakeholder during the circulation of the Design Study, as a number of City land holdings would be impacted by the road design.

In early 2021, MI's engineering consultant contacted the Public Service to specifically discuss the P.T.H. #100 and P.R. #200 (St. Mary's Road) Interchange Project (the "Project"). The Project will create a grade separated interchange at St. Mary's Road and the Perimeter Highway. The City owns approximately 94 acres of land, identified as Subject City Property on Misc. Plan 10859/15 (attached hereto as Schedule A), which is required by the Province for the Project. The majority of the Subject City Property is located to the west of the South End Water Control Pollution Centre.

The Public Service and MI have initiated negotiations on the Subject City Property. Since the construction phase of the Project is anticipated to commence in November 2021, MI has initiated expropriation proceedings concurrent with the sale negotiations. It is anticipated that the expropriation will be confirmed on September 27, 2021. Once the expropriation is confirmed, the Province is legally obligated to take possession of the Subject City Property and provide compensation.

In accordance with Council policy, the Public Service cannot grant early access to the Subject City Property in advance of a completed sale. In an effort to ease Project timelines, the Public Service recommends that Council policy be partially waived to allow for early entry onto the Subject City Property by the Province, subject to the expropriation being confirmed.

RECOMMENDATIONS

1. That, subject to the expropriation of the P.T.H. #100 and P.R. #200 (St. Mary's Road) Interchange Project being confirmed by the Province, Recommendation 4A and 4B of

the Council policy for the *Approval for "Enter to Construct" Agreements for Panet Road / Molson Street Reconstruction and Twinning and Other Situations* be waived for the P.T.H. #100 and P.R. #200 (St. Mary's Road) Interchange Project.

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

Council approval is required to waive a Council adopted policy.

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of the report are approved, the Province will need to satisfy Recommendations 4C to 4G of the policy for *Approval for "Enter to Construct" Agreements for Panet Road / Molson Street Reconstruction and Twinning and Other Situations.*

Accessing the Subject City Property prior to the date of possession will ease the Project timeline and initiate an important construction project for the south end of the City.

HISTORY/DISCUSSION

In 2018, Manitoba Infrastructure ("MI") developed the South Perimeter Highway Safety Plan (the "Safety Plan"). The Safety Plan recommends the closure of certain median openings and access points along the south Perimeter Highway, as well as investments in service roads.

Concurrent and complementary to the Safety Plan, MI also developed the Design Study. The Design Study provides a long-term plan to expand the Perimeter Highway to six lanes at a freeway standard. The freeway standard does not allow for at-grade crossings of intersecting roadways or rail lines. The at-grade intersection of the Perimeter Highway and St. Mary's Road is within the scope of the Design Study.

In early 2019, the Design Study drawings were circulated to City stakeholders for comments and feedback was provided to MI. The City has a number of land holdings impacted by the Design Study.

In early 2021, MI contacted the Public Service to specifically discuss the Project, which is anticipated to commence construction in late 2021. MI has maintained a productive and collaborative relationship with the Public Service, incorporating City suggestions into the Project. The City land holdings affected by the Project are identified in Schedule A. In total, the City owns approximately 94 acres of land which is required by the Province, the majority of which is located to the west of the South End Water Control Pollution Centre.

In June 2021, the Public Service commenced negotiations with MI for the sale of the Subject City Property. The City was advised that the Province would also commence expropriation proceedings on the required project land to ensure construction timelines could be met.

The Public Service and MI continue to negotiate a possible sale of the Subject City Property but it is unlikely that a sale will be concluded prior to the confirmation of the expropriation. The expropriation is anticipated to be confirmed on September 27, 2021. Once confirmed, the Province is legally obligated to acquire the City land pursuant to legislated timelines. The Province's anticipated possession date of the Subject City Property is November 12, 2021.

In an effort to maintain the City's collaborative relationship with MI, it is recommended that the Council policy for *Approval for "Enter to Construct" Agreements for Panet Road / Molson Street Reconstruction and Twinning and Other Situations* (the "Policy") be waived in part. In order for a third party to obtain early entry onto City land, Council must have either declared the land surplus or approved the sale of land, and the negotiations on the terms of the sale must be complete. The remaining elements of the policy require the third party to maintain appropriate insurance, restore the land if the sale is not completed, indemnify the City and provide a letter of credit.

The Policy was adopted by Council on June 25, 2014 to assist with early access and other situations related to the Panet Road / Molson Street Reconstruction and Twinning Project at that time. However, only a partial waiver of Recommendation 4 of the Policy is required to accommodate an Enter to Construct Agreement and permit MI to access to the Subject City Property. Recommendation 4 of the Policy is included in Schedule B.

If an expropriation is confirmed for the Subject City Property, the sale is effectively approved through legislation and the sale terms are protected under the City's rights to make a claim through the Land Value Appraisal Commission. As a result, Recommendation 4A and 4B of the Policy are not necessary and are recommended to be waived, subject to the expropriation being confirmed.

FINANCIAL IMPACT

Financial Impact Statement Date: July 29, 2021

Project Name:

P.T.H. #100 and P.R. #200 (Perimeter Highway and St. Mary's Road) Interchange Project

COMMENTS:

There are no financial implications associated with the recommendations contained in this report. The Province *will* acquire the City's land holdings either via direct purchase or expropriation. It is unlikely that a sale will be concluded prior to the confirmation of the expropriation, which is anticipated to occur on September 27, 2021. The requested partial waiver of Council policy will not adversely impact the financial compensation to be paid by the Province to the City.

Mike McGinn July 29, 2021
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
Water and Waste Department

OURWINNIPEG POLICY ALIGNMENT

01-2 Safety and Security
Direction 4: Promote safety on streets and sidewalks. Enabling Strategies:

- Implement traffic engineering strategies to maximize traffic safety;
- Facilitate safety and accessibility on streets and sidewalks.

01-3 Prosperity
Direction 3: Maintain strong intergovernmental cooperation. Enabling Strategies:

- Pursue collaborative approaches to crime prevention, infrastructure renewal, competitive taxation, regulatory overlap and regional economic development.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

3.5 Reduce Traffic Congestion

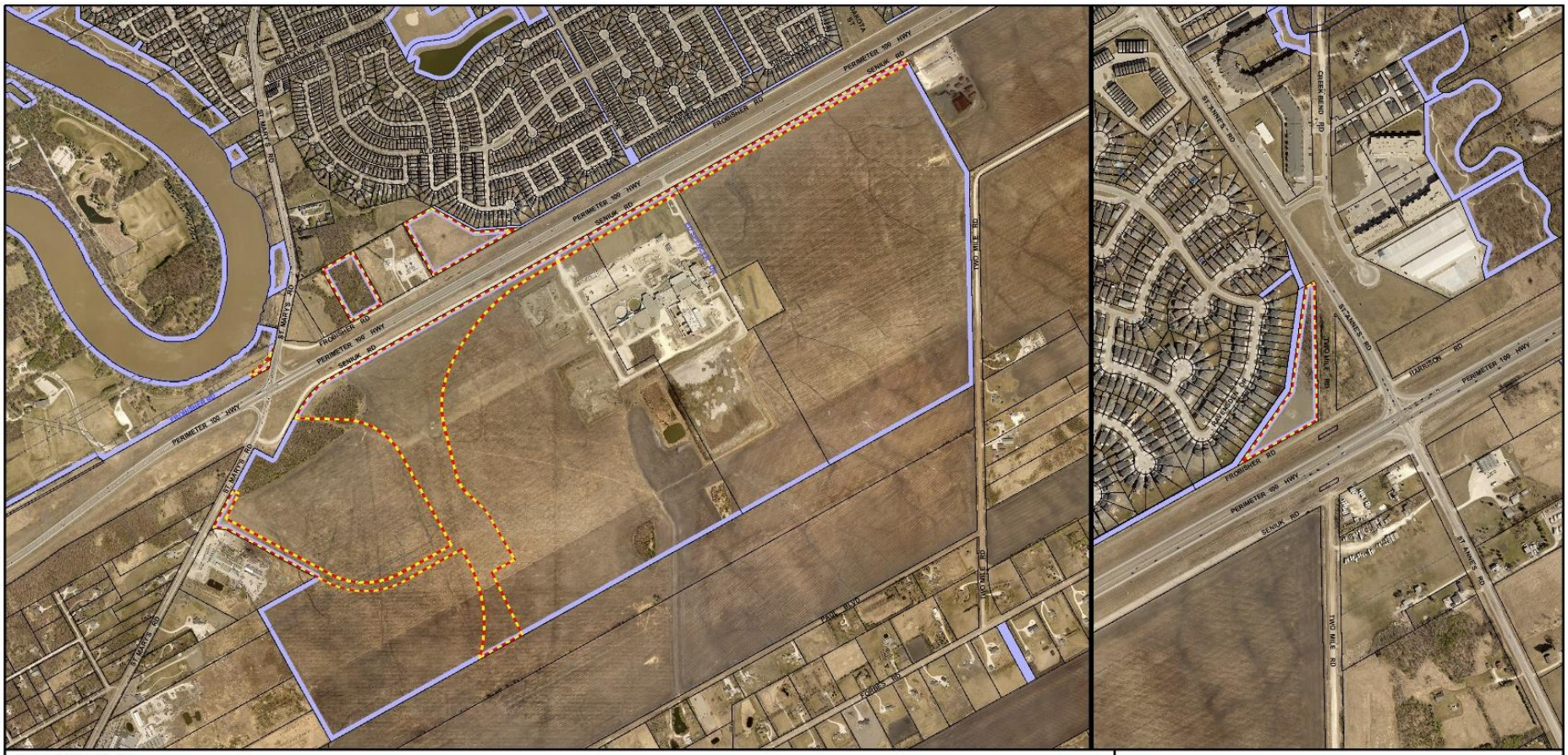
SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: Kim Fox, Senior Negotiator
Date: August 4, 2021
File No: 9230

Attachments:

Schedule A – Misc. Plan 10859/15
Schedule B – Recommendation 4 of the Approval for *"Enter to Construct" Agreements for Panet Road / Molson Street Reconstruction and Twinning and Other Situations"* Policy

Schedule A



Date: 2021-JUL-08
District: RIEL
File: Not Available
Scale: NTS
Requested by: KF
Drawn by: IP
Reference Dwg No.: Misc. Plan No. 10859/12, 10859/13, 10859/14, 13053/11, 13279/6, and 15747

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 CITY PROPERTY
Area: 94.0± acres

CITY OWNED PROPERTY

N W E S

AERIAL (2018) METRIC

CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPARTMENT
LAND INFORMATION SERVICES

MISC. PLAN NO. 10859/15

Schedule B

4. That the Chief Administrative Officer be authorized to negotiate and approve “enter to construct” agreements which would allow other parties to enter City properties in the following circumstances:
    A. Council must have declared the land surplus or have authorized the sale of the land or an easement or other interest in the land which would allow the entry to construct on that land;
    B. The Public Service must have negotiated the terms and conditions of the sale of the land, or an easement or other interest in the land; and on condition that the party seeking to enter to construct must:
    C. Meet insurance requirements certified by the City’s Corporate Risk Manager to be adequate to protect the City’s interests;
    D. Provide an executed release and indemnity in a form certified by the Director of Legal Services and City Solicitor to be adequate to protect the City’s interests;
    E. Undertake, at its sole cost, effort and expense, to return the property to its original condition in the event that the sale is not finalized;
    F. Prior to entry, provide a letter of credit or performance bond in the City’s favour in an amount that is equal to or greater than the cost that would have to be incurred to return the land to its pre-entry condition that can be drawn on by the City in the event that the sale is not finalized;
    G. Meet any other term or condition considered necessary by the Director of Legal Services and City Solicitor to adequately protect the interests of the City.