



**IN CAMERA**

**ADMINISTRATIVE REPORT**

Report Date: July 20, 2018  
Contact: Jenniffer Sheel  
Contact No.: 604-871-6185  
RTS No.: 12715  
VanRIMS No.: 08-2000-21  
Meeting Date: July 24, 2018

TO: Vancouver City Council  
FROM: General Manager, Engineering Services  
SUBJECT: Agreement with the Province of BC to deliver the 800 Robson Plaza

**IN CAMERA RATIONALE**

This report is recommended for consideration by Council on the In Camera agenda as it relates to Section 165.2(1) of the *Vancouver Charter*.

(k) negotiations and related discussions respecting the proposed provision of an activity, work or facility that are at their preliminary stages and that, in the view of the Council, could reasonably be expected to harm the interests of the city if they were held in public.

**RECOMMENDATION**

- A. That Council authorize and direct staff to negotiate a contract with the Province relating to the construction of the 800 Robson Project as described in this report on the terms and conditions described in this report and such other terms and conditions as are satisfactory to the General Manager of Engineer Services, Director of Finance and Director of Legal Services.
- B. That Council, subject to the terms of the contract being negotiated to the satisfaction of the City's General Manager of Engineering Services, Director of Finance, Chief Procurement Officer and Director of Legal Services, authorize and direct each of the foregoing to execute the contract on behalf of the City.
- C. That the City's maximum contribution to the Province will not exceed \$5 million. The source of funding for this contribution will be development contributions (CAC or DCL) as provided for in the 2019-2022 Capital Plan. Funding for this project including the source of funds will be allocated to this project as part of the 2019 Capital Budgeting Process.

- D. That no legal rights or obligations will be created by Council's adoption of these Recommendations unless and until such contract is executed by all of the authorized signatories of the City set out in Recommendation B.

### ***REPORT SUMMARY***

The goal of delivering a permanent plaza at 800 Robson Street completes Arthur Erickson's original vision for the Robson Square precinct; an important part of the architectural and social significance of the larger three-block Robson Square and Law Court complex. 800 Robson is governed by complex jurisdictional legal agreements between the City of Vancouver and Province. As such, staff are seeking Council approval to enter into a Development Management Agreement (DMA) with the Province. The DMA will delegate responsibility to the Province to manage and deliver the construction of the plaza—limiting risk to the City, which is a result of the aforementioned complex jurisdictional legal agreements. The City and Province have agreed to this approach through a Letter of Understand, attached hereto as Appendix A.

### ***COUNCIL AUTHORITY/PREVIOUS DECISIONS***

On April 20, 2016, Council approved the creation of a permanent public plaza at 800 Robson and directed staff to initiate a process for the design, construction and long term management of the plaza and report back to Council by December 2016.

In December 2016, Council received for information the conceptual design of the plaza at 800 Robson with funding from the capital budget for the detailed design.

### ***CITY MANAGER'S/GENERAL MANAGER'S COMMENTS***

The City Manager recommends approval of the foregoing.

### ***REPORT***

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

The 800 block of Robson Street, and the larger three-block Robson Square and Law Court complex is a city-serving public space with high social and cultural value, and a regional destination drawing residents and visitors to the heart of the city for democratic and creative expression, relaxation, and enjoyment.

During the early 1970s, local architect Arthur Erickson was commissioned by the Province to redefine Blocks 51, 61, and 71 in the heart of downtown Vancouver (Figure 1). The provincially owned site, referred to as Robson Square and the Law Courts.

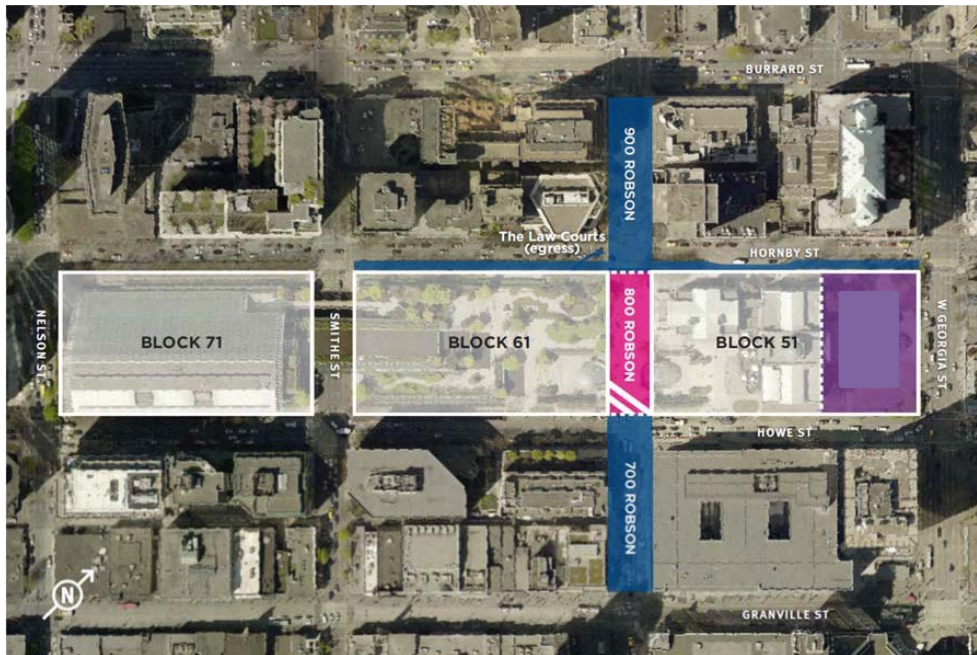


Figure 1: Map showing 800 Robson in the context of Block 51, 61, and 71.

Erickson and his team's landmark public space development introduced Vancouver to a new civic cultural centre, bringing much needed open space to the downtown core. The site was officially complete in 1983.

Now, 35 years later, the design for the permanent public plaza at 800 Robson will tie Robson Square and the Law Courts together as Erickson had originally envisioned, connecting a unique and world class series of public spaces.

### Land Ownership

The land ownership structure and jurisdictional relationships relating to the 800 block of Robson are complex, with a number of existing legal agreements in place. The site is made up of City of Vancouver dedicated street (Robson Street) over which the Province holds an Encroachment Agreement, Province owned land (Block 61), Province-owned land leased by the City of Vancouver (Block 51, including ʂxʷʌnəq Xwtl'e7énk Square) and effectively subleased to the Vancouver Art Gallery, and City-owned surface and subsurface volumetric parcels leased by the Province (three at-grade parcels contiguous to the Robson Street dedicated street and the lower level plaza under the Robson Street dedicated street).

### Plaza Delivery

The City engaged Nick Milcovich Architect Inc to design the 800 Robson plaza and complete the original Arthur Erickson vision. Mr. Milcovich was on Erickson's original design team and recently completed ʂxʷʌnəq Xwtl'e7énk Square. During this process, the City and Province have been working collaboratively on the best approach to deliver the completed design. The outcome is for the Province to deliver the plaza at 800 Robson in 2019 with funding from the City's next capital plan (2019-2022).

The DMA will form the agreement between the City and the Province and will include the following terms and conditions, and such other terms as are satisfactory to the General Manager of Engineering Services, the Director of Finance and the Director of Legal Services:

- The City's agreement with Nick Milcovich Architect Inc. will be assigned to the Province to deliver the approved design and provide construction management continuity through to completion;
- The Province will be responsible for project management, tendering, contract management and oversight;
- The City will be responsible for progress payment to the Province on a monthly basis up to a maximum financial contribution of \$5M;
- Cost control measures such as City approval for changes to the agreed scope and the ability for the City to terminate the agreement if construction cost estimates prior to tendering are greater than the City's established maximum contribution; and
- Require close communication with key area stakeholders with respect to construction scheduling and disturbances to tenants.

### ***Strategic Analysis***

An analysis on the delivery approach was conducted, in consultation with the City's Legal Services group, and a partnership with the Province was pursued to deliver the permanent plaza.

The permanent plaza scope includes the street right-of-way and extends into Block 51 and 61, as shown above in Figure 1. In light of the significance of the space, the existing relationship between the Province and the City, the Province's intimate knowledge of and long history of undertaking projects in the space, and the legal agreements governing the space, the Province and the City believe that the partnership approach is the most effective way to complete the construction of the permanent plaza space at 800 Robson. The DMA will detail the partnership as it pertains to delivery of the permanent plaza space.

### ***Public/Civic Agency Input***

The detailed design is complete with input from the key area stakeholders (UBC Robson Square, Vancouver Art Gallery, Downtown Business Improvement Association and the Province), public, Council, Urban Design Panel and the Arthur Erickson Foundation.

### ***Implications/Related Issues/Risk***

The City has made a commitment to the public, area stakeholders and signed a letter with the Province on the intent to deliver the project. In order for the project to move forward with the least amount of risk to the City, it is recommended that Council approves the DMA between the City and the Province.

With the City assigning responsibility to the Province the City will need to closely monitor the development of the tender documents and cost oversight.

## ***Financial***

The estimated cost to complete 800 Robson Plaza is \$5.9M. With \$906,000 from the current capital plan (2015-2018) and \$5M coming from the upcoming capital plan (2019-2022) as detailed below.

### **Design:**

Funding for design and other related works was provided in the 2015-2018 Capital Plan. The current Multi-Year Capital Project budget is \$906,000. This funding was used to complete the engagement, detailed design and a stewardship pilot for Robson Square (south and north sides of the Vancouver Art Gallery and 800 Robson). Of the \$906,000, \$613,000 has been spent to date. Remaining funding will be used for stewardship, project management, intersection design integration and tender documents.

### **Construction:**

Funding required to construct and deliver the permanent plaza is approximately \$4 million and about \$1 million for coordination work beyond the plaza (intersection improvements). The Province will manage the construction and the City will provide progress payments to the Province up to a maximum of \$5 million. A class B estimate was completed in 2017 which may not reflect current market conditions. A 15% contingency has been included in the \$5 million maximum contribution.

Funding for this project has been earmarked in the 2019-2022 Capital Plan which is being brought forward for Council approval on July 24<sup>th</sup>, 2018. The source of funding for this contribution will be development contributions (CAC or DCL) as provided for in the 2019-2022 Capital Plan. Funding for this project including the source of funds will be allocated to this project as part of the 2019 Capital Budgeting Process.

As the Province is delivering the project and will be responsible for releasing the tender documents, the City will implement a cost control strategy to ensure direct oversight of spending as described in the terms of the DMA above.

## ***Environmental***

This work supports key strategic plans and the three pillars of sustainability (social, environmental and economic) through:

- Creating public spaces that strengthen public life and cultural experiences;
- Encouraging active modes of transportation;
- Providing opportunities for greater social connection;
- Exploring green infrastructure opportunities; and
- Supporting economic opportunities and local businesses.

## ***CONCLUSION***

A partnership with the Province of BC is a critical step in completing Council approved permanent plaza at 800 Robson.

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ENGINEERING SERVICES

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April 25, 2017

Dear David Bellows,

Re: 800 Robson Plaza Project

#### Introduction

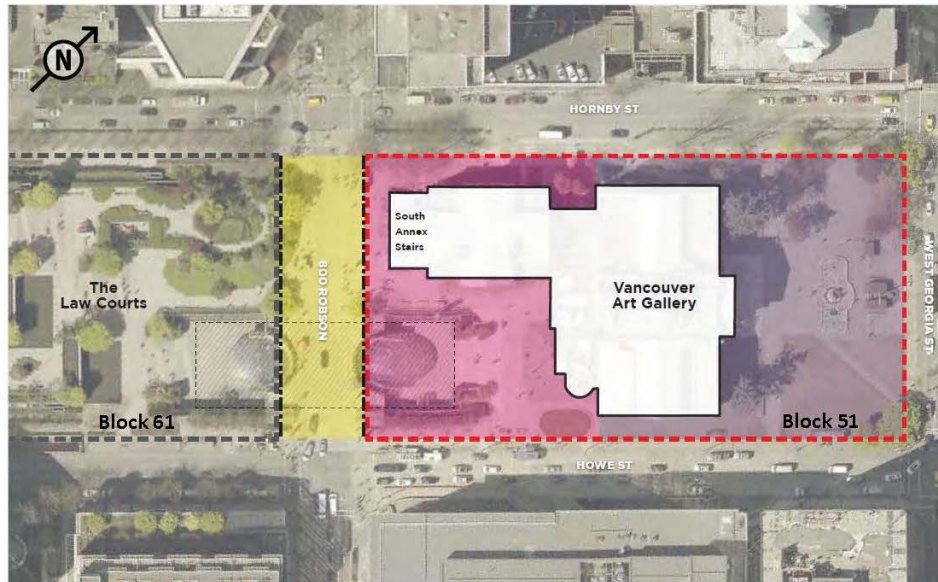
The 800 block of Robson Street, included within the Robson Square precinct, is a city-serving public space with high social, cultural, and political value. Arthur Erickson's redesign of civic blocks 51, 61, and 71, opened in 1983, transformed this precinct into Vancouver's largest urban public space, creating a regional destination in the heart of the city for expression, relaxation, and enjoyment.

The proposed permanent plaza located on Block 800 of Robson Street between Howe Street and Hornby Street (the "Project") would connect Blocks 51 and 61 as originally envisioned by Erickson.

#### Background

The ownership and lease agreements governing Block 51 and 61 are complex. The 800 Robson Street right-of-way is owned by the City of Vancouver (the "City") and the Province of BC (the "Province"), under two separate legal agreements, has installed pavers, lighting, and other elements within the street right-of-way. Blocks 51 and 61 of Robson Square are owned by the Province, and Block 51 is leased to the City; the City sub-leases the old courthouse building on Block 51 to the Vancouver Art Gallery (VAG). Figure 1 shows Blocks 51 and 61, and the street right of way.

The City has recently renovated the North Plaza of the VAG and in past years the Province has made significant improvements to the area south of the VAG, including membrane and road reconstruction, installation of pavers, and renovating and repairing the membrane beneath the South Annex Stairs of the VAG.



Block 51 Site Map



Figure 1: Site Map showing Block 51, Block 61, and the Street Right of Way.

The current plaza design scope includes the street right-of-way and extends into both Blocks 51 and 61 (see Schedule A). In light of the significance of the space, the existing relationship between the Province and the City, the Province’s intimate knowledge of and long history of undertaking projects in the space, and the legal agreements governing this space, the Province and the City agree that a partnership approach is the most effective way to implement this project.

**Purpose**

The purpose of this letter is to set out the proposed allocation of responsibility for the construction of the proposed permanent plaza at the south end of Robson Square located on Block 800 of Robson Street between Howe Street and Hornby Street (the “Project”).

Based on conversations between the Province and City, our understanding of the proposed Province-City partnership is as follows:

- The Project is City-led with City-delivered design and consultation. The Province as the Contractor would deliver tendering and construction.
- A Development Management Agreement (DMA) will be developed to detail the project-specific roles and responsibilities during project delivery and will require Director/Executive Director signing authority. The City will provide the first draft of the DMA for review.



The City has completed the design package for the Project and proposes to 'handover' to the Province to implement construction following a timeline as mutually agreed by the Province and the City. The current version of the work plan is shown in Schedule B. Current design scope incorporates areas of land covered under three existing legal agreements between the City and the Province.

#### **Existing Legal Agreements**

The existing legal agreements incorporated by the current Project design scope, illustrated in Schedule A, consist of the following:

1. Block 51 Lease  
Province leases Block 51 to the City; the City subleases the old courthouse building to the Vancouver Art Gallery. This lease needs to be updated as portions of Block 51 are used by the Province or by UBC.
2. Robson Street Undersurface Lease  
The Province leases Parcels A, B, C and D from the City. Parcel A is the portion underneath 800 Robson Street and Parcels B, C and D are above ground volumetric areas. The Province has constructed certain improvements within the leased parcels.
3. Encroachment Agreement  
The agreement gives the Province the right to install and maintain paving, landscaping, steps, bus shelters etc. on 800 Robson Street.

Existing legal agreements to be updated following delivery of the Project as described in this letter. Amendments to the three existing legal agreements would:

- confirm which assets within the surface of 800 Robson Street are owned by the Province;
- reflect any changes to the leased portions under the Robson Street Undersurface Lease; and
- confirm any changes in the parties' respective obligations arising as a result of the project.

The City proposed the Project be delivered in accordance with the business terms set out below, which would ultimately be set out in further detail in a Development Management Agreement between the City and the Province.

1. The Project would be delivered in accordance with the final design agreed upon by the City and the Province, and the assumptions and timeline set out in the Work Plan.
2. The Project does not affect the ownership and maintenance of assets outlined in the existing Encroachment Agreement, nor does it affect management of Block 51 at street-level and the 800 Robson Street right of way.
3. In consideration of the City covering the eligible costs for the construction of the project, the Province as the Contractor would carry out all required construction work using employees and/or subcontractors of the Province in general accordance with the technical specifications and drawings for the Project as provided by the City. Eligible costs will be finalized in the DMA but will generally comprise of costs for project management, consultant, construction, legal and disbursements.




The Province will determine the manner in which the construction work is carried out and will be solely responsible for ensuring that all persons employed or retained to carry out the project are qualified, competent, properly trained, instructed and supervised. Each of the City and the Province will be obligated to perform its respective responsibilities in a timely manner to avoid causing any delay to the other in performing its responsibilities.

4. Following completion of the Project, as agreed by the City and the Province, the City would own all elements of the project, except for those assets specifically set out in the Encroachment Agreement as belonging to the Province, and the Province would assign all applicable warranties to the City.

Yours truly,

Margaret Wittgens  
Director, Public Space and Street Use  
Engineering Services  
City of Vancouver

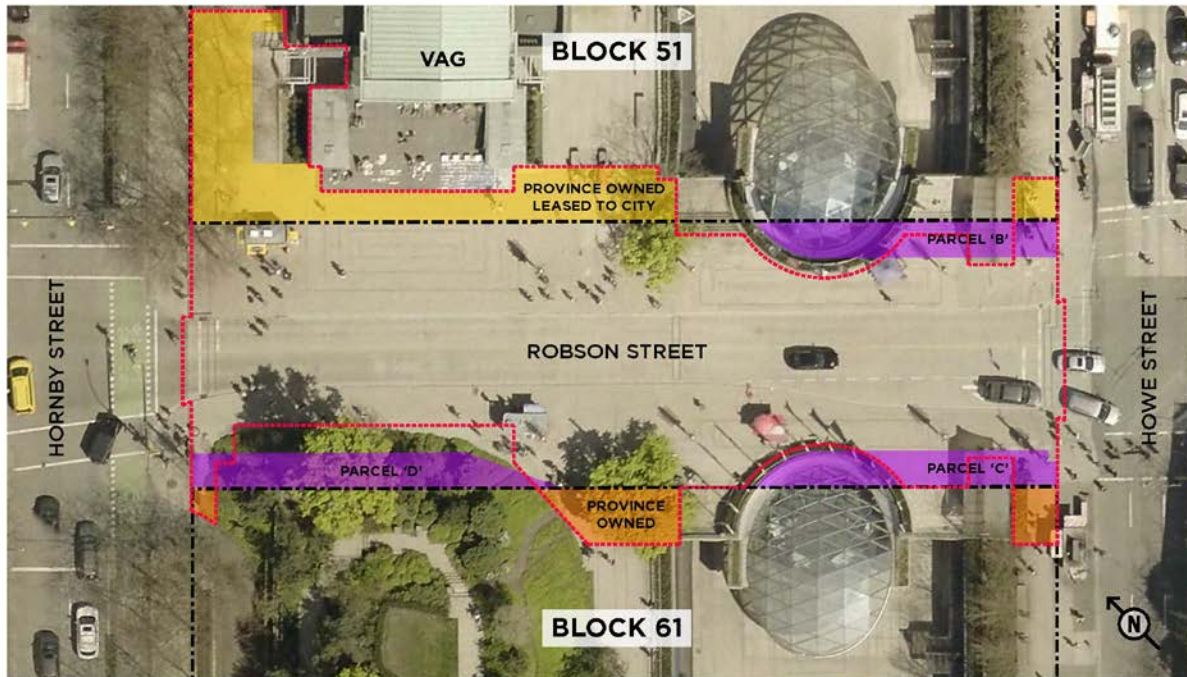
Provincial concurrence:

  
\_\_\_\_\_  
David Bellows, Executive Director

May 1, 2018  
\_\_\_\_\_  
Date

cc: TO JEN BUTCHES  
EX. DIR, ASST MGT

Schedule A



**800 ROBSON LEGAL AGREEMENTS**  
FEBRUARY 2017

- SCOPE LINE
- PROPERTY LINE
- PARCEL 'A' IS THE PORTION UNDER 800 ROBSON STREET
- UNDER SURFACE LEASE PARCELS
- PROVINCE OWNED
- PROVINCE OWNED, LEASED TO CITY

Schedule B



800 Robson - Phase 1 Plaza Work Plan

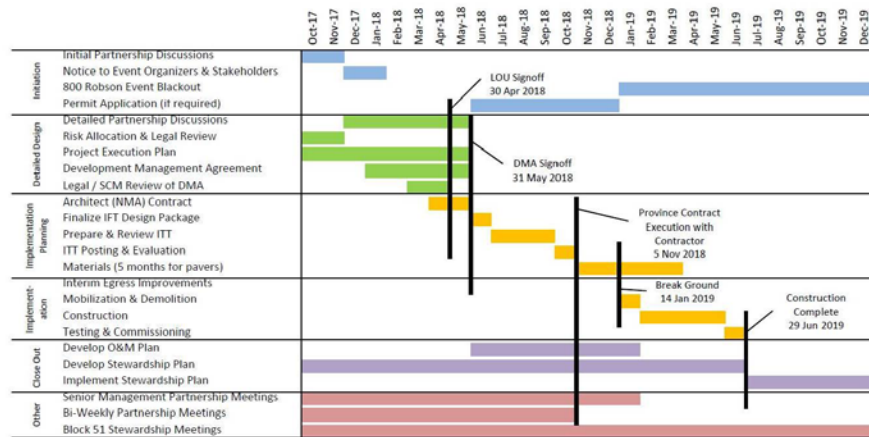
ENGINEERING SERVICES  
Street Activites Branch

**Purpose:**

This issue note identifies the project work plan, critical path and key milestones for project delivery of the 800 Robson plaza project as part of the 2019 capital plan. It is intended to reflect the key timeline required to achieve plaza construction in Winter/Spring 2019 and is being communicated to the Province of BC to serve as a guide for the delivery of the project based on a partnered approach.

**Assumptions:**

- City-led project with Province construction delivery
- UBC schedule impact (January to June 2019 construction period)
- Development Management Agreement (DMA) acts in lieu of Memorandum of Understanding (MOU)
- Executive Director signing authority required from Province for DMA
- Provincial tendering timelines (approx. 3 months preparation and review + 1 month posting and evaluation)
- 'Close Out' & 'Other' portion of schedule owned by City of Vancouver
- City to provide first draft of Development Management Agreement



800 Robson (April 2018)