Minutes - Executive Policy Committee – July 14, 2010

Minute No. 434
Report - Standing Policy Committee on Property and Development – July 6, 2010

Item No. 19 **Sale - Portion of the Public Lane East of Andrews Street, North of Selkirk Avenue**
(Mynarski Ward)
eFile FI-2.4(34)

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submits the following to Council:

1. That the sale of that portion of the Public Lane East of Andrews Street, north of Selkirk Avenue, shown hatched on Misc. Plan No. 13617/1 to Urban Circle Training Centre Inc. be approved at a price of $1.00 plus the transfer, at no cost to the City, of the "Property to be Dedicated to the City of Winnipeg for a Public Lane" shown on Misc. Plan No. 13617/1 and in accordance with the terms and conditions of the Offer to Purchase dated March 18, 2010.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report - Standing Policy Committee on Property and Development – July 6, 2010

DECISION MAKING HISTORY:

Moved by Councillor Steeves,

That the recommendation of the Standing Policy Committee on Property and Development be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On July 6, 2010, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Issue: **Proposed Sale of a portion of the Public Lane East of Andrews Street, North of Selkirk Avenue**

Critical Path: **Standing Policy Committee on Property and Development**
Executive Policy Committee
Council

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Thorgrimson	D. Joshi	M Ruta	P. Sheegl, Deputy CAO

RECOMMENDATIONS

1. That the proposed sale of that portion of the Public Lane East of Andrews Street, North of Selkirk Avenue, shown hatched on the attached Misc. Plan No. 13617/1 to Urban Circle Training Centre Inc. be approved at a price of $1.00 plus the transfer, at no cost to the City, of the "Property to be Dedicated to the City of Winnipeg for a Public Lane" shown on Misc. Plan No. 13617/1 and in accordance with the terms and conditions of the attached Offer to Purchase, dated March 18, 2010.
2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REASON FOR THE REPORT

Standing Policy Committee on Property and Development approval is required to sell the portion of the closed lane for $1.00 and Council approval is required to acquire the land for the new public lane turnout to Pritchard Avenue.

IMPLICATIONS OF THE RECOMMENDATIONS

- As part of the land exchange, the City will acquire the land required for the new public lane turnout to Pritchard Avenue.
- There are no regulatory, human resources or neighbourhood implications associated with this report.

- The City's standard terms and conditions of sale will include provisions to protect the City's interests in the event that environmental contamination is discovered.

HISTORY

On February 24, 2010, Council approved closing of that portion of the public lane between Selkirk and Pritchard Avenues, east of Andrews Street (DAC8/2009) for incorporation into DASZ 29/2009 as set out on Misc. Plan No. 13617 attached.

The Planning, Property and Development Department is recommending that the sale of that portion of the Public Lane between Selkirk and Pritchard Avenues, east of Andrews Street shown hatched on the attached Misc. Plan No. 13617/1 to Urban Circle Training Centre Inc. for the purchase price of $1.00 plus the transfer, at no cost to the City, of the "Property to be Dedicated to the City of Winnipeg for a Public Lane" shown on Misc. Plan No. 13617/1 be approved, subject to the terms and conditions of the attached Offer to Purchase, dated March 18, 2010.

FINANCIAL IMPACT

Financial Impact Statement Date: May 21, 2010

Project Name:

Proposed Sale of a portion of the Public Lane East of Andrews Street, North of Selkirk Avenue

COMMENTS:

The recommendations contained in this report include that the proposed sale of that portion of the Public Lane East of Andrews Street, North of Selkirk Avenue, shown hatched on the attached Misc. Plan No. 13617/1 to Urban Circle Training Centre Inc. be approved at a price of $1.00 plus the transfer, at no cost to the City, of the "Property to be Dedicated to the City of Winnipeg for a Public Lane" shown on Misc. Plan No. 13617/1 and in accordance with the terms and conditions of the attached Offer to Purchase, dated March 18, 2010.

Other than the nominal consideration of $1, there are no financial implications associated with this report.

"Original Signed By"
Mike McGinn, CA
Manager of Finance

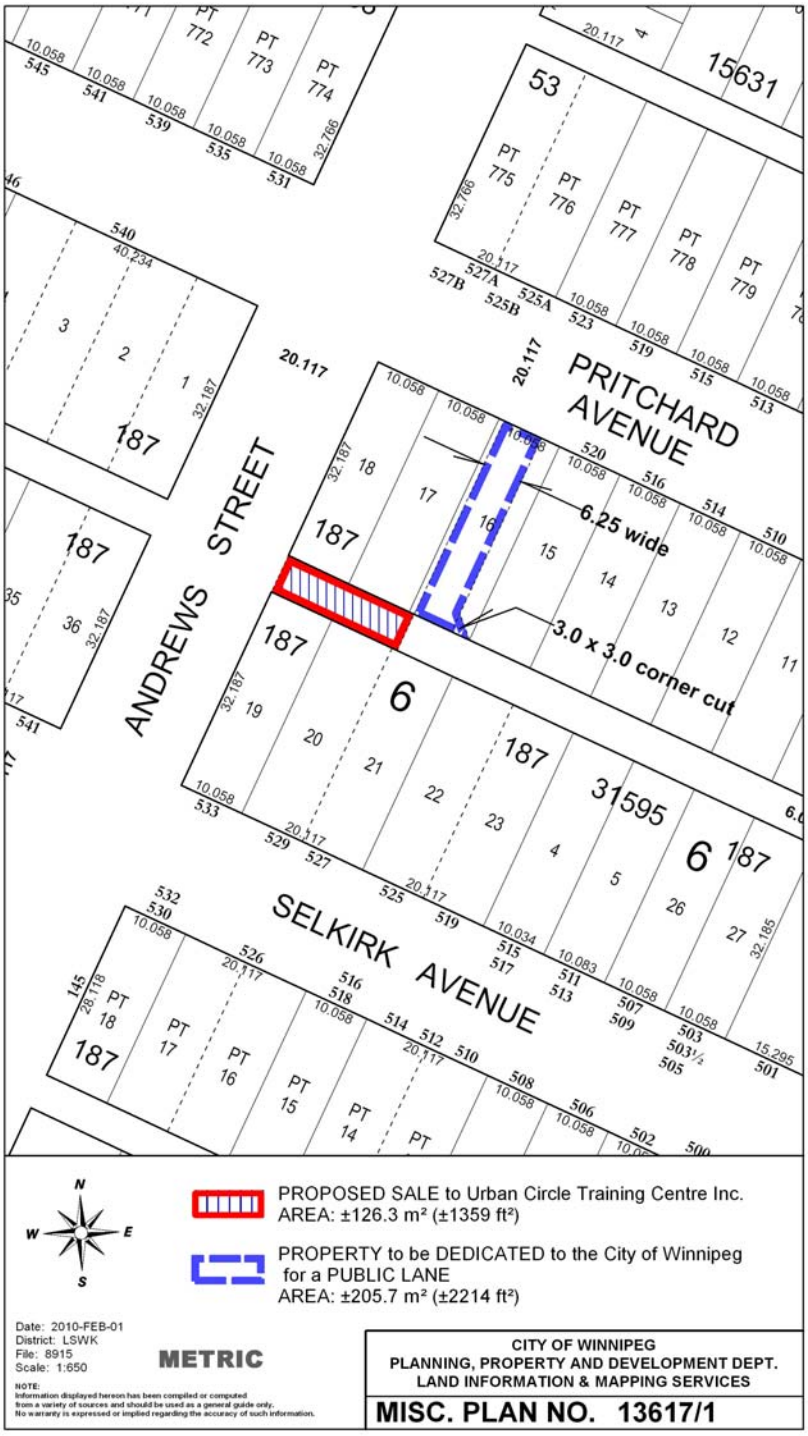
CONSULTATION

In preparing this report there was consultation with:

N/A

SUBMITTED BY

Department:	Planning, Property and Development Department
Division:	Real Estate
Prepared by:	Barry Lucyk
Date:	May 13, 2010
File No.	o:\reports directive\real estate\sales\(bl) urban circle training centre inc.doc


PRITCHARD AVENUE
ANDREWS STREET
SELKIRK AVENUE
6.25 wide
3.0 x 3.0 corner cut
PROPOSED SALE to Urban Circle Training Centre Inc.
AREA: ±126.3 m² (±1359 ft²)
PROPERTY to be DEDICATED to the City of Winnipeg for a PUBLIC LANE
AREA: ±205.7 m² (±2214 ft²)
Date: 2010-FEB-01
District: LSWK
File: 8915
Scale: 1:650
METRIC
NOTE:
Information displayed hereon has been compiled or computed from a variety of sources and should be used as a general guide only. No warranty is expressed or implied regarding the accuracy of such information.
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 13617/1

File No: 8915

INDUSTRIAL/COMMERCIAL

OFFER TO PURCHASE

The Undersigned (hereinafter called "the Purchaser") hereby offers to purchase from The City of Winnipeg (hereinafter called the "City") the following lands, subject to Council enactment of the necessary by-law to effect the legal closing of the following lands: -

> ***East side of Andrews Street, north of Selkirk Avenue, shown cross-hatched as "Propos ed Sale to Urban Circle Training Centre Inc.", on Misc. Plan No. 13617/1 attached hereto (hereinafter called "the "Lands") ;***

for the sum of $1.00 cash and other good and valuable consideration.

1. (1) The purchase price is payable as follows:

   (a) By payment of $1.00 cash as noted above;
   (b) By the transfer, at no cost to the City, of the real property which property is shown outlined as "Propert y to be dedicated to the City of Winnipeg for a Public Lane" on Misc. Plan No. 13617/1 attached hereto, and which real property shall be free and clear of all encumbrances and restrictions, on the date of possession as set out in Clause 3 (1) herein.

2. (1) The payment of $1.00 as set out in clause 1 (1) herein shall be applied to the purchase price if the sale is approved by the City's Standing Policy Committee on Property and Development and/or City Council (in the event that Council approval is required), herein after called the "Date of Ap proval".

3. (1) The date of possession for the Lands and the Property to be Dedicated to the City of Winnipeg for a Public Lane shall be: sixty (60) days (or such earlier mutually agreeable date) following the completion of the closing and opening plan, and enactment of the Closing and Opening Bylaw by Council and completion of the plan of survey as set out in Clause 15 herein.

(2) The Lands are presently owned by the City of Winnipeg and are therefore tax-exempt. The Lands will no longer be tax-exempt on and after the date of possession or the transfer of title, whichever is the earlier. The Purchaser is responsible for payment of the Property Taxes applicable to the Lands on and after the date of possession or transfer of title, whichever is the earlier, and will be sent a statement of, and demand payment of, Property Taxes in accordance with the provisions of The Municipal Assessment Act and The City of Winnipeg Charter. No adjustments for Property Taxes will be made on the Statement of Adjustments.

(3) The Purchaser shall pay interest in lawful money of Canada on all monies remaining outstanding and payable to the City as of the date of possession, which interest shall be calculated at the rate per annum equivalent to the prime lending rate in force by the City's Banker at the date of possession plus one (1%) percent, computed from the date of possession to and including the date all such monies and interest as aforesaid have been fully paid to the City.

4. Goods and Services Tax

(1) The Purchaser agrees to pay to the City all Goods and Services Tax applicable on the sale of the Lands or, if the Purchaser is a registrant under the Goods and Services legislation, the Purchaser shall advise the City in writing of its

registration number. The Goods and Services Tax is to be paid, or the registration number provided, to the City on or before the date of possession or the date the balance of monies is paid to the City, whichever is the earlier.

(2) If the Purchaser fails to pay the Goods and Services Tax or fails to provide its registration number as prescribed in sub-clause (1) of this Clause, the Purchaser agrees that all of the Purchaser's rights and interests in respect of the Lands shall, at the City's sole discretion, be fully ended without notice or any formality and all monies paid to the City by the Purchaser shall be retained by the City free from every claim.

5. The Purchaser will obtain possession of the Lands at the Purchaser's own expense.

6. The Purchaser will accept Title to the Lands subject to all exceptions, reservations and encumbrances expressed or implied in the City's Title.

7. The sale of the Lands to the Purchaser shall be subject to the provisions of the By-laws of the City of Winnipeg and all amendments thereto. Furthermore, the Purchaser acknowledges and understands that its proposed use and development of the Lands may require applications for re-zoning, variances or conditional uses, and amendments to Plan Winnipeg, which applications and resulting land dedication charges (if any) are to be at the sole cost and responsibility of the Purchaser.

8. The Purchaser agrees that the City may register and maintain a caveat against the Lands to ensure the performance of the covenants on the part of the Purchaser herein set forth, and the Purchaser agrees to grant and does hereby grant to the City an interest in the Lands according to the tenor of this Offer.

9. The Purchaser agrees that in the event the Purchaser, at its sole cost, conducts or causes to be conducted an Environmental Site Assessment and/or soil testing of the Lands, it shall:

(1) ensure that all work done in connection with such Environmental Site Assessment and/or soil testing is completed no later than ninety (90) days from the Date of Approval, and

(2) maintain the Lands in safe condition at all times during the conduct of any work done in pursuance of this Clause 9; and

(3) restore the Lands to the same condition as prior to its entering in or upon same in pursuance of this Clause 9; and

(4) indemnify and save harmless the City from and against all damages and claims arising out of or in any way attributable to the conduct of any such Environmental Site Assessment and/or soil testing; and

(5) provide copies of any such Environmental Site Assessment and/or Report concerning soil testing of the said Lands to the City for its own use, at no cost to the City no later than ninety (90) days from the Date of Approval.

AND in the event it is determined as a result of said Environmental Site Assessment and/or soil testing, that contamination levels exceed Provincial Environmental Standards for the intended use of the Lands and documentation to that effect is produced to the City within ninety (90) days following the Date of Approval, but in any event, prior to closing, the City, at its sole option, shall be entitled to:

take remedial action to bring the contamination levels to within the Provincial Environmental Standards;

OR

cancel the sale and return all monies paid in respect of the proposed sale by the Purchaser to that date, PROVIDED that the Purchaser shall have first satisfied all conditions of this Clause 9.

AND FURTHER if the City has not been advised of any non-compliance of the Lands to Provincial Environmental standards within ninety (90) days from the Date of Approval, the Purchaser agrees to complete its purchase as herein contemplated and to indemnify the City against any and all claims arising from or in any way connected with the existence of contaminants of any kind at the Lands.

10. (1) The Purchaser acknowledges that the City is not providing any warranty as to the environmental condition of the Lands.

(2) The Purchaser shall indemnify and save harmless the City from and against all claims, costs and damages arising from or in any way connected with the existence of contaminants of any kind in or on the Lands.

(3) The Purchaser agrees that it will rely solely upon its own investigations in determining the degree of contamination, if any, existing on and within the Lands and the extent of contamination, if any.

(4) It is understood and agreed that the terms, conditions and covenants contained in this Clause 10 shall not merge but shall survive closing.

11. The City agrees that in the event the City, at its sole cost, conducts or causes to be conducted an Environmental Site Assessment and/or soil testing of the Property to be dedicated to the City of Winnipeg for a Public Lane ("Future Public Lane Lands"), it shall:

(1) ensure that all work done in connection with such Environmental Site Assessment and/or soil testing is completed no later than ninety (90) days from the Date of Approval, and

(2) maintain the Future Public Lane Lands in safe condition at all times during the conduct of any work done in pursuance of this Clause 11; and

(3) restore the Future Public Lane Lands to the same condition as prior to its entering in or upon same in pursuance of this Clause 11; and

(4) indemnify and save harmless the Purchaser from and against all damages and claims arising out of or in any way attributable to the conduct of any such Environmental Site Assessment and/or soil testing.

AND in the event it is determined as a result of said Environmental Site Assessment and/or soil testing, that contamination levels exceed Provincial Environmental Standards for the intended use of the Future Public Lane Lands and documentation to that effect is produced to the Purchaser within ninety (90) days following the Date of Approval, but in any event, prior to closing, the Purchaser, at its sole option, shall be entitled to:

take remedial action to bring the contamination levels to within the Provincial Environmental Standards;

OR

cancel the sale and return all monies paid in respect of the proposed sale by the City to that date, PROVIDED that the City shall have first satisfied all conditions of this Clause 11.

AND FURTHER if the Purchaser has not been advised of any non-compliance of the Future Public Lane Lands to Provincial Environmental standards within ninety (90) days from the Date of Approval, the City agrees to complete the transaction as herein contemplated.

12. The Purchaser acknowledges and agrees that notwithstanding any other terms, conditions or provisions in this agreement that:

(1) The City has given no representations or warranties with respect to the Lands or with respect to the value thereof or with respect to the Purchaser's intended uses or development or redevelopment thereof or with respect to the environmental condition of the Lands;

(2) The Purchaser has inspected or investigated the Lands, the title thereto, the permitted encumbrances, any tenancies and all other matters material to the Purchase and the proposed use of the Lands and that it is relying solely upon its own independent inquiries and investigations and the advice of its own consultants and there are no representations, warranties, guarantees, conditions, collateral agreements, covenants and agreements except those expressly set forth herein;

(3) The Purchaser agrees that it is purchasing the Lands on an "as is", "where is" basis, and is purchasing the lands based entirely on its own examinations without any representation by or on behalf of the City or any agent of the City. The Purchaser acknowledges that it has relied entirely upon its own inspection and investigation with respect to quantity, quality and value of the Lands;

(4) Any information supplied to the Purchaser by the City or its agents or representatives is and was supplied without any representation or warranty, and that the responsibility for verification of any such information shall be the responsibility of the Purchaser; and

(5) The Lands are deemed to be taken by the Purchaser at the Purchaser's own risk with all faults and imperfections whatsoever. The Purchaser agrees with the City that the application of "Buyer Beware" shall apply to the offer in the strictest meaning.

14. (1) The Purchaser agrees that the sale of the Lands shall be subject to any easement which may be required by a public utility, including, but not limited to the Manitoba Hydro, MTS Allstream Inc., Centra Gas Manitoba Inc., or The City of Winnipeg, for the maintenance of existing and future facilities together with the right to enter upon the Lands at any time, with or without equipment for said purposes and subject to the owner covenanting not to erect or cause to be erected upon the easement area any building or structure without the prior written consent of the public utility or The City of Winnipeg requiring such easement. The Purchaser will assume any and all costs for any relocation of utility distribution facilities. Manitoba Hydro, Shaw Cablesystems and Centra Gas will require easements for the maintenance of their plants in the Lands. No permanent structures will be allowed in these easement areas.

(2) The Purchaser to enter into agreements satisfactory to the said utilities or The City of Winnipeg.

(3) The Purchaser acknowledges that the City may grant the easements before the Transfer of Land issues.

15. In further consideration of the sale of the Lands by the City to the Purchaser, the Purchaser covenants and agrees as follows:

(1) The Purchaser shall, at the Purchaser's sole cost, effort and expense, do all things as are necessary, including but not limited to causing to be prepared (a) a closing plan to effect the legal closing of the Lands, (b) a Plan, suitable for registration at Winnipeg Land Titles Office, together with such documentation as may be required to ensure that the Lands to be conveyed by the City and the Purchaser's a djoining properties legally described as: Lots 17,18, 20 and 21, Block 6, Plan 187 in the Winnipeg Land Titles Office, are consolidated so as to constitute a single and indivisible parcel. The Purchaser does hereby acknowledge that in

complying with this obligation it may be required to arrange for the discharge and re-registration of existing encumbrances against the Purchaser's property described herein. This agreement shall run with the Lands and the Purchaser's adjoining property and shall bind the Purchaser, its successors and assigns and its successors in title.

(2) To pay the applicable Land Titles Office registration fees and Land Transfer Tax in respect thereto.

16. No commission is payable by the City on the sale of the Lands.

17. Time shall be of the essence of this Offer.

18. The Purchaser will not file any caveat or other encumbrance against the Lands before the transfer of the Lands to the Purchaser.

19. The word "Purchaser" shall have a plural meaning in the event that more than one party is making this offer, and the masculine shall mean the feminine or neuter as the case may be.

20. The Purchaser acknowledges and agrees that sale of the Lands by the City is subject to the approval of City Council or its delegated authority.

21. The Purchaser is hereby advised that soil conditions in Winnipeg are of the glacial till variety which are composed of Lacustrine Clays with Silt Intrusions. The Purchaser shall be responsible for any increased costs of development due to this random stratification.

22. The Purchaser acknowledges and agrees that the sale of the Lands shall be subject to the Purchaser applying for and obtaining from the City's Public Works Department, Private Approach Approval for the continued use of the existing street approach from Andrews Street. The Purchaser acknowledges and agrees that should the Purchaser not require the use of the existing street approach from Andrews Street, the sale of the Lands shall be subject to the Purchaser, at the Purchaser's sole cost, effort and expense, being responsible for the removal of the existing approach from Andrews Street, including but not limited to the restoration of the curbs, boulevard and sidewalk (if any) all to the satisfaction of the City's Director of the Public Works Department.

23. The sale of the Lands shall be subject to the Purchaser transferring to the City, at no expense to the City of Winnipeg, the real property shown outlined as "Property to be Dedicated to the City for a Public Lane", on Misc. Plan No. 13617/1 attached, failing which, this Offer shall be null and void.

24. The Purchaser shall, prior to the date of closing, enter into a Servicing Agreement with the City, to carry out the following works at the Purchaser's expense:

(a) Removing the existing lane pavement within the portion of the public lane being closed, if necessary.

(b) Establishing in the area shown as "Prop erty to be Dedicated to the City of Winnipeg for a Public Lane" on Misc. Plan No. 13617/1 a lane right-of-way of 6.25m.

(c) Construct a 5.0 m in width by 150mm in thickness portland cement concrete pavement and all related works, including, but not necessarily limited to a lane turnout at Pritchard Avenue and land drainage sewer, if required, within the proposed north-south public lane as same is shown on Misc. Plan No. 13617/1 attached hereto as " Property to be dedicated to the City of Winnipeg for a Public Lane", all as determined by and to the satisfaction of the Director of Public Works.

24. The Purchaser shall, prior to the date of closing, provide evidence in writing to the City that it has entered into an easement agreement with the property owner of No. 533 Selkirk Avenue, on terms and conditions acceptable to the Purchaser and the owner of No. 533 Selkirk Avenue, over a portion of the Lands.

25. The parties hereto shall and will at all times and from time to time hereafter and upon every reasonable written request so to do, make, do, execute, deliver or cause to be made, done, executed and delivered any and all such further acts, deeds assurances and things as may be required for more effectually implementing and carrying out the true intent and meaning of this Agreement.

26. None of the provisions of this Agreement will merge on the closing of this transaction or with the conveyance of the Lands or the Property to be Dedicated to the City of Winnipeg for a Public Lane.

27. This Agreement shall run with the Lands, the Purchaser's adjoining properties and the Property to be Dedicated to the City of Winnipeg for a Public Lane and shall bind the Purchaser, its successors and assigns and its successors in title.

The full, true and correct name of the Purchaser is as follows: -

Urban Circle Training Centre Inc. 519 SELKIRK AVE, WINNIPEG
Name (Please Print) Address

Purchaser's Registrat ion No. (G.S.T.) BW895599199RT0001

IN WITNESS WHEREOF the Purchaser has signed this document in

Winnipeg, Manitoba, this 18th day of MARCH 2010

Witness

Authorized Signature

Norma Spence, Co-Chair, Board of Directors
Name and Title of Authorized Signature (Please print)

Witness

Authorized Signature

Bonnie MacInnes, Co-Chair, Bd of Directors
Name and Title of Authorized Signature (Please print)

ACCEPTED this _____day of _____, A.D., 2010

THE CITY OF WINNIPEG

Per: _____
DIRECTOR of Planning, Property and Development

Approved as to details:

_____
Planning, Property and Development

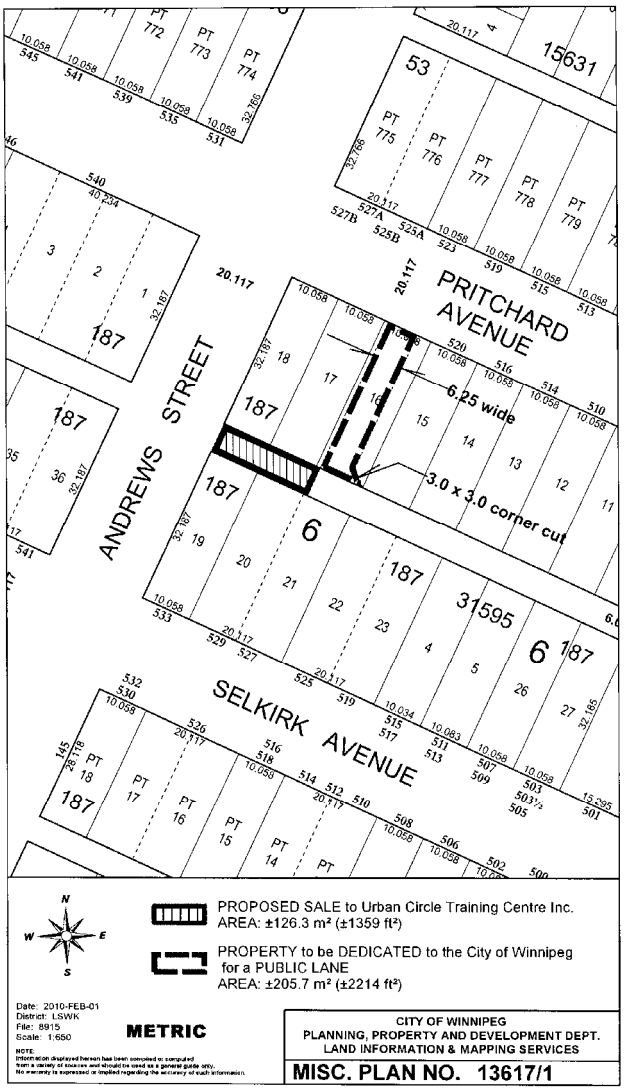
Approved as to form:

_____
for City Solicitor/Manager of Legal Services

Approved as to details:

_____
Public Works Department

V:\Barry\8915 Pritchard Urban Circle lane\Urban Circle Training Centre Inc offer.doc


PRITCHARD AVENUE
ANDREWS STREET
SELKIRK AVENUE
6.25 wide
3.0 x 3.0 corner cut
PROPOSED SALE to Urban Circle Training Centre Inc.
AREA: ±126.3 m² (±1359 ft²)
PROPERTY to be DEDICATED to the City of Winnipeg for a PUBLIC LANE
AREA: ±205.7 m² (±2214 ft²)
Date: 2010-FEB-01
District: LSWK
File: 8915
Scale: 1:650
METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 13617/1

8