



**STAFF REPORT
ACTION REQUIRED**

Expropriation of Part of 228-230 Queens Quay West and Part of the Lands at the Rear of 250-270 Queens Quay West for the Reconstruction of the York/Bay/Yonge Off-ramp from the F.G. Gardiner Expressway

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|--------------------------|---|
| Date: | October 23, 2015 |
| To: | Government Management Committee |
| From: | Chief Corporate Officer |
| Wards: | Ward 20 – Trinity Spadina |
| Reference Number: | P:\2015\Internal Services\RE\Gm15038re (AFS #21976) |

SUMMARY

The purpose of this report is to seek authorization from City Council to commence proceedings for the expropriation of certain lands forming part of the condominium property known municipally as 228-230 Queens Quay West and certain lands located to the north (rear) of the condominium properties known municipally as 250-270 Queens Quay West. These lands are required for the reconstruction and realignment of the Gardiner Expressway's York/Bay/Yonge off ramp (the "Project") with a new ramp to Lower Simcoe Street.

While discussions with the affected owner and condominium corporations are ongoing, it appears unlikely that satisfactory negotiated terms can be achieved, as the required land is directly part of, or subject to easements in favour of, condominium properties. Pursuant to the *Condominium Act* (Ontario), a condominium corporation is prohibited from selling part of the condominium's common elements unless at least 80% of the unit owners vote in favour of the sale and 80% of those persons with a registered claim against the property consent in writing to the sale. In order to release easements that benefit a condominium, a majority, or in some cases 80%, of the unit owners must approve the release. Given the large number of condominium units involved, it will likely be necessary to acquire the required lands by expropriation to avoid jeopardizing the construction schedule for the Project.

RECOMMENDATIONS

The Chief Corporate Officer recommends that:

1. City Council direct the Director, Real Estate Services to continue discussions with the condominium corporation at 228-230 Queens Quay West for the acquisition of the lands shown hatched on the sketch attached as Appendix “A”, and continue discussions with the owner of the lands at the rear of 250-270 Queens Quay West for the acquisition of the lands shown hatched on the sketch attached as Appendix “B” (the lands shown hatched in Appendices “A” and “B” are collectively referred to as the “Properties”), and City Council grant authority to initiate the expropriation process for the Properties if the Director, Real Estate Services deems it necessary or appropriate to do so.
2. City Council grant authority to serve and publish Notices of Application for Approval to Expropriate the Properties, to forward to the Chief Inquiry Officer any requests for hearing that are received, to attend the hearing to present the City's position and to report the Inquiry Officer's recommendations to City Council for its consideration.

Financial Impact

The costs to serve and publish the required Notices of Application for Approval to Expropriate, together with any costs related to attendance at the Hearing of Necessity, if any, will be funded from the 2015 Council Approved Capital Budget for Transportation Services, account CTP814-56-02 (Gardiner York-Bay-Yonge Re-Configuration).

In the event of expropriation, funding for the market value of the Properties, as well as disturbance costs (if any), interest, land transfer tax costs, and all other associated costs stipulated under the *Expropriations Act* will also be requested through the 2016 Capital Budget submission for Transportation Services. The detailed funding amounts will form part of a subsequent report to Committee and Council seeking final approval for the expropriation, if necessary.

The Deputy City Manager & Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting of January 21, 2015, the Bid Committee awarded a contract pursuant to Request for Proposal No. 9117-14-5073 to MMM Group Limited for professional engineering services for the preliminary and detailed design for the F.G. Gardiner Expressway – York/Bay/Yonge Off-ramp Reconstruction. The Bid Committee Decision associated with this award can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2015.BD8.5>

At its meeting on July 8, 9, 10 and 11, 2014, City Council approved an increase to the 2014 Capital Budget for Transportation Services, to be fully funded by the Section 37 funds secured in the development at 90 Harbour Street and 1 York Street, to fund the procurement of the detailed design for the F.G. Gardiner Expressway – York/Bay/Yonge Off-ramp Reconstruction. The Council Decision associated with this approval can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2014.MM54.5>

At its meeting on July 11, 12 and 13, 2012, City Council authorized an amendment to the York/Bay/Yonge Interchange Reconfiguration Environmental Assessment Study to exclude the north-south street between Queens Quay West and Harbour Street, east of York Street. The Council Decision associated with this approval can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.PW16.1>

At its meeting on August 25, 26 and 27, 2010, City Council authorized the General Manager of Transportation Services to issue a Notice of Completion and to file the Environmental Study Report for the "Modifications to York/Bay/Yonge Ramps to the Gardiner Expressway – Class Environmental Assessment Study" and City Council directed that the plans for the new off-ramp show a three lane cross section with standard shoulder widths. The Council Decision associated with this approval can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.PW35.12>

At its meeting on July 15, 16 and 17, 2008, City Council authorized the General Manager of Transportation Services to undertake a Class Environmental Assessment Study to examine potential modifications to the York/Bay/Yonge Streets eastbound off-ramp and the Bay Street eastbound on-ramp of the Gardiner Expressway. The Council Decision associated with this approval can be found at:

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2008.EX22.2>

ISSUE BACKGROUND

In 2010, Transportation Services completed the Municipal Class Environmental Assessment for the York/Bay/Interchange Reconfiguration. The approved reconfiguration of the York/Bay/Interchange includes the replacement of the existing York/Bay/Yonge off-ramp from the eastbound F.G. Gardiner Expressway with a new off-ramp terminating at Lower Simcoe Street and the widening of Harbour Street from Lower Simcoe Street to Bay Street.

Construction is tentatively scheduled to start in 2016.

The existing off-ramp carries two (2) lanes of vehicular traffic. The new off-ramp will carry three (3) lanes of vehicular traffic on a realigned structure, terminating at Lower Simcoe Street and feeding into the widened Harbour Street.

The reconstruction of the York/Bay/Yonge off-ramp will support and enhance improvements in the pedestrian realm proposed in the York Street and Bay Street Pedestrian Promenade Plans, and improve cycling connections, public spaces and parks.

In order to accommodate the realigned, wider ramp, the City needs to acquire the Properties, which are on the south side of Lake Shore Boulevard, between Lower Simcoe Street and Rees Street. The Properties vary in width from approximately 3.5m to 8.0m, as shown on the sketches attached as Appendices “A” and “B”.

COMMENTS

The Properties are shown hatched on the sketches attached as Appendices "A and "B". The location of the Properties is shown on Appendix “C”. Further details about the Properties are summarized in the chart below:

| Address | Legal Description | Site Area (SF) (approx.) | Property Description |
|--|--|--------------------------|----------------------|
| Part of 228-230 Queens Quay West | Part of common elements on Toronto Standard Condominium Plan No. 1536, Condominium Block 12536, City of Toronto | 6,450 | Vacant Lands |
| Part of the Vacant Lands at the Rear of 250-270 Queens Quay West | Part of PIN 21419-0077 (LT) - Part of Blocks 2 and 3, Plan 616E Toronto, City of Toronto; and Part of PIN 21419-0040 (LT) – Part of Blocks 2 and 3, Plan 616E Toronto, City of Toronto | 2,495 | Vacant Lands |

The lands that are required at 228-230 Queens Quay West form part of the common elements of two condominium towers, which are governed by one condominium corporation, located on this site. Pursuant to the *Condominium Act*, a condominium corporation is prohibited from selling part of the common elements of a condominium unless at least 80% of the unit owners vote in favour of the sale and at least 80% of those persons who have registered claims against the common elements to be sold consent in writing to the sale. Given the large number of units in these two buildings (over 500 units), it will be extremely difficult to achieve the 80% threshold that is required before the condominium corporation can sell the necessary land to the City. Therefore, it is anticipated that it will be necessary to initiate expropriation proceedings to acquire these lands.

The lands that are required at the rear of 250-270 Queens Quay West do not form part of a condominium and are owned by a private corporation. However, there are three condominium towers, each governed by a separate condominium corporation, located at 250-270 Queens Quay West. These condominiums each have the benefit of a number of reciprocal easement rights over the privately owned land to the rear, including the portion that is required by the City. All or some of these easements will need to be released from the lands the City requires. Pursuant to the *Condominium Act*, a condominium corporation may by by-law release an easement that forms part of the common elements if a majority of the unit owners vote in favour of the by-law. If releasing the easement also involves an amendment to the condominium declaration, then 80% of the unit owners must first consent to the amendment in writing. Given the large number of units in these three condominium buildings (over 500 units in total), it will be extremely difficult to obtain the necessary votes and if applicable, written consents, that are required before the condominium corporation can release any of the easements over the lands that are required by the City. Therefore, it is anticipated that it will be necessary to initiate expropriation proceedings to acquire these lands.

CONTACT

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SIGNATURE

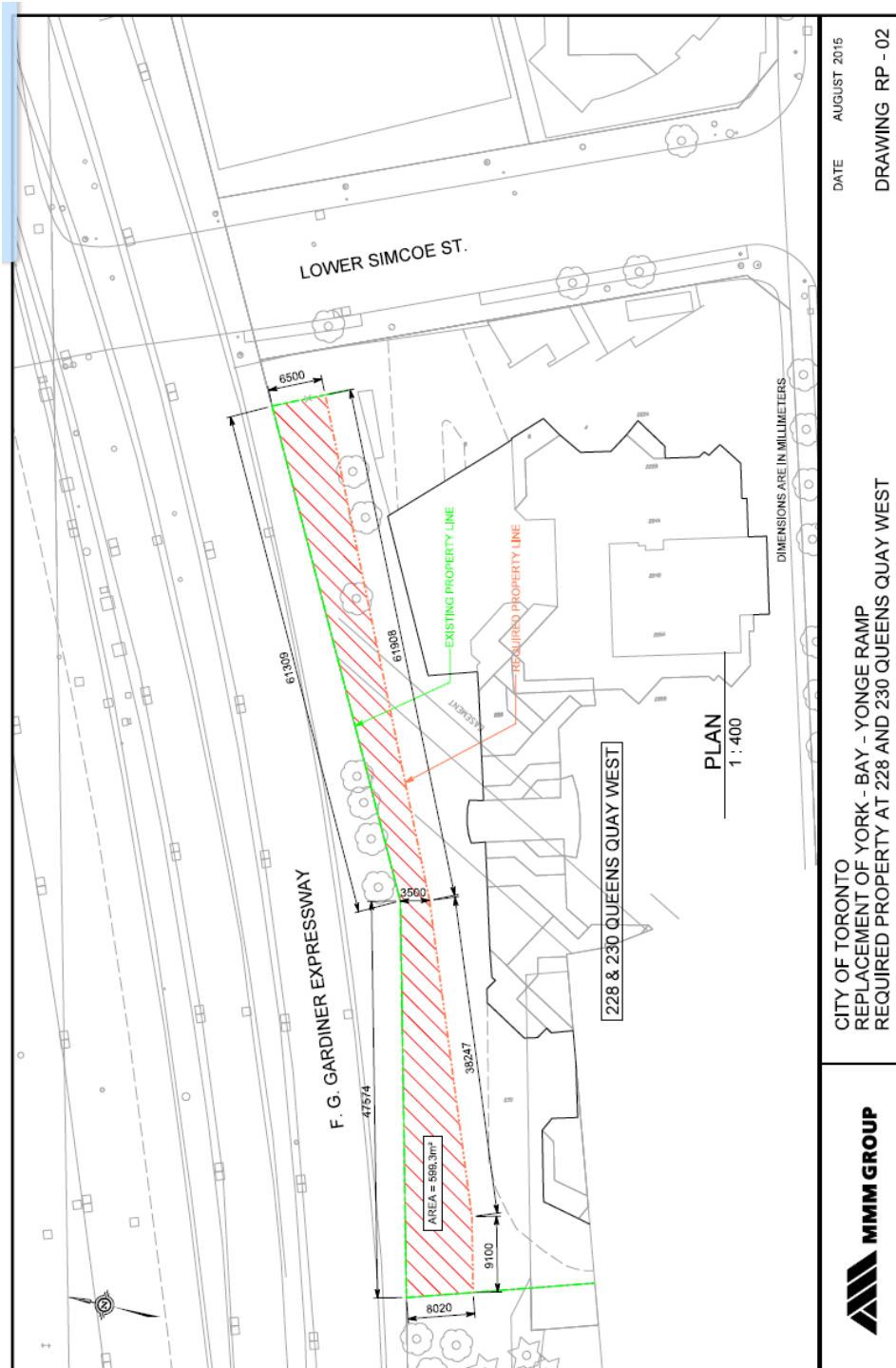
Josie Scioli
Chief Corporate Officer

ATTACHMENTS

Appendix "A" – Property Requirement Sketch-228-230 Queens Quay West
Appendix "B" – Property Requirement Sketch-Lands Rear 250-270 Queens Quay West
Appendix "C" – Location Map

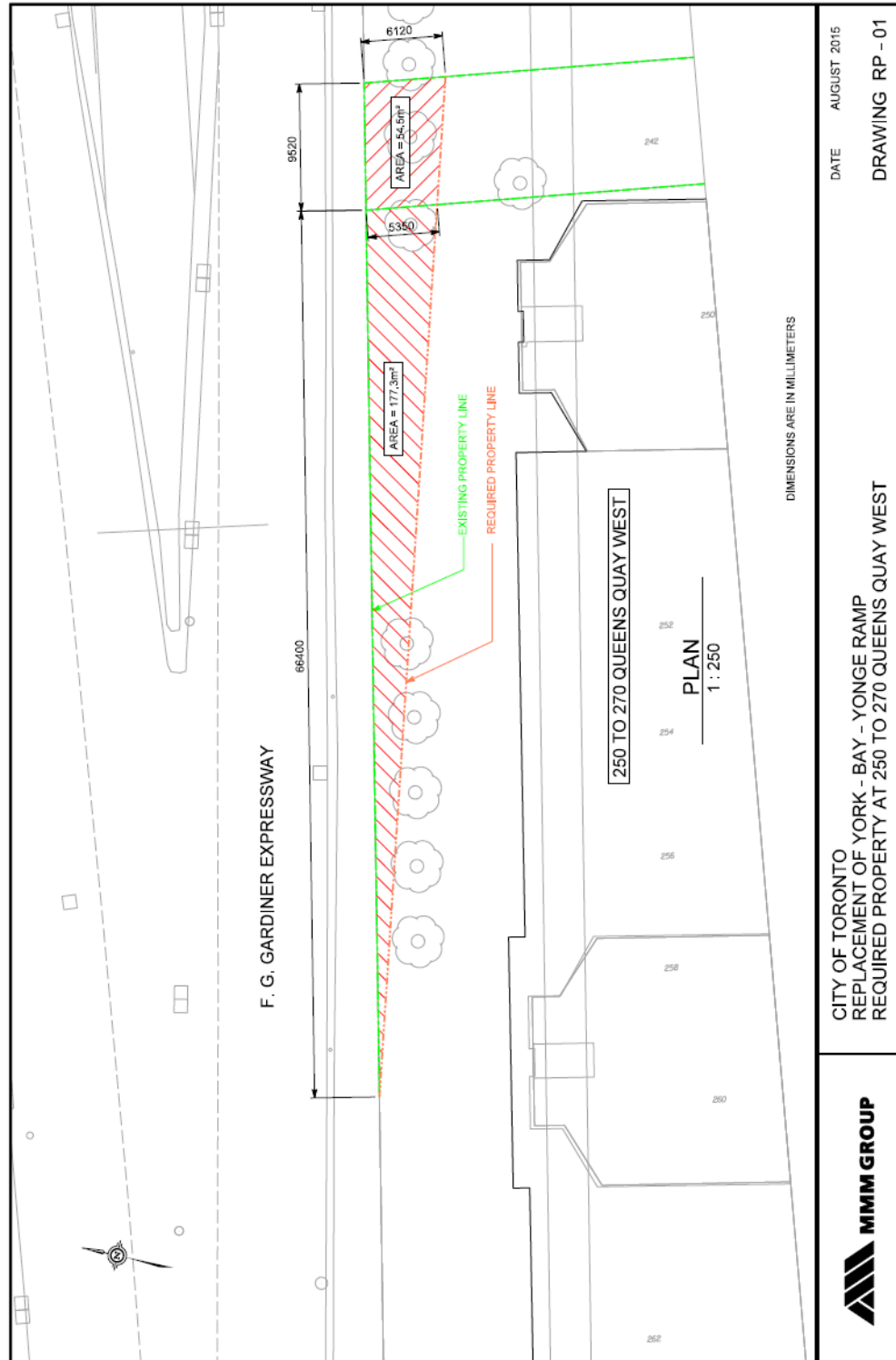
Appendix "A"

Property Requirement Sketch - 228-230 Queens Quay West



Appendix "B"

Property Requirement Sketch – Lands at Rear of 250-270 Queens Quay West



Appendix "C"

Location Map

