



ADMINISTRATIVE REPORT

Report Date: December 3, 2012
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RTS No.: 9867
VanRIMS No.: 08-2000-20
Meeting Date: December 11, 2012

TO: Vancouver City Council

FROM: Director of Real Estate Services and the General Manager of Real Estate and Facilities Management in consultation with the Director of Legal Services, General Manager of Engineering Services, and Manager of Environmental Planning

SUBJECT: Funding for Expropriation of 1026 Powell Street for Powell Street Grade Separation Project

RECOMMENDATION

- A. THAT given Vancouver City Council, as the approving authority under the Expropriation Act, R.S.B.C.1996, C.125 (the "Act") has approved the expropriation of 1026 Powell Street, legally described as: Parcel Identifier: 016-248-716 Lot B Block 48 District Lot 181 Plan 22936 (the "Property"), that Council authorize the Director of Real Estate Services, on behalf of the City as the expropriating authority, to pay Three Million Five Hundred and Ninety Thousand Dollars (\$3,590,000) to Chevron Canada Limited, Inc., No. 58676A ("Chevron") the registered owners of the Property as the advance payment made under the Act.
- B. THAT Council approve the deconstruction of the gas station and convenience store at 1026 Powell Street upon vacant possession at an estimated cost of Seventy-Five Thousand Dollars (\$75,000).
- C. THAT Council approve funding of Four Hundred and Ten Thousand Dollars (\$410,000) to remediate the contaminated soils on the Property and to pursue a Development Permit release from the Ministry of the Environment; and further to authorize release of any unused funds to Chevron that remain once the contaminated soils have been remediated.
- D. THAT the source of funding for such payments be provided from account: CER-00117-11-AA within the approved 2012 Engineering Capital Budget.

COUNCIL AUTHORITY/PREVIOUS DECISIONS

Section 532 of the Vancouver Charter provides that if, in the exercise of any of its powers of acquiring real property, the City fails to come to an agreement with the owner as to the terms of acquisition, the City may, by by-law or resolution of the Council, expropriate such real property

CITY MANAGER'S/GENERAL MANAGER'S COMMENTS

The City Manager recommends approval of the foregoing.

Background

On October 31, 2012, Council authorized the City as expropriating authority, to commence expropriation proceedings to acquire the Property for the Powell Street Grade Separation Project.

To date, the City has been unsuccessful in its attempts to negotiate an outright purchase of the Property. Accordingly, as explained in a companion report (RTS 9868), the City has now commenced expropriation proceedings and has delivered the registered owner of the Property, Chevron Canada Limited, Inc. No. 58676A Expropriation Notices in accordance with the Act.

Strategic Analysis

The Act describes the expropriation procedures for real property as follows:

- where an owner is not entitled to request an inquiry, the Approving Authority MUST approve the expropriation and notify the Expropriating Authority and each owner of the approval in writing;
- within 30 days after Council as Approving Authority has approved the expropriation the City as the Expropriating Authority, must pay the owners the amount the City estimates is or will be payable to the owners as compensation, and must serve on the owners a copy of all appraisal and other reports on which the payment is made;
- within 30 days after it has paid the money and served copies of the appraisal, the Expropriating Authority must file in the Land Title Office a vesting notice, a copy of which must be served on the owners; and
- payment to the owner by the Expropriating Authority is without prejudice to the owner's right to have the amount determined in the manner provided for in the Act, but the owner must apply to the court to determine compensation within one year after the payment is made.

Payment to Owners

Council, as Approving Authority, has now approved the expropriation of the Property as required by the Act. Accordingly, as explained above, the City, as Expropriating Authority, is required to pay compensation to the owner within 30 days of the date that Council, as Approving Authority, approves the expropriation. The following

explains the basis for the payment the City, as Expropriating Authority, is proposing to make to the owner.

The City retained a qualified professional appraiser to provide an appraisal based on the requirements of the Act. The appraiser concluded that as of September 14, 2012, the property had an estimated value of \$4,000,000. The appraisal was based on the "highest and best use" of the site, using a Capitalization Valuation approach to capture the inherent value of the land, building and business.

Chevron retained the services of another appraisal firm and they estimated that the value of the Property was \$5,000,000 based on a lower capitalization rate.

Due to the large spread between the two values, the City and Chevron could not reach a negotiated settlement for the sale of the Property, hence the requirement to expropriate this Property.

Under the Cost Sharing Agreement with our funding partners Metro Vancouver would be responsible for 62% of the acquisition cost, CPR 14% and the City's share at 24%.

Chevron also provided the City with a copy of the ground water analysis which indicated that there was a minor amount of soil contamination found on the Property. Thurber Engineering Ltd., the environmental consultants working on the project on behalf of the City, reviewed these reports and estimated the cost to remediate and risk assess the Property would be approximately Four Hundred and Ten Thousand Dollars (\$410,000).

The Director of Real Estate Services is recommending that the City as Expropriating Authority, make an advance payment to Chevron pursuant to the Act in the amount of \$3,590,000 which is a downward adjustment of the appraised value of \$4,000,000 to account for the cost of remediating the contaminated soils on the Property. It should be noted that Chevron has 12 months to contest the amount of compensation paid under the Expropriation by applying to the Court. Accordingly, the \$4,000,000 value determined by the City's appraisal is subject to revision depending on the outcome of any Court Proceedings. Further, any balance remaining from the \$410,000 remediation budget will be remitted to Chevron as compensation under the expropriation.

Financial

The Director of Real Estate Services is of the opinion that the compensation offered is reasonable and within the parameters set by the Expropriation Act. The source of funds for the advance payment of \$3,590,000 and the \$75,000 to remove the improvements on the site and the \$410,000 to remediate the soils is to be provided from CER-00117-11-AA within the approved 2012 Engineering Capital Budget.

Environmental

Thurber Engineering Ltd. will further delineate the known contamination at the property and pursue a Development Permit release from the Ministry of Environment to allow the construction of the planned road works to proceed in April 2013.

Under Transport Canada Funding guidelines for this project, environmental cleanup costs are eligible costs that will be covered by the project budget.

CONCLUSION

Vancouver City Council, as the Approving Authority, has approved the expropriation of the Property. The Director of Real Estate Services recommends the City pay Three Million Five Hundred and Ninety Thousand Dollars (\$3,590,000) to the registered owners of the Property as the advance payment made under the Act for the expropriation of the Property. Further, any balance remaining from the \$410,000 remediation budget will be remitted to Chevron as compensation under the expropriation.

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