Minutes – Executive Policy Committee – May 21, 2014

Minute No. 349
Report – Standing Policy Committee on Property and Development – May 13, 2014

Item No. 10 Expropriation of Lands – Polo Park Infrastructure Improvements Project – West side of St. James Street (St. James – Brooklands Ward)

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

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

1. That the Director of Legal Services and City Solicitor be instructed to initiate expropriation proceedings, including preparing the necessary by-law for submission to Council, to acquire the land interests herein identified and required by the City for the Polo Park Infrastructure Improvements Project – Westside of St. James Street for the purpose of streets.

2. That the Director of Planning, Property and Development be authorized to request the Province of Manitoba to waive the requirement for an expropriation inquiry, under clause 9(8)(a) of the Expropriation Act.

3. That the Director of Legal Services and City Solicitor be instructed to prepare the necessary by-law for submission to Council to effect the street openings in accordance with Misc. Plan No. 14543/3.

4. That the City enter into an "Enter to Construct" agreement authorizing the City to enter upon properties identified herein for the purposes of commencing construction on the Polo Park Infrastructure Improvements Project pending the expropriation or the purchase and sale of said property by or to the City.

5. That the Chief Administrative Officer be authorized to negotiate and approve the terms and conditions of the "Enter to Construct" including:

   A. the grant of a release and indemnity in favour of the property owner;
   B. an undertaking that the City will, at its sole cost, effort and expense, return the property to its original condition in the event that the transfer of title to said property to the City is not finalized;
   C. such other terms and conditions deemed necessary by the Director of Legal Services and City Solicitor to protect the interests of the City.

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6. That any remnant parcel of lands resulting from the required street openings or street closings be declared surplus to the City's needs and made available for sale and that:

    A. the capital budget of the Polo Park Infrastructure Improvements Project be increased by the amount of the net proceeds from these sales, and;
    B. the net proceeds of these sales be transferred to the Polo Park Infrastructure Improvements Project capital budget from the Land Operating Reserve Fund.

7. That the Proper Officers of the City be authorized to do all things necessary to effect the foregoing described within, including demolition of buildings, execution of any necessary documents and preparation of any necessary by-laws.

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DECISION MAKING HISTORY:

Moved by Councillor Browaty,

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

Carried

David Sanders submitted a communication dated May 21, 2014, with respect to Expropriation of Lands – Polo Park Infrastructure Improvements Project – West side of St. James Street.

STANDING COMMITTEE RECOMMENDATION:

On May 13, 2014, 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

Title: **Expropriation of Lands – Polo Park Infrastructure Improvements Project – Westside of St. James Street.**

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

AUTHORIZATION

Author	Department Head	CFO	CAO
J. Zabudney	B. Thorgrimson	N/A	D. Joshi A/CAO

RECOMMENDATIONS

1. That the Director of Legal Services & City Solicitor be instructed to initiate expropriation proceedings, including preparing the necessary by-law for submission to Council, to acquire the land interests herein identified and required by the City for the Polo Park Infrastructure Improvements Project – Westside of St. James Street for the purpose of streets.
2. Subject to the approval of Recommendation No. 1, that the Director of Planning, Property and Development be authorized to request the Province of Manitoba to waive the requirement for an expropriation inquiry, under clause 9(8)(a) of the Expropriation Act.
3. That the Director of Legal Services & City Solicitor be instructed to prepare the necessary by-law for submission to Council to effect the street openings in accordance with the attached Misc. Plan No. 14543/3.
4. That the City enter into an "Enter to Construct" agreement authorizing the City to enter upon properties identified herein for the purposes of commencing construction on the Polo Park Infrastructure Improvements Project pending the expropriation or the purchase and sale of said property by or to the City.
5. That the Chief Administrative Officer be authorized to negotiate and approve the terms and conditions of the "Enter to Construct" agreement referred to in Recommendation #4, including

    - the grant of a release and indemnity in favour of the property owner;
    - an undertaking that the City will, at its sole cost, effort and expense, return the property to its original condition in the event that the transfer of title to said property to the City is not finalized;
    - such other terms and conditions deemed necessary by the City Solicitor / Director of Legal Services to protect the interests of the City.

6. That any remnant parcel of lands resulting from the required street openings or street closings be declared surplus to the City's needs and made available for sale and that:

    a. The capital budget of the Polo Park Infrastructure Improvements Project be increased by the amount of the net proceeds from these sales, and;

b. The net proceeds of these sales be transferred to the Polo Park Infrastructure Improvements Project capital budget from the Land Operating Reserve Fund.

7. That the proper officers of the City be authorized to do all things necessary to effect the foregoing described within, including demolition of buildings, execution of any necessary documents and preparation of any necessary by-laws.

REASON FOR THE REPORT

The subject properties, identified in the attached Schedule "A", are needed for the works required for the Polo Park Infrastructure Improvements Project, Westside of St. James Street. Council's authorization to expropriate is required immediately to ensure that the City is in legal possession of all land interests for preconstruction to take place in 2014.

IMPLICATIONS OF THE RECOMMENDATIONS

There are no regulatory, human resources or financial implications associated with this report.

HISTORY

- At its January 29, 2013 meeting, Council approved the Public Works Department's 2013 Capital Budget and the 2014 to 2018 Five-Year Forecast, which included the Polo Park Infrastructure Improvements Project (the Project).

- The Province of Manitoba has agreed to match the City's project funding up to $20,000,000.00 for the development of infrastructure improvements, less any land acquisition costs.

- In the spring of 2013 the Public Works Department retained the services of a private consultant to, among other things; confirm the land requirements for the Project.

- In June 2013, the Planning, Property and Development Department (the Department) was provided with preliminary design sketches that identified sixteen private properties from which land interests were required and negotiations commenced.

- The Public Works Department has advised that the Project works will be performed in two stages; Stage 1 – all works on the eastside of St. James Street between Maroons Road and St. Matthews Avenue and St. Matthews Avenue east of St. James Street to Empress Street to be completed by September 2014; Stage 2 - all works from St. Matthews Avenue to South of Yukon Avenue and St. Matthews Avenue extension west of St. James Street to Century Street to be completed in 2015.

- In January 2013, Public Works requested the Department to initiate expropriation proceedings for Stage 1 of the Project so as to ensure that all land requirements are in place for the 2014 construction season and preliminary work on the eastside of St. James Street between St. Matthews and Yukon Avenues can be completed prior to the 2015 construction season.

- At its February 26, 2014 meeting, Council considered and approved the Department's report recommending that expropriation proceeding be initiated for the lands required for Stage 1 and located on the eastside of St. James Street.

- The Public Works Department has requested the Department initiate expropriation proceedings for the Stage 2 of the Project to ensure all land interests are acquired prior to the 2015 construction season. Stage 2 of the Project will require a significant amount of the preliminary

work to be completed prior to when the actual construction of the road works can begin. The preliminary works will include demolition of buildings, modification and interior renovations to a building, a hydro plant relocation, relocation of utilities, etc.

- The Public Works Department and the Department concur that it would be in the City's best interest to immediately initiate expropriation proceedings and to request that the Province waive the expropriation inquiry to ensure all land interests are acquired and required preliminary work be completed prior to the 2015 construction season.

- In the meantime the Department will continue its efforts to negotiate the acquisition of all the required land interests for the property owners.

- Stage 2 of the project will require the legal opening of the new portion of St. Matthews Avenue and the legal closing of the "old" portion of St. Matthews Avenue. The Department's Geomatics Branch will initiate the appropriate legal road openings and closings via a separate report.

- The aforementioned legal street openings and closings will result in a number of remnant (none buildable) parcels of land being created. These parcels should be made available for sale to adjacent land owners, subject to any existing utility requirements. Being that these parcels fall under the jurisdiction of Public Works, the net proceeds from the sale of these remnant parcels to be credited back to the Project's account.

FINANCIAL IMPACT

Financial Impact Statement **Date:** April 22, 2014

Project Name:

Expropriation of Lands – Polo Park Infrastructure Improvements Project – Westside of St. James Street

COMMENTS:

There are no direct financial implications associated with initiating expropriation proceedings. The net proceeds of disposition of any remnant parcels created as a result of street openings or closings are not known at this time are anticipated to be immaterial in nature.

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

CONSULTATION

In preparing this report there was consultation with:

Legal Services (AC)
Public Works

SUBMITTED BY

Department	Planning, Property & Development
Division	Real Estate
Prepared by:	Stewart Anderson
Date:	May 2, 2014
File No.	5346 Vol 3, 5605/114, 7139, et. el.

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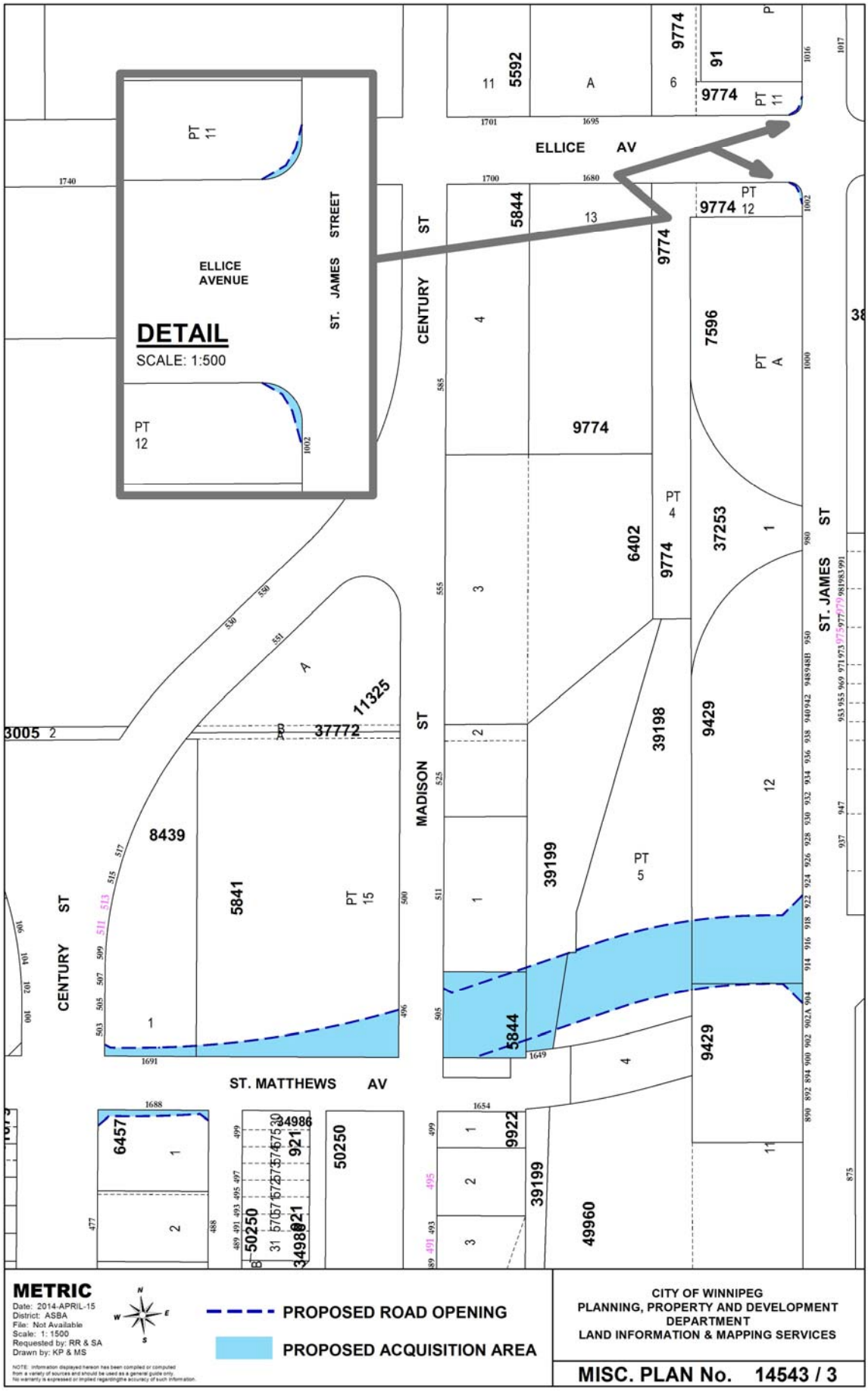
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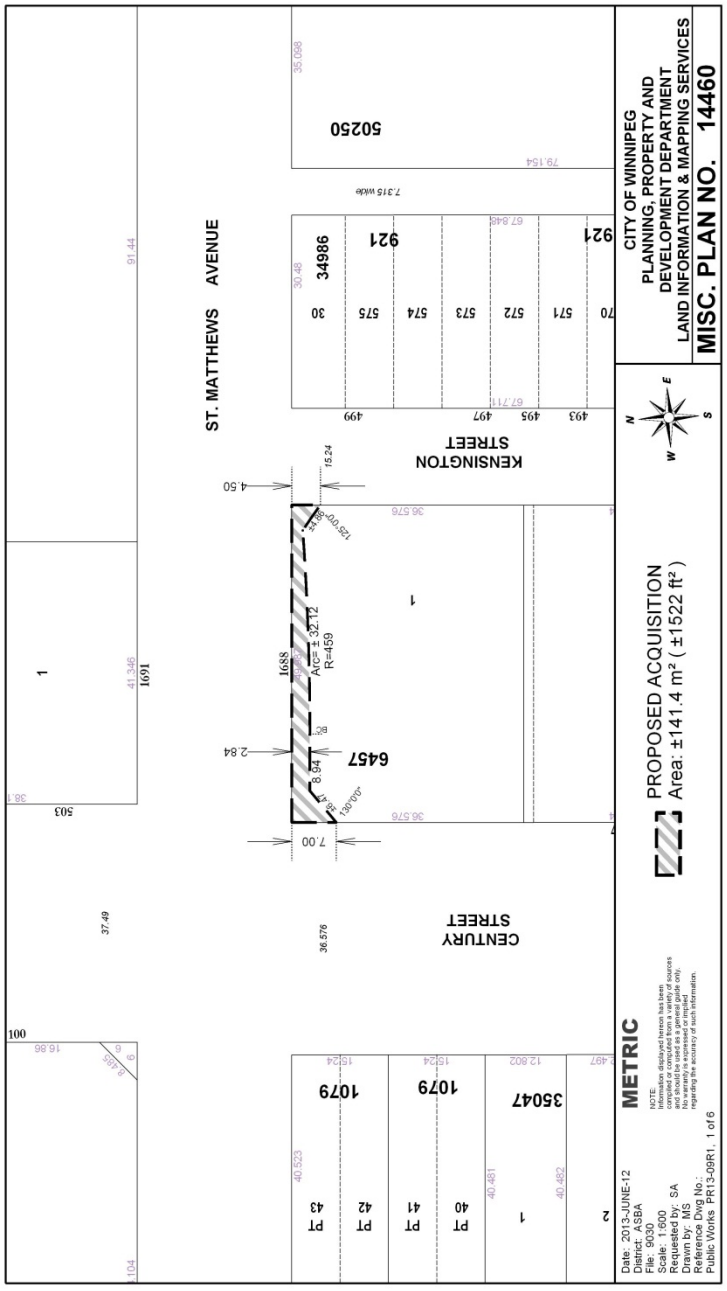
ELLICE AVENUE
ST. JAMES STREET
ELLICE AV
CENTURY ST
MADISON ST
ST. MATTHEWS AV
ST. JAMES ST
METRIC
Date: 2014-APRIL-15
District: ASBA
File: Not Available
Scale: 1: 1500
Requested by: RR & SA
Drawn by: KP & MS
PROPOSED ROAD OPENING
PROPOSED ACQUISITION AREA
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPARTMENT
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN No. 14543 / 3

Schedule "A"

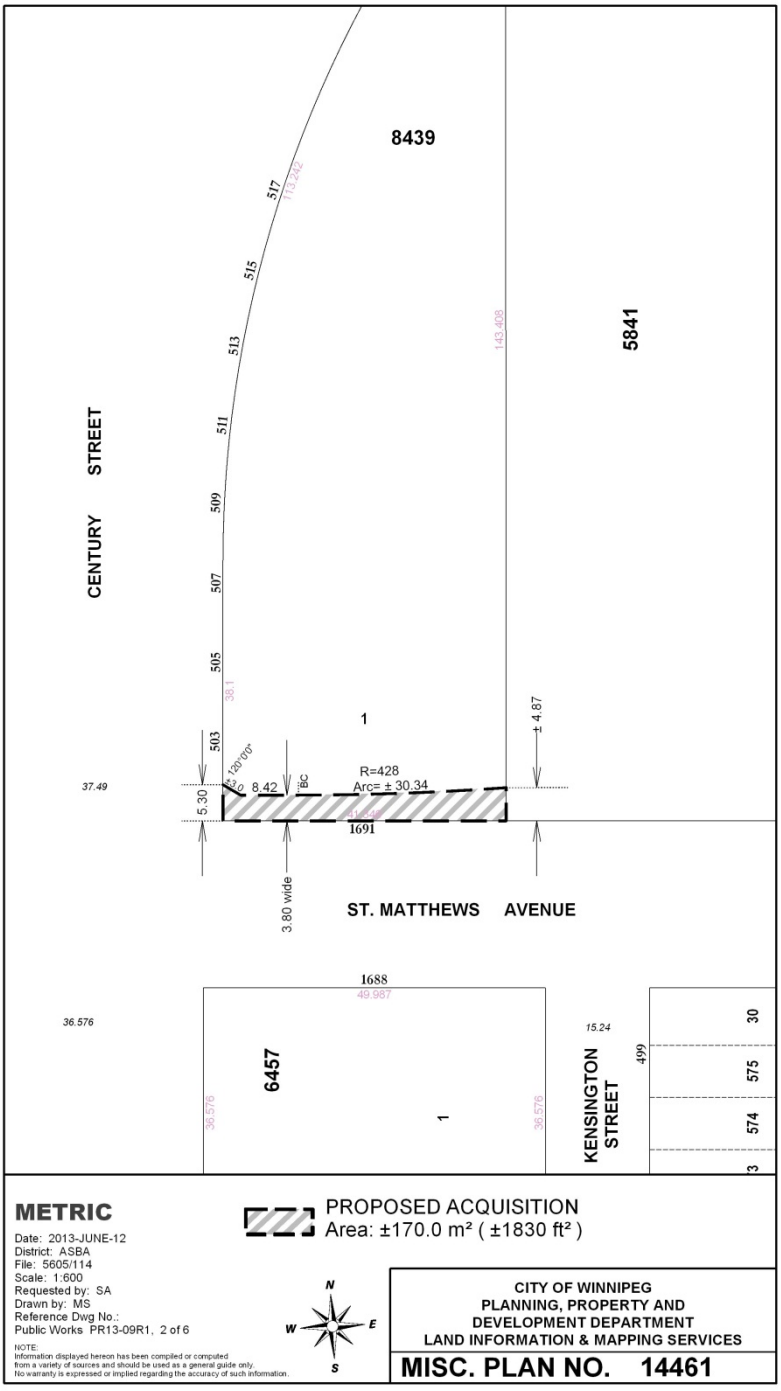
Holding # 1

Location: 1688 St. Matthews Avenue,
Legal Description: North 120 ft. of Lot 1 Plan 6457, DGS 39 St James
Zoning: M1 – Manufacturing Light
Property Taking: Part Taking - +/- 141.4 M^2, (+/- 1,522 ft^2)
Description: Parking lot - loss of parking, signage & fence relocation, interrupted access.



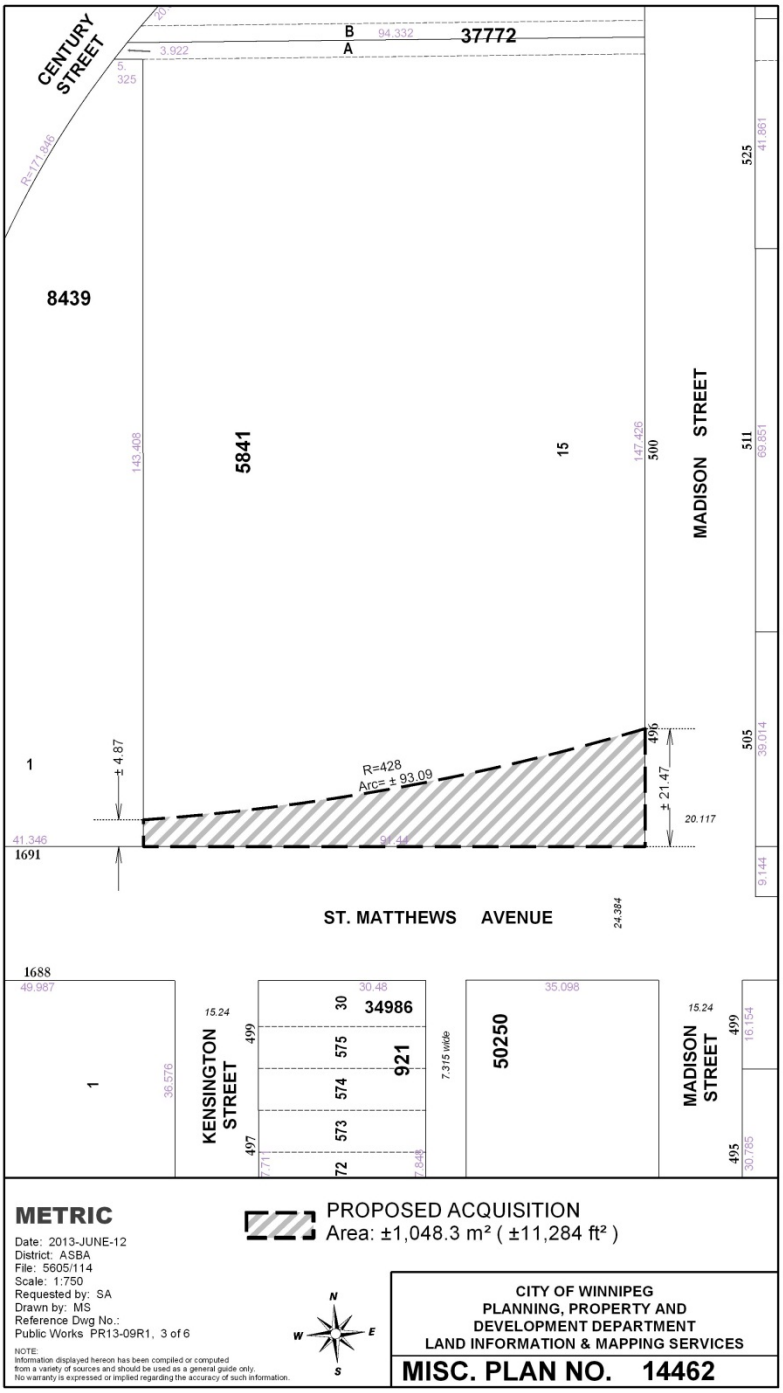
Holding # 2

Location:	1691 St. Matthews Avenue, 503 – 517 Century Street
Legal Description:	Pcl 1 Plan 8439, DGS 36/39 St. James
Zoning:	M1- Manufacturing Light
Property Taking:	Part Taking - +/- 170 M^2, (+/- 1,830 ft^2)
Description:	Side yard, landscaping, retention wall, interruption to rear access.



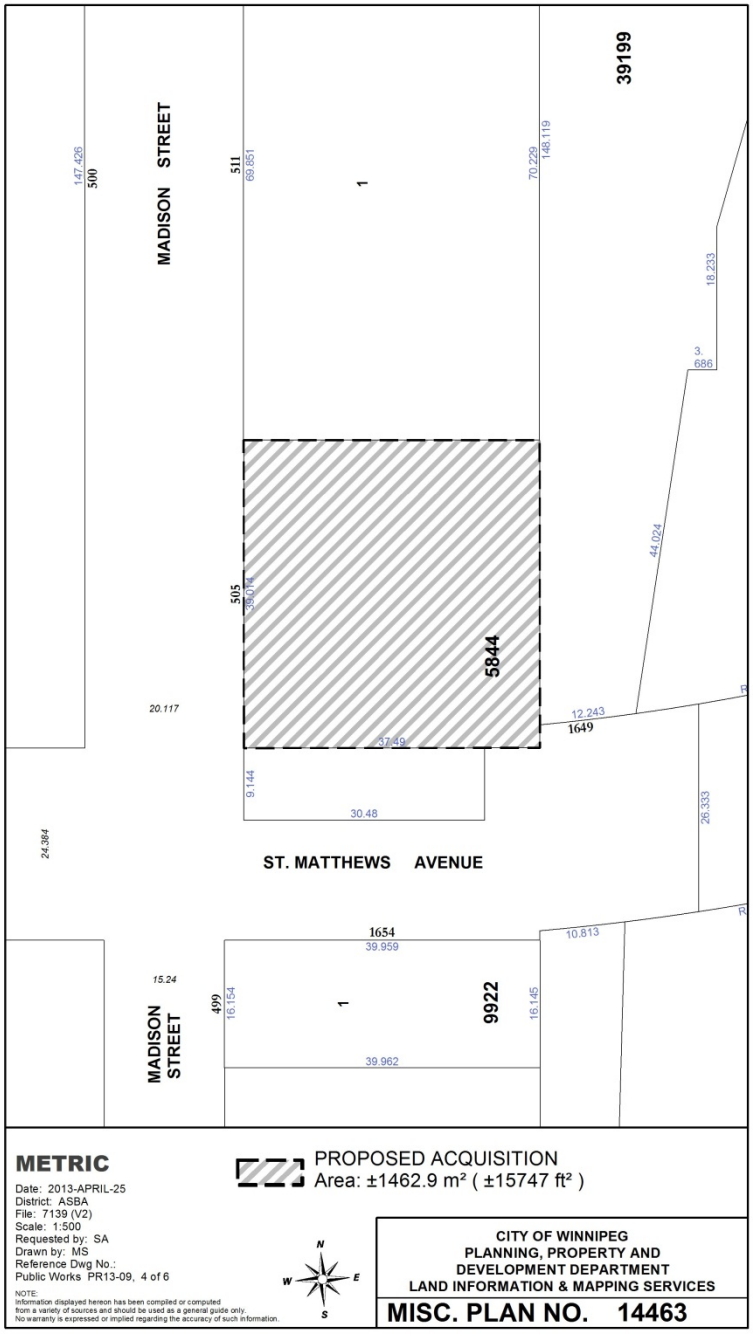
Holding # 3

Location:	496 & 500 Madison Street
Legal Description:	Lot 15, Plan 5841 & Plan A DGS 34/40 St. James
Zoning:	M1 – Industrial Light
Property Taking:	Part Taking - +/- 1,048.3 M^2, (+/- 11,284 ft^2)
Description:	Side yard - trees/landscaping, relocation of hydro facility interruption to access, planned building expansion.



Holding # 4

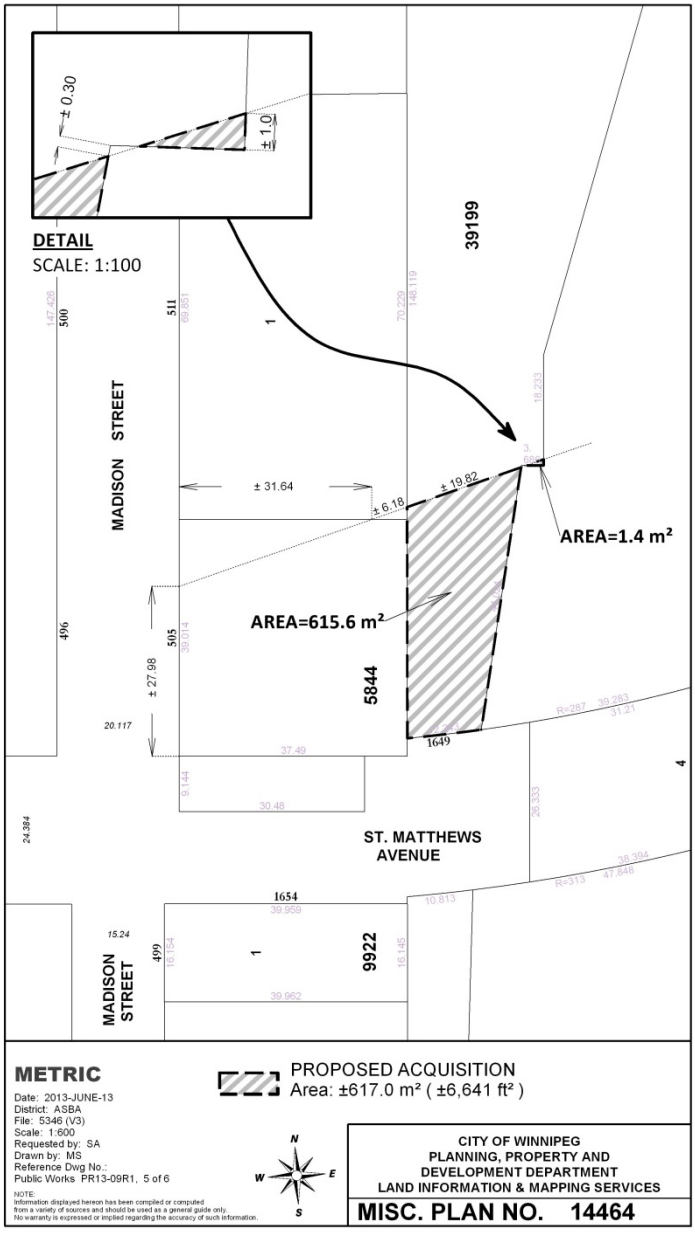
Location:	505 Madison Street
Legal Description:	Lot 1, Plan 5844, DGS St. James
Zoning:	M1 – Industrial Light
Property Taking:	Full Taking - +/- 1,432.9 M^2, (+/- 15,747 ft^2)
Description:	Improved property - 3,042 ft^2 masonry brick building (car wash, auto service) & parking lot, demolition required.



Holding # 5

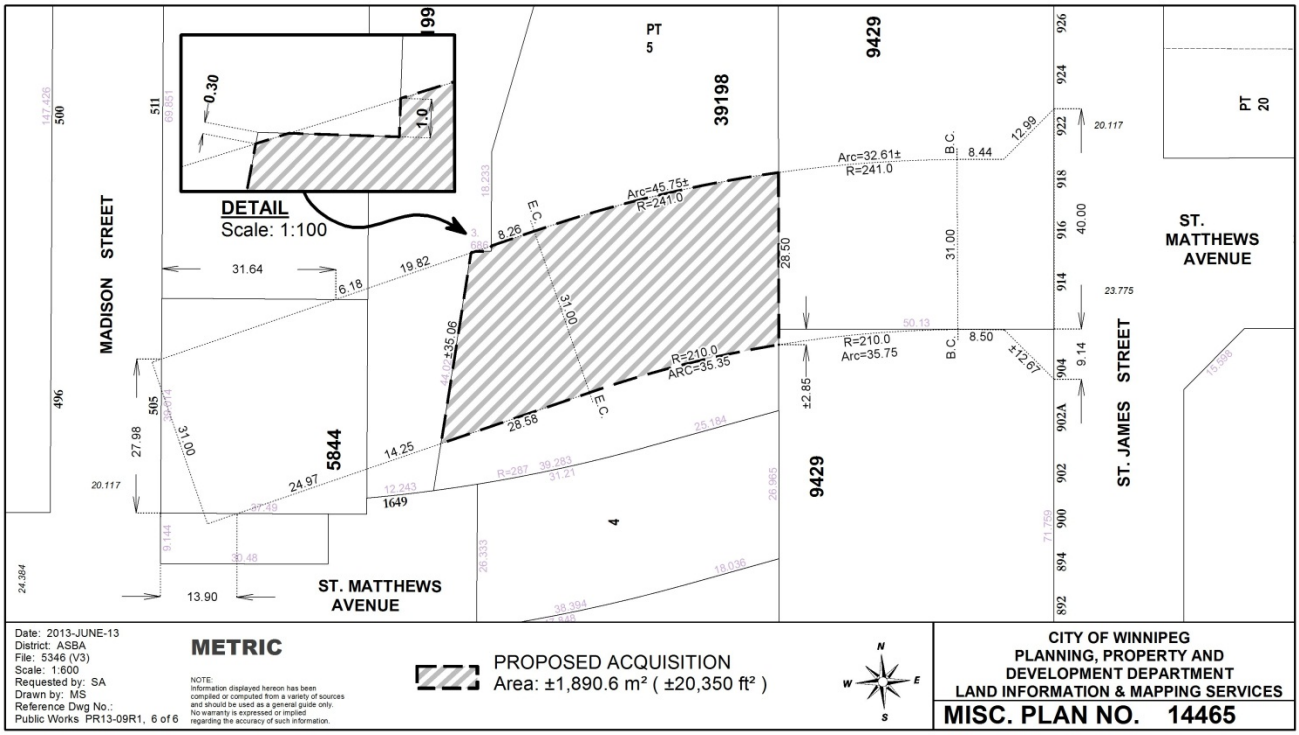
Location:	1649 St. Matthews Avenue
Legal Description:	Power Transmission Line Plan 39199 WLTO
Zoning:	M1 – Manufacturing Light
Property Taking:	Part Taking - +/- 617 M^2, (+/- 6,641 ft^2)
Description:	Vacant land – relocation of underground facility.

NOTE: THIS PROPERTY IS UNDER THE JURISDICTION OF MANITOBA HYDRO AND CAN ONLY BE INCLUDED IN AN EXPROPRTION WITH THE CONCURRENCE OF THE MANITOBA HYDRO ELECTRIC BOARD, SINCE IT IS A CROWN AGENCY AS DEFINED IN THE EXPROPRIATON ACT OF MANITOBA.



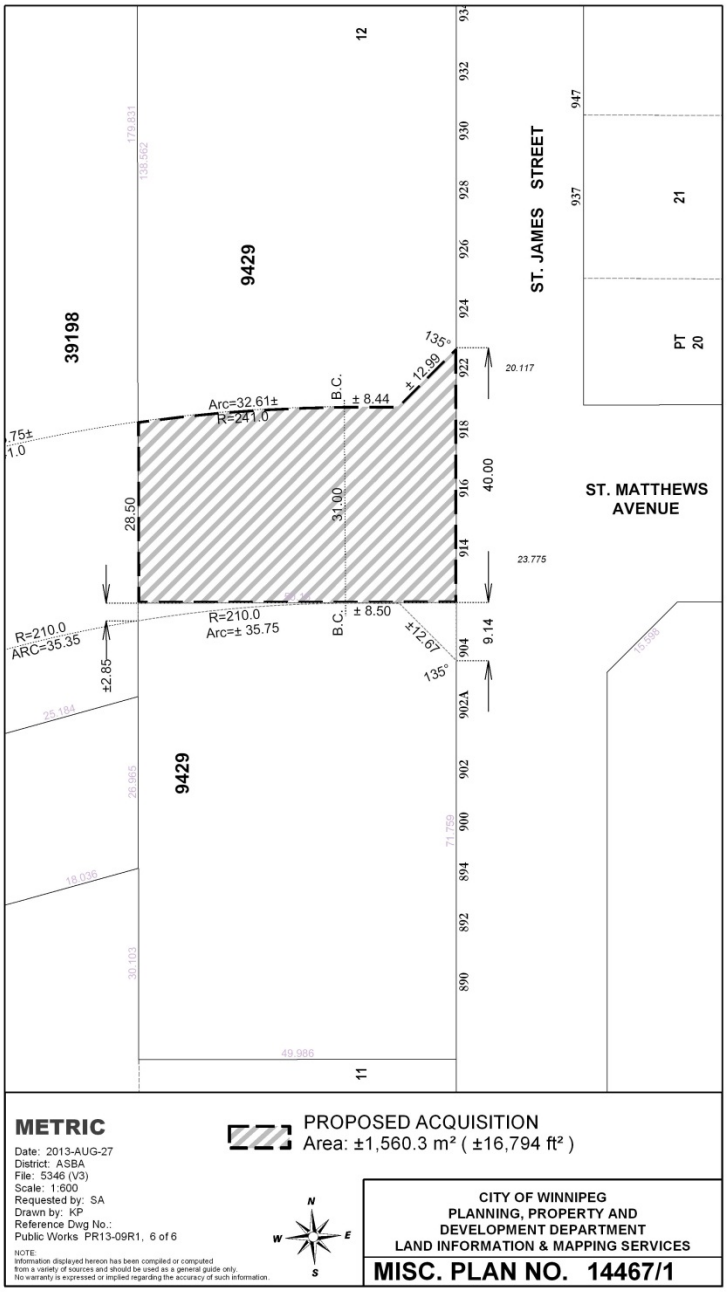
Holding # 6

Location:	0 St. Matthews Avenue, (East of Madison Street)
Legal Description:	Pt Lot 5, Plan 39198, DGS 41 St. James
Zoning:	M1 – Industrial Light
Property Taking:	Part Taking - +/- 1,890.6M^2 (+/- 20,350 ft^2.)
Description:	Vacant Land, encumbered with fiber optic easements.



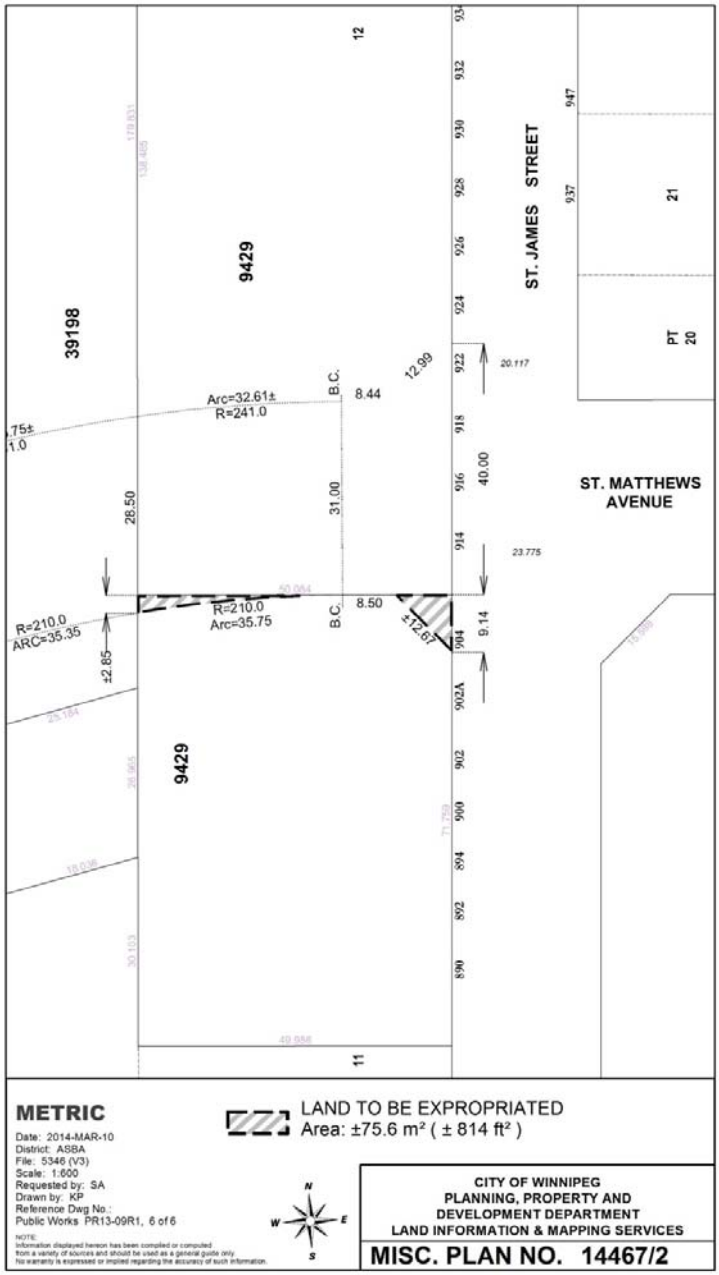
Holding #7

Location:	914 – 950 St. James Street.
Legal Description:	Lot 12, Plan 9429, DGS 41 St. James.
Zoning:	"C3" – Commercial - Corridor
Property Taking:	Partial taking - +/-1560.3M^2 (+/-16,794 ft^2.)
Description:	Strip mall, loss of 4 rental units for St. Matthews and internal road way, loss of parking, loss of one access point off of St. James Street



Holding #8

Location:	890 – 904 St. James Street.
Legal Description:	Part Lot 11, Plan 9429, DGS 41 St. James.
Zoning:	"C3" – Commercial - Corridor
Property Taking:	Part taking - +/-75.6M^2 (+/-814ft^2)
Description:	Strip mall loss of parking, loss of one access point off of St. James Street



Holding # 15-A

Location:	0 Ellice Avenue (South/West Corner Ellice & St. James)
Legal Description:	Part Parcel 12 Plan, DGS 9774 St. James
Zoning:	M1 – Manufacturing Light
Property Taking:	Part Taking - +/-9.9M^2 (+/-107ft^2.)
Description:	Vacant land, relocation of under utilities.

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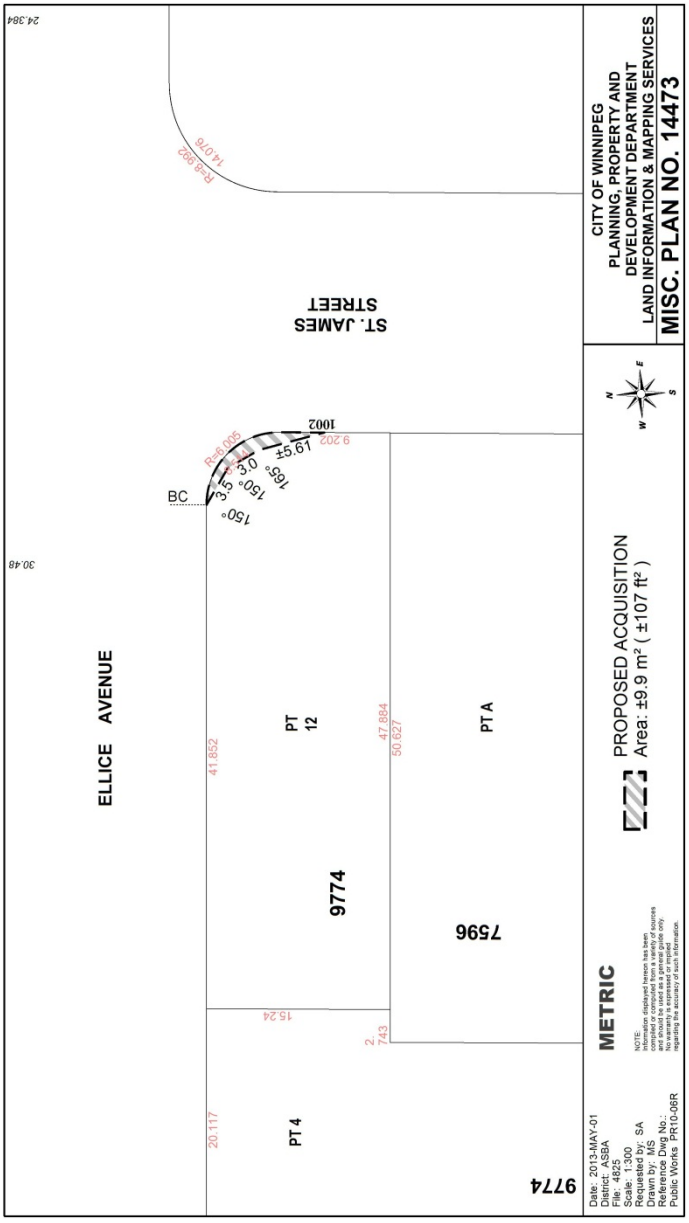

Holding # 15-B

Location:	0 Ellice Avenue (North/West Corner Ellice & St. James)
Legal Description:	Part Lot 11 Plan, DGS 9774 St. James
Zoning:	M2 - Manufacturing General
Property Taking:	Part Taking - +/-7.2M^2 (+/-77ft^2.)
Description:	Vacant land, relocation of under utilities.

NOTE: THIS PROPERTY IS UNDER THE JURISDICTION OF MANITOBA HYDRO AND CAN ONLY BE INCLUDED IN AN EXPROPRTION WITH THE CONCURRENCE OF THE MANITOBA HYDRO ELECTRIC BOARD, SINCE IT IS A CROWN AGENCY AS DEFINED IN THE EXPROPRIATON ACT OF MANITOBA.

