

Transportation Services 2017 Capital Budget Adjustments

Date: January 29, 2018

To: City Council

From: General Manager, Transportation Services

Wards: All

SUMMARY

On December 14, 2017, the Ontario Superior Court of Justice (OSCJ) issued an order for the City to compensate the owner of 405 Dufferin Street for costs incurred in determining the compensation payable as a result of the City's expropriation of the property in 2005 as required for the Dufferin Street Jog Elimination project completed in 2010. This report requests City Council's authority to amend Transportation Services' Approved 2017 Capital Budget by adjusting cash flows contained within the 2017 Budget to make this payment to the owner of 405 Dufferin Street. The adjustment will have a net zero budget impact on the 2017 Transportation Services' Approved Capital Budget.

RECOMMENDATIONS

The General Manager, Transportation Services recommends that:

1. City Council authorize the reallocation of funds within Transportation Services' Approved 2017 Capital Budget in the amount of \$1.25 million, from CTP 315-09 to CTP 187-1 as required for the Dufferin Jog Elimination project, with a net zero budget impact.

FINANCIAL IMPACT

The OSCJ order requires the City to compensate the owner of 405 Dufferin Street for \$1.25 million.

Funding will be reallocated within the 2017 Capital Budget for Transportation Services from the Major SOGR Pooled Contingency account (CTP315-09) to the Dufferin Street Jog Elimination project (CTP187-1) as detailed in Attachment 1. The recommended reallocation within the 2017 Capital Budget for Transportation Services required to make this payment will have a net zero budget impact.

The Acting Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting of July 19, 20, 21 and 25, 2005, City Council approved the expropriation of the 405 Dufferin Street property for the purpose of constructing the Dufferin Street Underpass to eliminate the Dufferin Street Jog located just north of Queen Street. <https://www.toronto.ca/legdocs/2005/agendas/council/cc050719/cofa.pdf>

At its meeting of June 6, 2012, City Council authorized the City Solicitor to appeal to the Divisional Court, the Ontario Municipal Board land compensation decision released May 4, 2012 for 405 Dufferin Street. <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.CC24.3>

COMMENTS

In 2005, the City expropriated the property located at 405 Dufferin Street as part of the Dufferin Street Jog Elimination project.

On May 4, 2012, the OMB awarded the owner of 405 Dufferin Street higher compensation for the property than the City believed it to be worth. The OMB also ordered the City to pay the reasonable legal, appraisal, and other costs incurred for the purposes of determining the compensation.

Upon receiving authorization from City Council, on June 6, 2012, the City Solicitor appealed to the Divisional Court, the Ontario Municipal Board land compensation decision released May 4, 2012 for 405 Dufferin Street.

The Expropriations Act requires that the expropriating authority pay all reasonable legal, appraisal, planning and other costs incurred by the owner to determine the amount compensation payable. Determining the amount of compensation payable required an OMB hearing, as well as an appeal to the Divisional Court. The City has acknowledged that it was required to pay the owner's costs but the amount was in dispute.

On December 14, 2017, the OSCJ issued an order for the City to compensate the owner of 405 Dufferin Street \$1.25 million for cost incurred in the OMB as a result of the City's expropriation of the property in 2005 as required for the Dufferin Street Jog Elimination project.

Transportation Services is seeking approval to amend the 2017 Approved Capital Budget to adjust funding to facilitate the payment of the December 14, 2017 order from the OSCJ, in accordance with Section 71-9 B to E of the Financial Control By-Law.

The order payment will be reallocated from the Major State of Good Repair Pooled Contingency account (CTP315-09) which has experienced less than anticipated spending in 2017 as identified in Attachment 1.

CONTACT

Jacquelyn Hayward Gulati, BES, PMP
Director (Acting)
Transportation Infrastructure Management
Transportation Services
Tel.: (416) 392-5348
E-mail: jgulati@toronto.ca

SIGNATURE

Barbara Gray
General Manager, Transportation Services

ATTACHMENTS

Attachment 1: Proposed 2017 Budget Reallocation

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Program Area	CTP Account	2017 Approved Cash Flow	2017 Proposed Adjustment	Revised 2017 Cash Flow
Major SOGR Pooled Contingency	315-09	\$3,800,000.	(\$1,250,000.)	\$2,550,000.
Dufferin Street Jog Elimination	187-1	0	\$1,250,000.	\$1,250,000.
Total		\$3,800,000.	\$0.	\$3,800,000.