



## ADMINISTRATIVE REPORT

Report Date: April 9, 2013  
Contact: Michael Flanigan  
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RTS No.: 10072  
VanRIMS No.: 08-2000-20  
Meeting Date: April 23, 2013

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 and General Manager of Engineering

SUBJECT: Funding for Expropriation of 1158 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. 1966, C.125 (the "Act"), has approved the expropriation of a 180.9 square meter (1,947 sq. ft.) portion of land located at 1158 Powell Street, legally described as PID: 015-684-440, Lot 21 Of Lot 2, Block K, District Lot 182, Plan 176 (the "Subject Property"), shown in bold outline on Plan EPP 28720 prepared by Fred Wong, B.C.L.S. and marginally numbered LD 5375, a copy of which is attached hereto as Appendix A, that Council authorize the Director of Real Estate Services, on behalf of the City, as the expropriating authority to pay \$281,940 to J.B.A. Transfer Corp. (Incorporation No. 240915)(the "Registered Owner"), of the Subject Property, as the advance payment made under the Act.
- B. THAT Council approve funding of Seven Hundred Thousand Dollars (\$700,000) to remove and rebuild a portion of the building located on the Subject Property to the new realigned property line.
- C. THAT the source of funding for such payments be provided from account: CER-00117-11-AA within the approved 2013 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.

#### ***REPORT***

##### ***Background/Context***

On March 12, 2013, Council authorized the City, as expropriating authority, to commence expropriation proceedings to acquire the Subject 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 Subject Property. Accordingly, as explained in a companion report (RTS 10071), the City has now commenced expropriation proceedings and has delivered to the Registered Owner of the Subject Property, the Expropriation Notices in accordance with the Act.

##### ***Strategic Analysis***

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

- (i) 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;
- (ii) 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;
- (iii) 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
- (iv) payment to the owner by the Expropriating Authority is without prejudice to the owners 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 payment is made.

##### ***Payment to Owners***

Council, as Approving Authority, has now approved the expropriation of the Subject Property as required by the Act. Accordingly, as explained above, the City, as Expropriating Authority, is required to pay 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 making to the Registered 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 February 26, 2013, the compensation payable to the Registered Owner for the Subject Property is as follows:

Value of the Property Taken	\$233,660
Value of Building Area Demolished	\$ 3,420
Injurious Affection for Loss of Powell Street Driveway	<u>\$ 19,860</u>
Total compensation payable to J.B.A Transfer Corp.	\$256,940

The offer to purchase based on the above valuation, was subsequently adjusted to \$281,940, to compensate the Registered Owner for the cost of moving and finding temporary storage for the goods stored in the area of the building that is to be removed and rebuilt.

The Registered Owner refused the City's adjusted offer of \$281,940 and is of the opinion that the estimated value of the Subject Property is \$500,000.

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

Property acquisition costs are shareable with Port Metro Vancouver, Canadian Pacific Railway and Translink. The City's net share of these costs is 24%.

The Director of Real Estate Services is recommending that the City as Expropriating Authority, make an advance payment to the Registered Owner, pursuant to the Act, in the amount of \$281,940. Under the Act, the Registered Owner has 12 months to contest the amount of compensation paid, by applying to the Court. Accordingly, the \$256,940 value determined by the City's appraisal is subject to revision depending on the outcome of any Court Proceedings.

### ***Financial***

The Director of Real Estate Services is of the opinion that the compensation offered is reasonable and within the parameters set by the Act. The source of funds for the advance payment of \$256,940 and the \$25,000 to remove and relocate the goods stored in the building is to be provided from CER-00117-11-AA within the approved 2013 Engineering Capital Budget.

RECOMMENDATION C provides a source of funding to pay for the costs of redesign for the removal and reconstruction of the affected building to accommodate the Powell Street realignment. The City, with agreement from the property owner, will be responsible for the removal and reconstruction of a portion of the building located on the Subject Property at an estimated cost of \$700,000. The cost of this work at 1158 Powell Street and similar work to be done on the adjacent properties at 1170 Powell

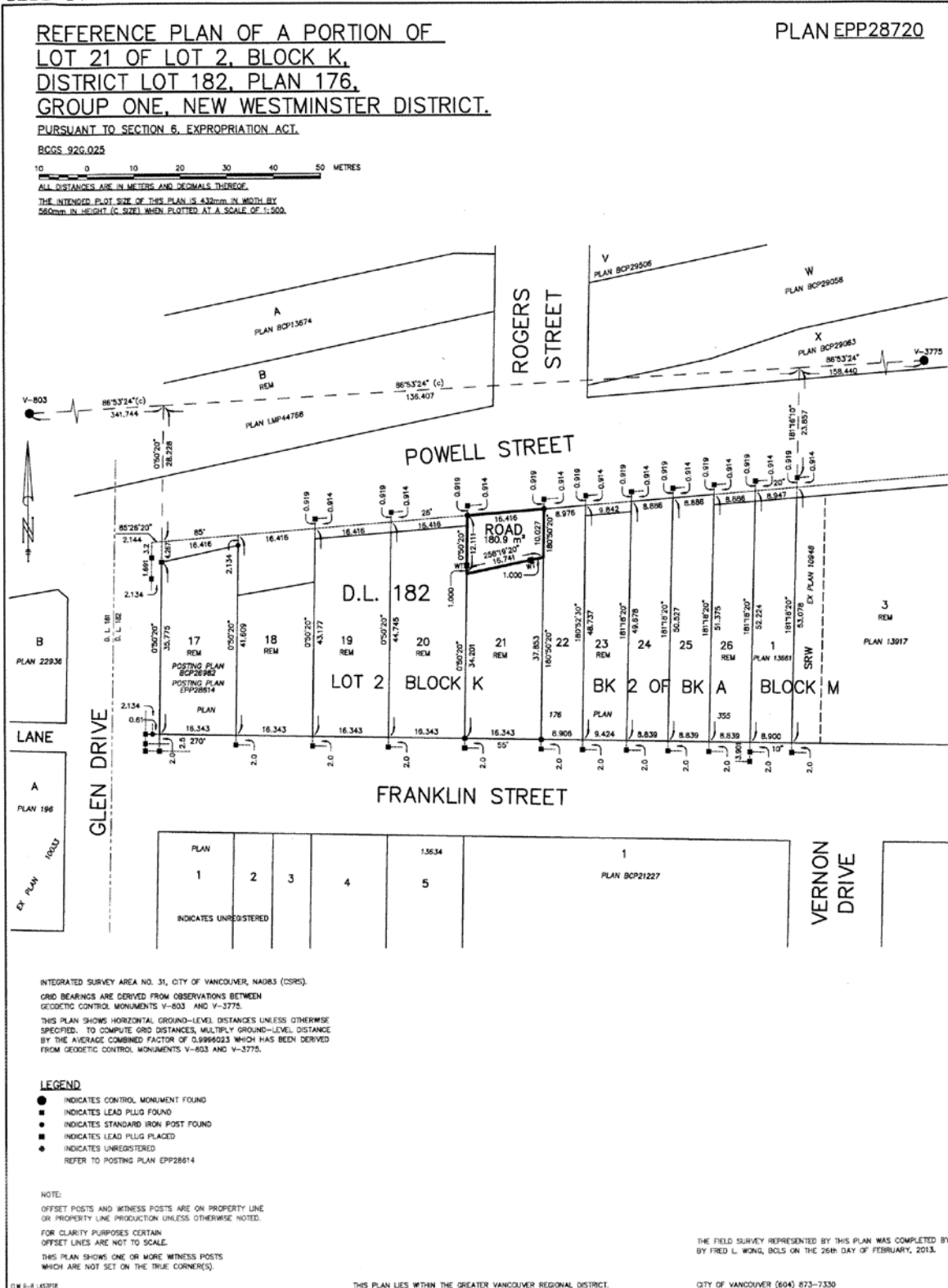
Street and 1201 Franklin was put out to tender the week of March 4, 2013 to a select list of pre-qualified general contractors. This tender closed on April 23, 2013 as the work must be substantially complete by October 1, 2013 to accommodate the scheduled construction of the Powell Street Overpass Project. The source of funds for the \$700,000 to remove and reconstruction of a portion of the building is to be provided from CER-00117-11-AA within the approved 2013 Engineering Capital Budget.

### *CONCLUSION*

Vancouver City Council, as the Approving Authority, has approved the expropriation of the Subject Property. The Director of Real Estate Services recommends the City pay \$281,940 to J.B.A Transfer Corp. the registered owners of the Subject Property, as the advance payment made under the Act for the expropriation of the Subject Property.

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LD 5375



LD 5375