Minutes – Executive Policy Committee – September 23, 2015

Report – Standing Policy Committee on Property and Development – September 15, 2015

Item No. 16 Proposed Acquisition and Sale of Lands adjacent to 421 Glasgow Avenue (Fort Rouge-East Fort Garry 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 Council decision of December 14, 2005 with respect to Item No. 30 (Minute No. 134) of the report of the Standing Policy Committee on Property and Development dated November 29, 2005, be amended by rescinding clause 4.A. and 4.B., namely:

    A. That the acquisition of the "Proposed Widening", identified on Misc. Plan No. 11715/4, be approved in accordance with the terms and conditions outlined on Schedule "A" to the report of the Director of Planning, Property and Development dated November 17, 2005, at a price of $6,200.00;

    B. That the sale of the "Proposed Sale" and "Proposed Closing" be approved in accordance with the terms and conditions outlined on Schedule "A" to the report of the Director of Planning, Property and Development dated November 17, 2005, at a price of $20,000.00.

2. That subject to the approval of Recommendation #1, Council approve the following:

    A. The proposed acquisition of the land shown as "Proposed Widening" on Misc. Plan No. 11715/12 from 6690395 Manitoba Ltd. at a price of $11,500.00, be approved in accordance with the terms and conditions outlined on Schedule "B" attached dated August 18, 2015 and upon such additional conditions as may be acceptable to the Director of Legal Services/City Solicitor and the Director of the Planning, Property and Development Department.

    B. That the proposed sale of the lands shown as "Subject City Property" on Misc. Plan No. 11715/12 to 6690395 Manitoba Ltd. at a price of $190,000.00 be approved in accordance with the terms and conditions outlined on Schedule "B" attached dated August 18, 2015 and upon such additional conditions as may be acceptable to the Director of Legal Services/City Solicitor and the Director of the Planning, Property and Development Department.

Report – Standing Policy Committee on Property and Development – September 15, 2015

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

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DECISION MAKING HISTORY:

Moved by Councillor Orlikow,

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

Carried

STANDING COMMITTEE RECOMMENDATION:

On September 15, 2015, 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: **Proposed Acquisition and Sale of Lands adjacent to 421 Glasgow Avenue**

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

AUTHORIZATION

Author	Department Head	CFO	CAO/COO
J. Zabudney	M. Pittet	M.Ruta	M. Ruta A/CAO

RECOMMENDATIONS

1) That Council rescind the following portion of its decision of December 14, 2005:
   a) That the acquisition of the "Proposed Widening", identified on Misc. Plan No. 11715/4, be approved in accordance with the terms and conditions outlined on Schedule "A" to the report of the Director of Planning, Property and Development dated November 17, 2005, at a price of $6,200.00;
   b) That the sale of the "Proposed Sale" and "Proposed Closing" be approved in accordance with the terms and conditions outlined on Schedule "A" to the report of the Director of Planning, Property and Development dated November 17, 2005, at a price of $20,000.00.

2) That subject to the approval of Recommendation #1, Council approve the following:
   a) The proposed acquisition of the land shown as "Proposed Widening" on Misc. Plan No. 11715/12 from 6690395 Manitoba Ltd. at a price of $11,500.00, be approved in accordance with the terms and conditions outlined on Schedule "B" attached dated August 18, 2015 and upon such additional conditions as may be acceptable to the Director of Legal Services/City Solicitor and the Director of the Planning, Property and Development Department.
   b) That the proposed sale of the lands shown as "Subject City Property" on Misc. Plan No. 11715/12 to 6690395 Manitoba Ltd. at a price of $190,000.00 be approved in accordance with the terms and conditions outlined on Schedule "B" attached dated August 18, 2015 and upon such additional conditions as may be acceptable to the Director of Legal Services/City Solicitor and the Director of the Planning, Property and Development Department.

REASON FOR THE REPORT

Council approval is required to enter into an Acquisition and Sale Agreement with the adjacent property owner.

EXECUTIVE SUMMARY

Negotiations for the acquisition and sale of lands with 6690395 Manitoba Ltd. (the new owner of 421 Glasgow Avenue) are now complete and approval by Council will enable the transaction to be completed.

IMPLICATIONS OF THE RECOMMENDATIONS

- There are no regulatory or human resource implications associated with this report.
- Negotiations for the acquisition and sale of lands with 6690395 Manitoba Ltd. (the new owner of 421 Glasgow Avenue) are now complete and approval by Council will enable the transaction to proceed.
- The proposed acquisition and sale of lands is in accordance with the "Offer to Purchase City-owned Property Policy" where the Department may act on unsolicited offers for City-owned property when privately owned land is required by the City.

HISTORY

In 1992, the former Board of Commissioners considered a report from the Director of the former Parks and Recreation Department considering the implementation of the Churchill Parkway. The Board of Commissioners instructed the Director of the former Land Surveys and Real Estate Department to negotiate the acquisition of the land interests required in order to accommodate the riverbank pathway between the Forks and Churchill Drive Park. In 2005, all of the property interests except for 320 Osborne Street and 421 Glasgow Avenue had been obtained.

Through further negotiations with the owner of 421 Glasgow Avenue in 2005, on December 14, 2005, Council approved a land transaction with the property owner of 421 Glasgow Avenue whereby the required pathway easement was obtained, a required road widening was obtained for a portion of Togo Avenue that was to be closed and sold to the owner of 421 Glasgow and a parcel of City owned land. The City-owned land illustrated as "Proposed Sale" on the attached Misc. Plan No. 11715/4 was also declared surplus by Council on December 14, 2005. On March 22, 2006, Council adopted the following: "That the opening and closing shown on Misc. Plan No. 11715/4 be approved and the lane to be closed declared surplus to the City's needs".

This proposed transaction was never completed by 5011400 Manitoba Ltd, however, the City did obtain the required easement for the riverbank pathway.

5011400 Manitoba Ltd. has since sold the property at 421 Glasgow Avenue to 6690395 Manitoba Ltd., which has expressed its desire to enter into a similar transaction with the City as contemplated with the previous owner of 421 Glasgow Avenue.

The proposed sale of the "Subject City Property" on Misc. Plan No. 11715/8 was re-circulated to City Departments in April of 2015. No civic use was identified.

The Department has concluded its negotiations for the proposed acquisition and sale of lands with 6690395 Manitoba Ltd. 6690395 Manitoba Ltd. has agreed to the land transaction price and has agreed to the terms and conditions as outlined in the attached Schedule "B". The values of the land to be acquired and the land the City is selling are within the range of value of an internal appraisal.

The Department is recommending approval of the proposed transaction with 6690395 Manitoba Ltd., on the terms and conditions outlined on the attached Schedule "B".

The Ward Councillor was consulted with the intentions of the Department.

Financial Impact Statement

Date: August 31, 2015

Project Name:

Proposed Acquisition and Sale of Lands adjacent to 421 Glasgow Avenue

First Year of Program **2015**

	2015	2016	2017	2018	2019
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ 11,500	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	190,422	1,690	1,690	1,690	1,690
Net Cost/(Benefit)	$ (178,922)	$ (1,690)	$ (1,690)	$ (1,690)	$ (1,690)
Less: Existing Budget Amounts	(178,922)	(1,690)	(1,690)	(1,690)	(1,690)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Direct costs represent the proposed acquisition price of the land outlined on Misc. Plan # 11715/12. Revenues in 2015 consist of the proposed sale price of $190,000 + estimated municipal realty taxes of $422. The latter amount is based on the assumptions that the sale price equals assessed value, portioning and mill rates of 65% and 0.013682 respectively, and that the property is added to the tax roll effective October 1, 2015. Revenues from 2016 onward are municipal realty taxes for the full year based on the same assumptions. Net proceeds of $179,500 will be credited to the Land Operating Reserve while incremental taxes will be credited to the General Revenue Fund.

"Original Signed By"

Mike McGinn, CA

Manager of Finance

CONSULTATION

Legal Services as to Legal Issues

OURWINNIPEG POLICY ALIGNMENT

There are no specific Our Winnipeg policy implications.

SUBMITTED BY

Department	Planning, Property and Development
Division	Real Estate
Prepared by	Michelle Granger, RPA
Date:	August 31, 2015
File No.	7582/2 (V2)

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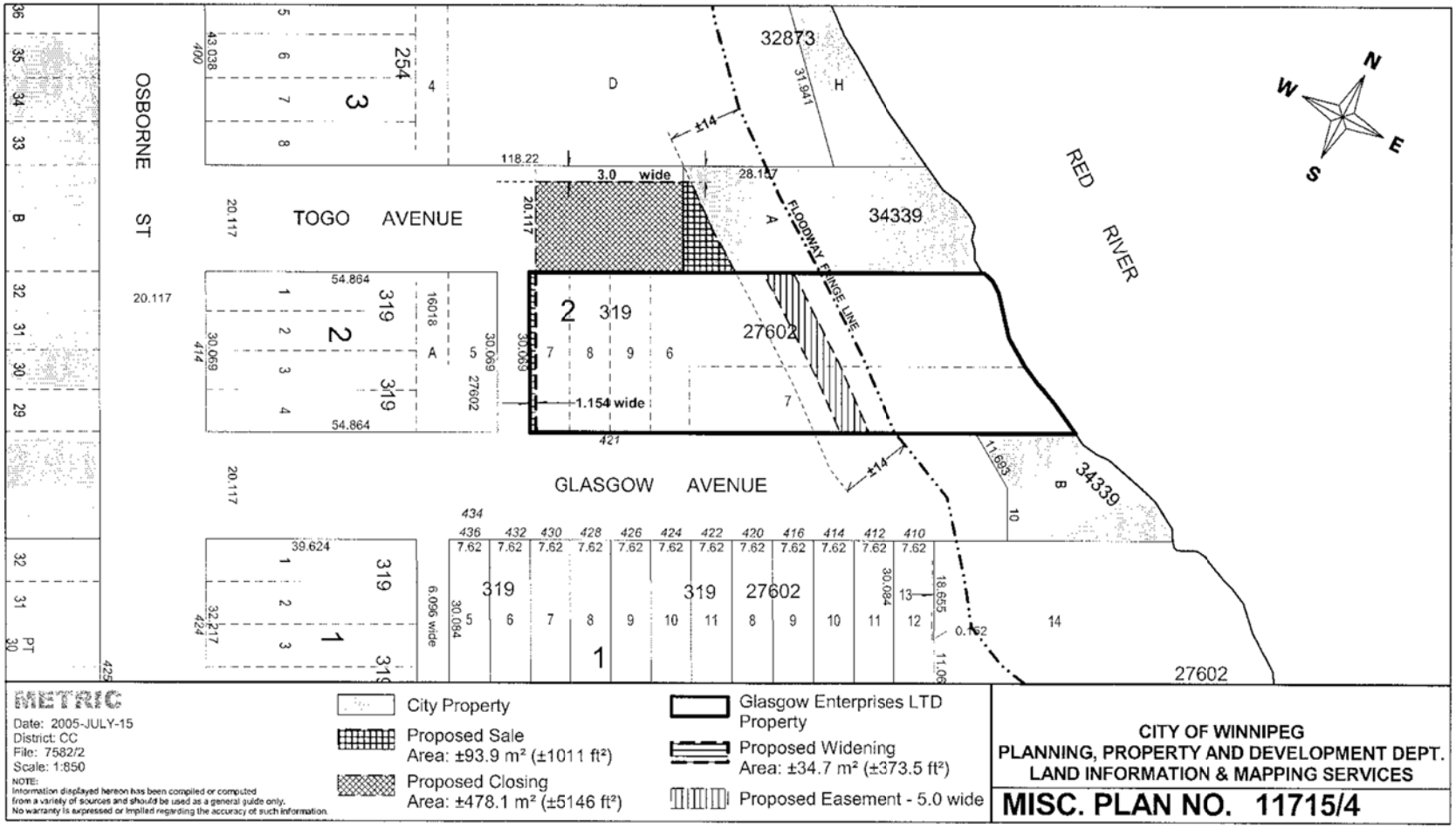
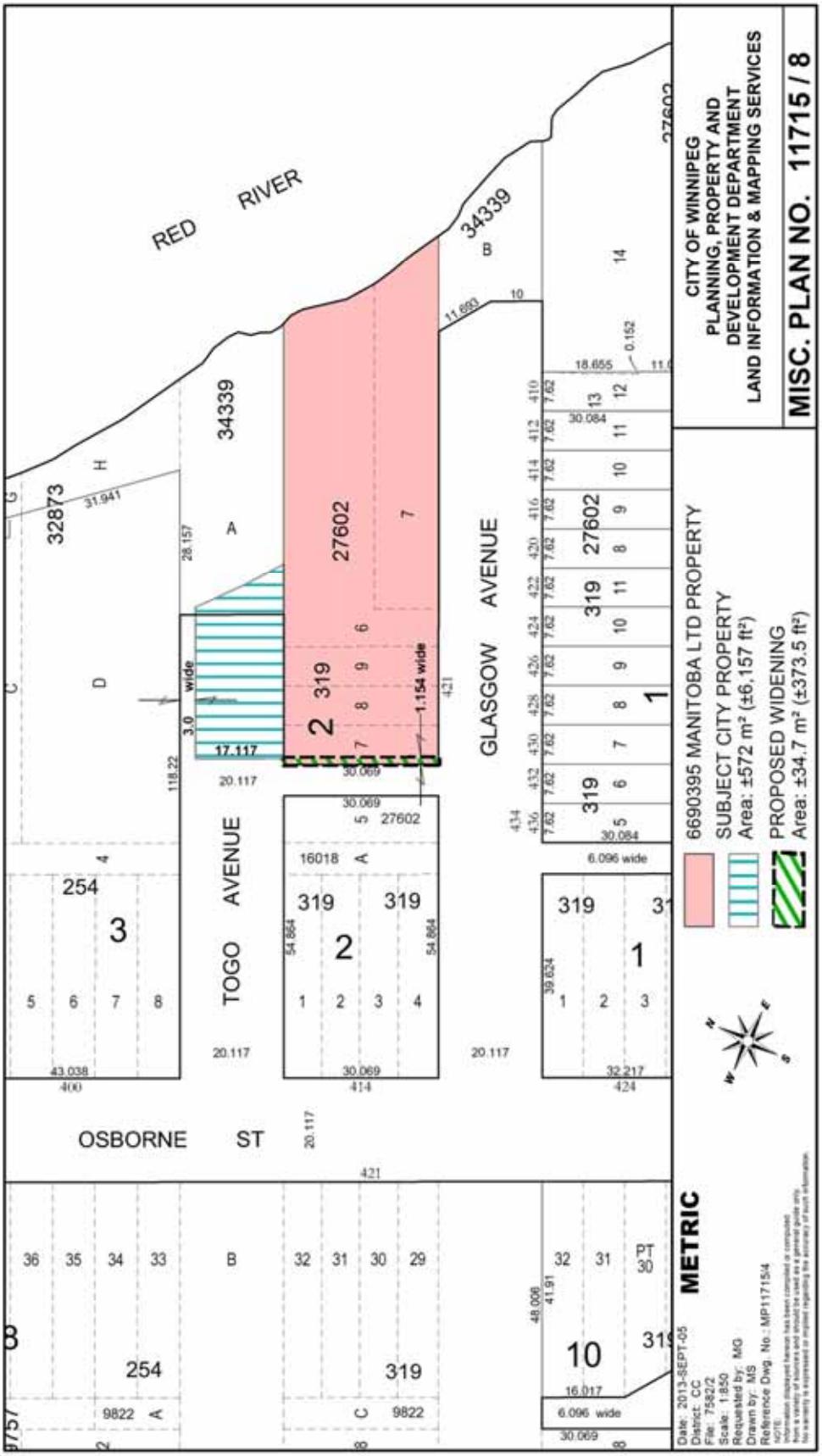
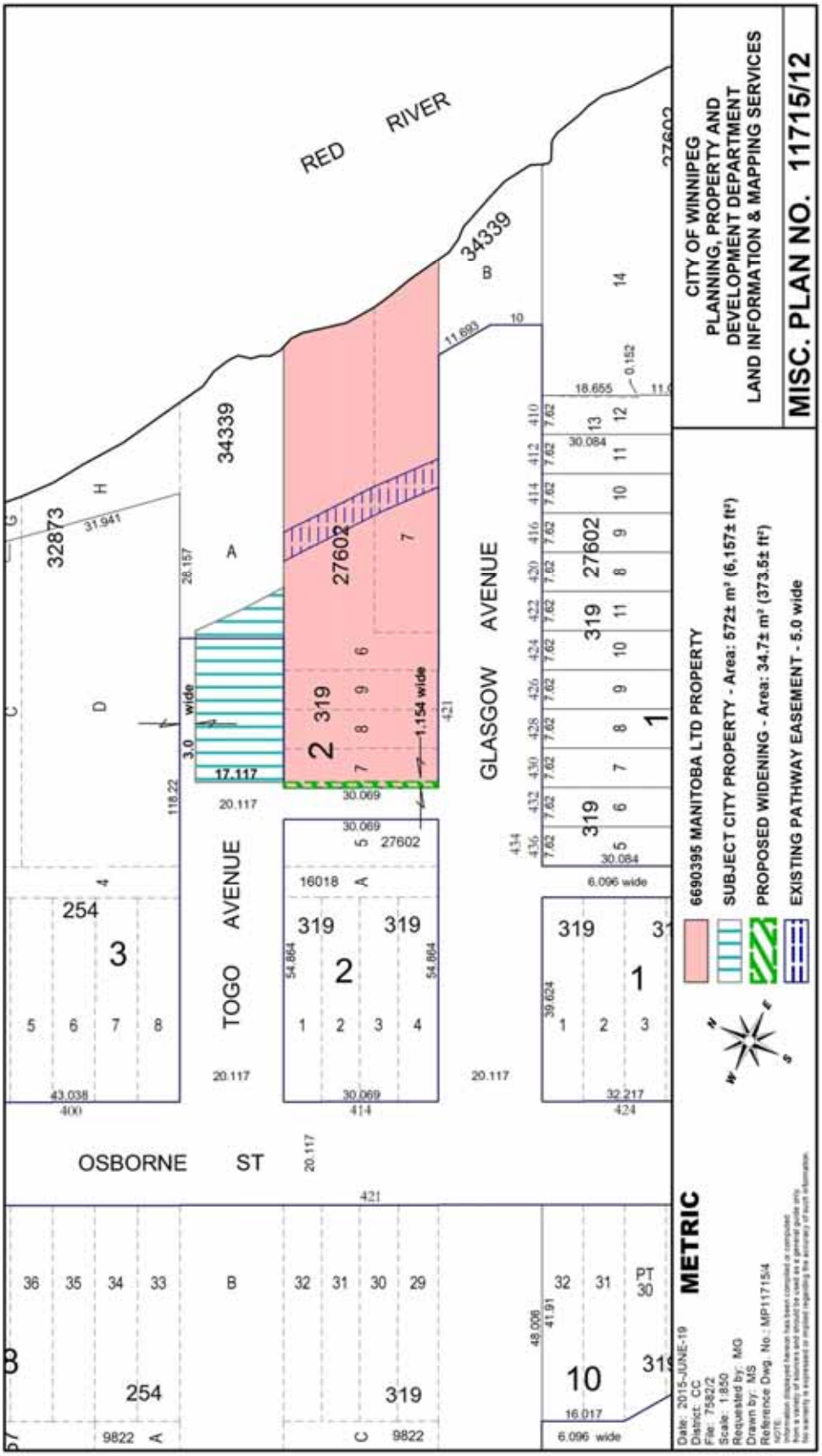

OSBORNE ST
TOGO AVENUE
GLASGOW AVENUE
RED RIVER
FLOODWAY FRINGE LINE
3.0 wide
1.154 wide
6.096 wide
32873
34339
27602
City Property
Proposed Sale
Area: ±93.9 m² (±1011 ft²)
Proposed Closing
Area: ±478.1 m² (±5146 ft²)
Glasgow Enterprises LTD Property
Proposed Widening
Area: ±34.7 m² (±373.5 ft²)
Proposed Easement - 5.0 wide
Date: 2005-JULY-15
District: CC
File: 7582/2
Scale: 1:850
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. 11715/4


CITY OF WINNIPEG
PLANNING, PROPERTY AND
DEVELOPMENT DEPARTMENT
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 11715 / 8
6690395 MANITOBA LTD PROPERTY
SUBJECT CITY PROPERTY
Area: ±572 m² (±6,157 ft²)
PROPOSED WIDENING
Area: ±34.7 m² (±373.5 ft²)
METRIC
RED RIVER
GLASGOW AVENUE
TOGO AVENUE
OSBORNE ST
34339
27602
32873
319
254
16018
9822
1.154 wide
3.0 wide
17.117
6.096 wide
Date: 2013-SEPT-05
District: CC
File: 7582/2
Scale: 1:850
Requested by: MG
Drawn by: MS
Reference Dwg. No.: MP11715/4


CITY OF WINNIPEG
PLANNING, PROPERTY AND
DEVELOPMENT DEPARTMENT
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 11715/12
6690395 MANITOBA LTD PROPERTY
SUBJECT CITY PROPERTY - Area: 572± m² (6,157± ft²)
PROPOSED WIDENING - Area: 34.7± m² (373.5± ft²)
EXISTING PATHWAY EASEMENT - 5.0 wide
METRIC
Date: 2015-JUNE-19
District: CC
File: 7582/2
Scale: 1:850
Requested by: MG
Drawn by: MS
Reference Dwg. No.: MP11715/4
RED RIVER
GLASGOW AVENUE
TOGO AVENUE
OSBORNE ST
34339
32873
27602
319
254
1.154 wide
3.0 wide
17.117
6.096 wide

SCHEDULE "B"

1. The City of Winnipeg ("City") shall pay to 6690395 Manitoba Ltd. ("6690395"), an all-inclusive price of ELEVEN THOUSAND FIVE HUNDRED ($11,500.00) DOLLARS plus applicable GST, for the "Proposed Widening" as shown on the attached Misc. Plan No. 11715/12.

2. 6690395 shall pay to the City an all-inclusive price of ONE HUNDRED AND NINETY THOUSAND ($190,000.00) DOLLARS plus applicable GST, for the "Subject City Property" as shown on the attached Misc. Plan No. 11715/12.

3. Each party shall convey its property as referred to in paragraphs 1 and 2 above, to the other party, free and clear of any liens and/or encumbrances except public utilities thereon. Manitoba Hydro has advised that there is an easement requirement within the Subject City Property.

4. The date of vacant possession and adjustment of taxes to be 30 days immediately following the later of: the date of approval by the Winnipeg Land Titles Office of the opening and closing plan and plan of subdivision required in this matter; the date Council passes an opening and closing by-law; and the satisfaction of all conditions required for the subdivision/consolidation in this matter (including the granting of an easement to Manitoba Hydro within the Subject City Property) other than the registration in the Winnipeg Land Titles Office of the transfer documents in this matter.

5. 6690395 agrees to attend to any survey work required by the Winnipeg Land Titles Office and all other requirements in order to dedicate the "Proposed Widening" land to the City and open it as a street, and to close and transfer the Subject City Property to 6690395, and to consolidate the Subject City Property with 6690395's adjacent property shown as "6690395 Manitoba Ltd. Property" on Misc. Plan No. 11715/12, all at no cost to the City.

6. 6690395 covenants, warrants and represents to the City, and it is a condition of the agreement, that to the best of 6690395's knowledge:

   a) there are no outstanding orders, notices or similar requirements relating to the "Proposed Widening" land either issued by any environmental, fire, health, labor or police authorities or from any other federal, provincial, municipal authority and there are no matters under discussion with any such authorities relating to such orders, notices or similar requirements; and

   b) no hazardous materials, wastes, pollutants or similar substances as those defined by current applicable laws and regulations and no other materials intended for use or generated at the "Proposed Widening" land have been or are being used, stored, treated or otherwise disposed of in violation of current applicable laws and regulations.

7. 6690395 agrees that in the event 6690395, at its sole cost, conducts or causes to be conducted an Environmental Site Assessment and/or soil testing and analysis of the Subject City Property, and it is determined as a result thereof that contamination levels exceed Provincial Environmental Standards for the intended use of the Subject City Property, and documentation to that effect is produced to the City within sixty (60) days following the Date of Approval, but in any event, prior to closing, the City, at its sole option, shall be entitled to:

   a) take remedial action to bring the contamination levels within the Provincial Environmental Standards, or;

b) cancel the sale and return all monies paid in respect of the proposed sale by 6690395 to that date.

AND FURTHER, in the event 6690395 fails to provide such documentation as aforesaid prior to closing, 6690395 hereby agrees to complete the purchase as herein contemplated and to indemnify and save harmless the City from and against any and all claims arising from or in any way attributable to the existence of contaminants of any kind whatsoever at, in, or upon the said Subject City Property.

6690395 agrees that this clause shall survive the closing of this transaction.

8. 6690395 shall permit the City, at the City's discretion and expense, before the date of vacant possession and adjustment of taxes, to conduct or have conducted on its behalf an environmental assessment and/or soil testing and analysis of the "Proposed Widening" land. 6690395 acknowledges and agrees that should the City determine that there are environmental concerns or contamination with respect to the "Proposed Widening" land, the City may elect to cancel this transaction.

9. 6690395 shall supply copies of any environmental studies undertaken on the "Proposed Widening" land or the Subject City Property to the City.

10. 6690395 Manitoba Ltd. shall release and indemnify the City from and against any and all bank failures at 421 Glasgow Avenue. 6690395 Manitoba Ltd. agrees to perform bank stabilization prior to any construction activities on the Subject City Property or 6690395's adjacent property shown as "6690395 Manitoba Ltd. Property" on Misc. Plan No. 11715/12. Further, 6690395 shall release and indemnify the City from and against any and all liability and responsibility for any negative impact on the Subject City Property or the adjacent 6690395 Manitoba Ltd. Property resulting from erosion or instability originating on or from the area shown as "Proposed Easement" on the attached Misc. Plan No. 11715/12 (the "Easement Area") including after pathway construction, provided that the said pathway is constructed in accordance with best practices for riverbank works and a City of Winnipeg Waterway Permit.

11. 6690395 is responsible to ensure that the Easement Area is stabilized and that the stabilization plan and associated works includes grading to accommodate a granular path within the Easement Area. All works associated with the riverbank and Easement Area shall be designed to attain a riverbank stability safety factor that is greater than 1.3 under normal conditions and greater than 1.1 for extreme conditions. If the proposed pathway can be achieved to the recommended safety factor without implementing bank stabilization work, erosion protection (i.e. riprap) must still be placed to slow the loss of land and reduce the possibility that the stability condition worsens over time. 6690395 shall maintain the integrity and stability of the Easement Area, in perpetuity, using appropriate measures including but not limited to constructing and maintaining erosion protection works, or constructing and maintaining bank stabilization works to ensure that the Easement Area and pathway are not detrimentally impacted by natural riverbank processes.

12. The Subject City Property currently provides access to and egress from the existing granular pathway that continues north through 400 Osborne Street. Recognizing that safe, usable access must be retained until such time as the new pathway connection is complete on and within the Easement Area along the 421 Osborne Street Riverbank to Glasgow Avenue, either:

a) 6690395 must permit the retention of the path stub up to Togo Avenue in its current location, and extending through the subject area to the remaining Togo

Avenue right of way, until the pathway on and within the Easement Area across the 421 Glasgow Avenue property can be constructed by the City (the timing of which is subject to completion of the stabilization works referenced above), and do all things necessary to ensure safe access by the public; or

b) the existing path stub up to Togo Avenue must be abandoned and a path constructed to connect to and run through, on a temporary basis only, the 3m wide strip of Togo Avenue being retained by the City. This relocated path shall include a safe transition (curb ramp) to the new street end of Togo. This temporary access shall be abandoned when the permanent pathway on and within the Easement Area through 421 Glasgow Avenue is constructed by the City. 6690395 Manitoba Ltd. shall be responsible to undertake these works for temporary access and shall be reimbursed for half of the cost by the City (subject to cost estimates being reviewed and approved by the Director of Public Works, prior to the temporary path construction commencement) once the accommodation for the pathway on and within the Easement Area through 421 Glasgow Avenue is made.

13. 6690395 Manitoba Ltd. acknowledges and agrees that a Waterways Permit will be required prior to any development on the Subject City Property or 6690395's adjacent property shown as "6690395 Manitoba Ltd. Property" on Misc. Plan No. 11715/12.

14. Any real estate commissions, environmental reports or appraisal fees payable on this transaction shall be the responsibility of 6690395.

15. Each party shall be responsible for their own legal fees.

16. 6690395 shall remove the curbs, street pavement and any other street improvements contained within the "Proposed Widening" land and the Subject City Property within 120 days of the date of vacant possession and adjustment of taxes. 6690395 agrees that this clause shall survive the closing of this transaction.

17. 6690395 shall not remove any top soil or allow any dumping on the "Proposed Widening" land.

18. 6690395 agrees to enter into an appropriate Purchase/Sale Agreement with the City employing the within terms and conditions and in a form satisfactory to the City Solicitor. It is further acknowledged that the said Purchase/Sale Agreement may be filed as a Caveat against 6690395's title pending conveyance of all properties referred to herein.

19. 6690395 agrees that the "Proposed Widening" land will not be conveyed, disposed of or encumbered in any manner whatsoever, except subject to this agreement and that monies payable in respect to this agreement will only be paid at such time as all the required conveyance documents, consents, discharges or other evidence required are provided by 6690395.

20. 6690395 agrees to declare whether or not it is a "Registrant" for the purpose of Goods and Services Tax and if so to provide its G.S.T. Registration number on request.

21. The City (Goods and Services Tax Registrant No. R121682967) will self-assess any tax payable on the acquisition of the "Proposed Widening" land.

22. This proposal is subject to final approval by the City of Winnipeg's Council, or its delegated authority.

23. 6690395 Manitoba Ltd., being the registered owner of the land shown as "6690395 Manitoba Ltd. Property" on attached Misc. Plan No.11715/12, hereby consents to the Land Exchange with the City of Winnipeg of the properties shown as "Proposed Widening" and "Subject City Property" on the attached Misc. Plan No. 11715/12 in accordance with the terms and conditions outlined on this Schedule "B".

August 18, 15
Date

6690395 MANITOBA LTD.

Per: _____
Name:
Title: