Minute No. 491
Report – Executive Policy Committee – July 8, 2015

Item No. 15 **Expropriation Settlement – Polo Park Infrastructure Improvement Project for Holdings #6, #7 & #8 - Declaring Parcel 4 Plan 39198 Surplus**
(St. James – Brooklands – Weston Ward)

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following by consent:

1. That the proposed expropriation settlement to be made to the property owners and four tenants of Holding #6, #7 & #8 (Lot 5 Plan 39198, 914 St. James & 890 St. James – identified on attached Misc. Plan 14543/4, 14465/6 & 14467) which have been affected by the Polo Park Infrastructure Improvement Project, be approved at a negotiated price of $3,599,500 plus ancillary costs.

2. That the City-owned property located to the east of the St. Matthews Avenue right-of-way, identified as "Parcel 1 – City Owned Land" on Misc Plan No. 14465/6, be declared surplus to the needs of the City.

3. That, subject to the approval of Recommendation No. 2, the City enter into agreements with Oxbow Holdings Ltd., St. James Industrial Park (Ellice) Limited, St. James Place Warehouse Limited, 5706298 Manitoba Incorporated (o/a Merle Norman Cosmetics), 3388680 Manitoba Ltd. (o/a Dollarwise Quality Cleaners) and Casara V.A. Inc. (o/a Arthur Murray School of Dance) to formalize settlements made in relation to the expropriation of private properties for the Polo Park Area Infrastructure Improvements Project and clarifying the arrangements between the parties.

4. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions of the settlement agreements made with Oxbow Holdings Ltd., St. James Industrial Park (Ellice) Limited, St. James Place Warehouse Limited,5706298 Manitoba Incorporated (o/a Merle Norman Cosmetics), 3388680 Manitoba Ltd. (o/a Dollarwise Quality Cleaners) and Casara V.A. Inc. (o/a Arthur Murray School of Dance) in relation to the expropriation of private properties for the Polo Park Area Infrastructure Improvements Project, in accordance with the terms and conditions set forth herein and such other terms and conditions deemed necessary by the Director of Legal Services and City Solicitor to protect the interests of the City.

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

Report – Executive Policy Committee – July 8, 2015

DECISION MAKING HISTORY:

Moved by His Worship Mayor Bowman,

That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 8, 2015, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

ADMINISTRATIVE REPORT

Title: **Proposed Expropriation Settlement of the Polo Park Infrastructure Improvement Project for Holdings #6, #7 & #8, and declaring Parcel 4 Plan 39198 surplus to the City's needs**

Critical Path: **Executive Policy Committee**
Council

AUTHORIZATION

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

RECOMMENDATIONS

1. That the proposed expropriation settlement to be made to the property owners and four tenants of Holding #6, #7 & #8 (Lot 5 Plan 39198, 914 St. James & 890 St. James – identified on attached Misc. Plan 14543/4, 14465/6 & 14467) which have been affected by the Polo Park Infrastructure Improvement Project, be approved at a negotiated price of $3,599,500 plus ancillary costs.

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3. That, subject to the approval of Recommendation #2, the City enter into agreements with Oxbow Holdings Ltd., St. James Industrial Park (Ellice) Limited, St. James Place Warehouse Limited, 5706298 Manitoba Incorporated (o/a Merle Norman Cosmetics), 3388680 Manitoba Ltd. (o/a Dollarwise Quality Cleaners) and Casara V.A. Inc. (o/a Arthur Murray School of Dance) to formalize settlements made in relation to the expropriation of private properties for the Polo Park Area Infrastructure Improvements Project and clarifying the arrangements between the parties.

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

REASON FOR THE REPORT

Council approval is required for expropriation settlements in excess of $250,000 and to enter into settlement agreements and to declare land surplus.

EXECUTIVE SUMMARY

- Holdings #6, #7 & #8 are key acquisitions for the extension of St. Matthews Avenue.
- Holding #7 includes a 45,000 square foot building, a portion of which lies in the middle of the proposed right-of-way and Holding #8 may be severely impacted by the proposed right-of-way.
- The proposed settlement will reduce the City's financial liability, which could have exceeded $6,000,000 plus ancillary costs.
- The proposed settlement includes Quit Claim and Release agreements being entered into by the property owners and four tenants.

IMPLICATIONS OF THE RECOMMENDATIONS

There are no regulatory, environmental or human resource implications associated with this report.

There is adequate funding for the expropriation available in the Capital Budget, Account # 003-181000-180604-1803000213-PROPERTY.

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").

- At its May 27, 2014 meeting, Council considered and approved the Planning, Property and Development Department's ("the Department") report to initiate expropriation proceedings to acquire the land interests needed for the Polo Park Infrastructure Improvement Project – Westside of St. James.

- The alignment of the proposed St. Matthews extension bisects Holdings #7 & #8, and severs Holding #6 into two parcels. Furthermore, Holding #7 includes a building which will require at least a partial demolition to accommodate the proposed roadway and Holding #8 includes a building that may be impacted by the proposed roadway due to issues of access and loss of parking.

- The City no longer requires the land associated with the original St. Matthews alignment.

- Due to the ownership interests of the properties, the property owner required the settlement of Holding #6, #7 & #8 to be an all-inclusive settlement (i.e. the settlement of Holding #6 was contingent upon the settlement of Holding #7 & #8, and vice versa).

- As a condition of the negotiated settlement, the property owner will have the buildings on Holding #7 & #8 vacant. The property owner had 22 leases in place on the date of the Declaration of Expropriation. All leases for Holding #7 (13 in total) expired shortly after the declaration. Holding #8 included eight leases and one land lease – the property owner was able to negotiate a surrender/termination of five leases, while the City will negotiate a direct settlement with the remaining four tenants.

- As a condition of the negotiated settlement price of $3,599,500 the City has agreed to demolish the buildings at 890 St. James Street and 914 St. James Street at the City's expense. The cost of this demolition has been estimated at +/- $750,000. Alternatively, the cost to complete a partial demolition of 914 St. James only, has been estimated at +/- $850,000. The cost of partial demolition exceeds full demolition due to the required reconstruction of the electrical vault, mechanical repairs, and related site work. Full demolition also allows for immediate construction of the roadwork, while a partial demolition would be subject to delays for permits, engineered drawings, etc., which could take months.

- It is noted that the cost of the partial and full demolition was based on a consultant's Class C cost estimate which can fluctuate between +/- 15% to 20%. Actual costs will not be known until the demolition and abatement work has been tendered. The demolition costs are construction related expenses rather than compensation paid to the property owners.

- As a condition of the negotiated settlement, the City will construct four private approaches (three along St. Matthews Avenue and one on St. James Street). The cost of the approaches is estimated at $10,000 per approach ($40,000 total). The approach costs are construction related expenses rather than compensation paid to the property owners.

- As a condition of the negotiated settlement the City will attempt to facilitate an easement agreement between the property owners and Manitoba Hydro, but will have no interest in the said easement agreement.

- The Department completed a "best case/worst case" scenario for the holdings to outline the City's financial liability. The proposed settlement falls within the range of values produced by the "best case/worst case" scenario and also provides time savings related to the demolition of Holding #7.

- In terms of a "best case/worst case" scenario, the proposed settlement is far closer to the "best case" scenario since the statutory offers provided to the owners of Holdings #6, #7 & #8 were approximately $1,600,000, and the City's demolition cost would have been $850,000 (i.e. $2,450,000 in total). Additional costs such as injurious affection ($160,000 City estimate), damages (not available until actual damages occur), or the potential tenancy claims (unclear until a claim is submitted) would still need to be added to the "best case" figure of $2,450,000. To be clear, the value of the statutory offers and demolition is included in the proposed settlement and not an additional cost.

- The Department has consulted with the Public Works Department, which is in support of the proposed settlement as negotiated.

- Settlement terms of Holding #6 include:

    - 18,255 square feet of the former St. Matthews right-of-way alignment property conveyed to the owner of Holding #6 in lieu of compensation (identified as Parcels 1 & 2 on Misc. Plan 14465/6);
    - $93,000 paid to the owner of Holding #6 as a result of the difference in land value between the owner's holding and the conveyance of land in lieu of compensation;
    - Construction of a private approach on St. Matthews Avenue, estimated at $10,000;
    - Use best efforts to facilitate an easement agreement between the owner and Manitoba Hydro.

- Settlement terms of Holding #7 include:
    - Compensation of $1,888,000 for land and building;
    - Compensation of $100,000 for holding costs incurred after the declaration of expropriation (the owner intentionally kept the building vacant for the benefit of the City);
    - Construction of a private approach on St. James Street, estimated at $10,000;
    - Consent to enter into a temporary construction easement agreement in order to demolish the building at the City's cost (demolition estimated at +/- $450,000).

- Settlement terms of Holding #8 include:
    - Compensation of $28,500 for land;
    - Compensation of $700,000 for termination, surrender, or settlement of existing tenants (eight building tenants and one land lease tenant);
    - Construction of a private approach on St. James Street and a private approach on St. Matthews Avenue, estimated at $20,000;
    - Consent to enter into a temporary construction easement agreement in order to demolish the building at the City's cost (demolition estimated at +/- $300,000).

To summarize:

- $2,809,500 will be paid as compensation to the property owners and four tenants.
- $790,000 will be spent by the City for construction work related to the settlement.

FINANCIAL IMPACT

Financial Impact Statement

Date: June 5, 2015

Project Name:

First Year of Program **2015**

Proposed Expropriation Settlement of the Polo Park Infrastructure Improvement Project for Holdings #6, #7 & #8 (Lot 5 Plan 39198, 914 St. James Street & 890 St. James

	2015	2016	2017	2018	2019
Capital					
Capital Expenditures Required	$ 3,716,484	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	3,716,484	-	-	-	-
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	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	116,984	-	-	-	-
Net Cost/(Benefit)	$ (116,984)	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	(116,984)	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Capital expenditures consist of the proposed settlement offer of $2,809,500 + $750,000 in demolition costs + $40,000 to construct four private approaches + $116,984 in short-term financing and corporate admin fees. The latter amount is offset by equal recoveries in the current budget of the Corporate Finance Department. Estimated ancillary costs are not material and have been excluded from the analysis.

"Original signed by"
Mike McGinn, CA
Manager of Finance

CONSULTATION

Legal Services as to Legal Issues
Public Works

OURWINNIPEG POLICY ALIGNMENT

Not applicable

SUBMITTED BY

Department Planning, Property & Development
Division Real Estate
Prepared by: Gordon Chappell
Date: June 12, 2015
File No. 5346 V3

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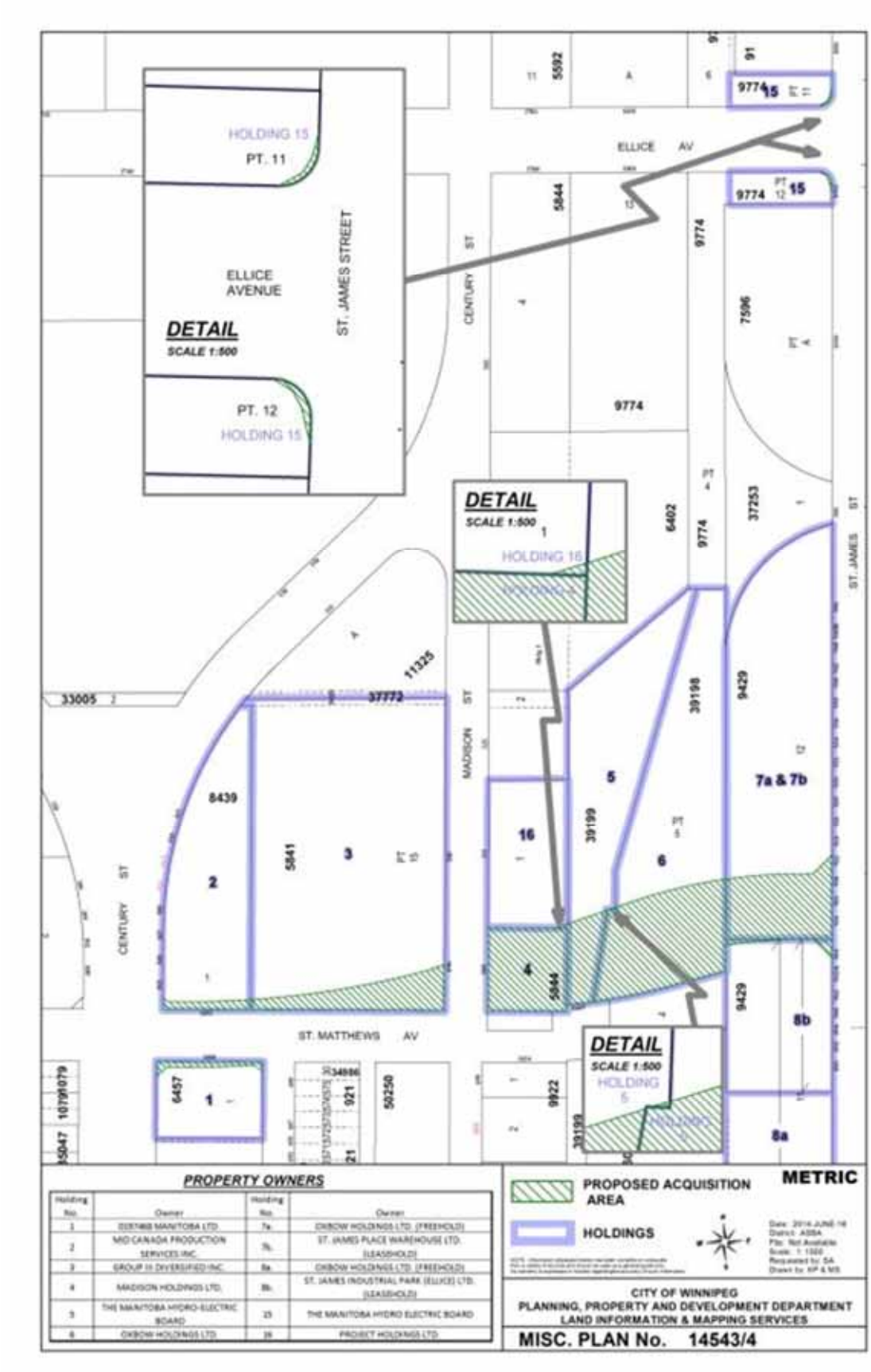
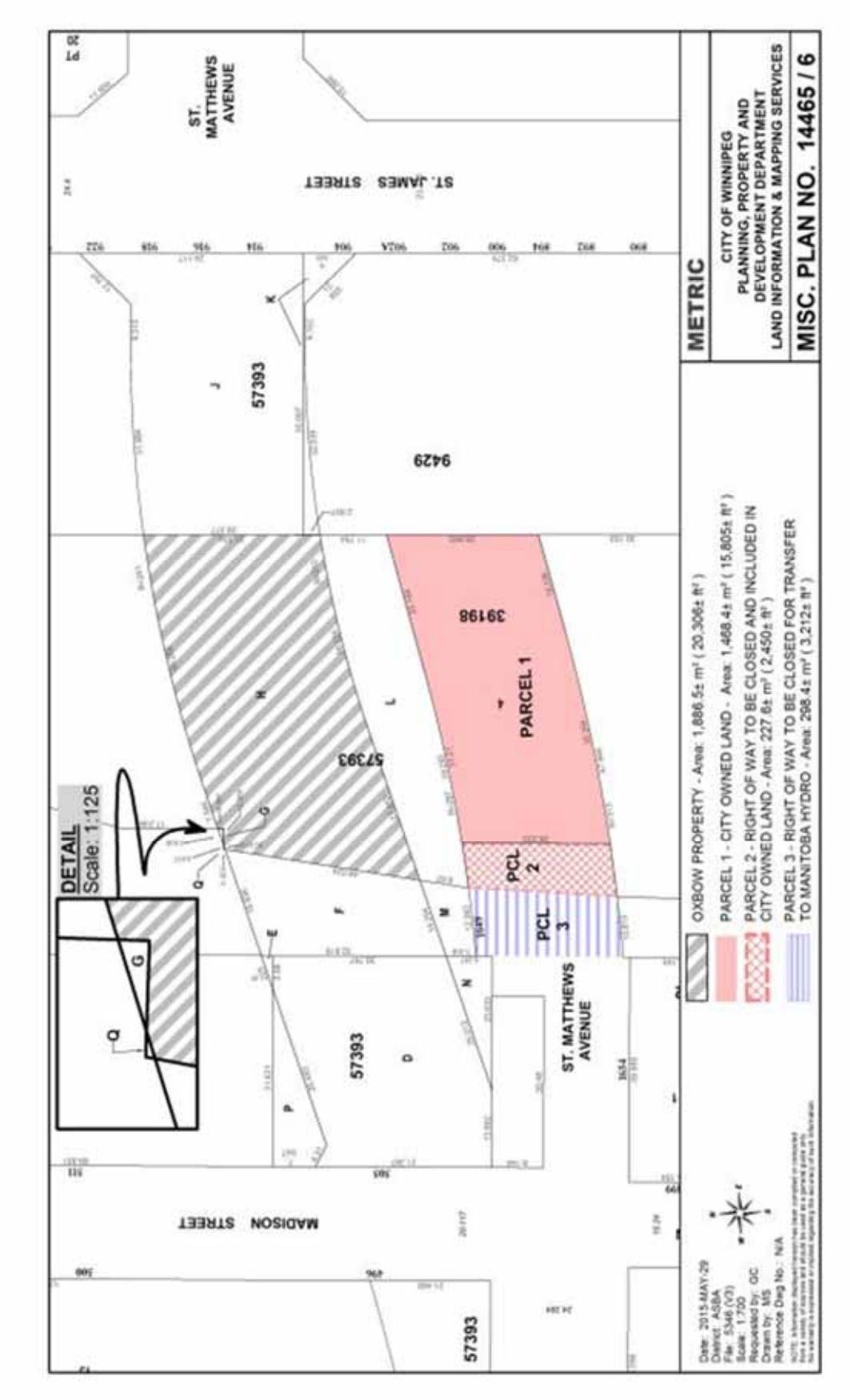
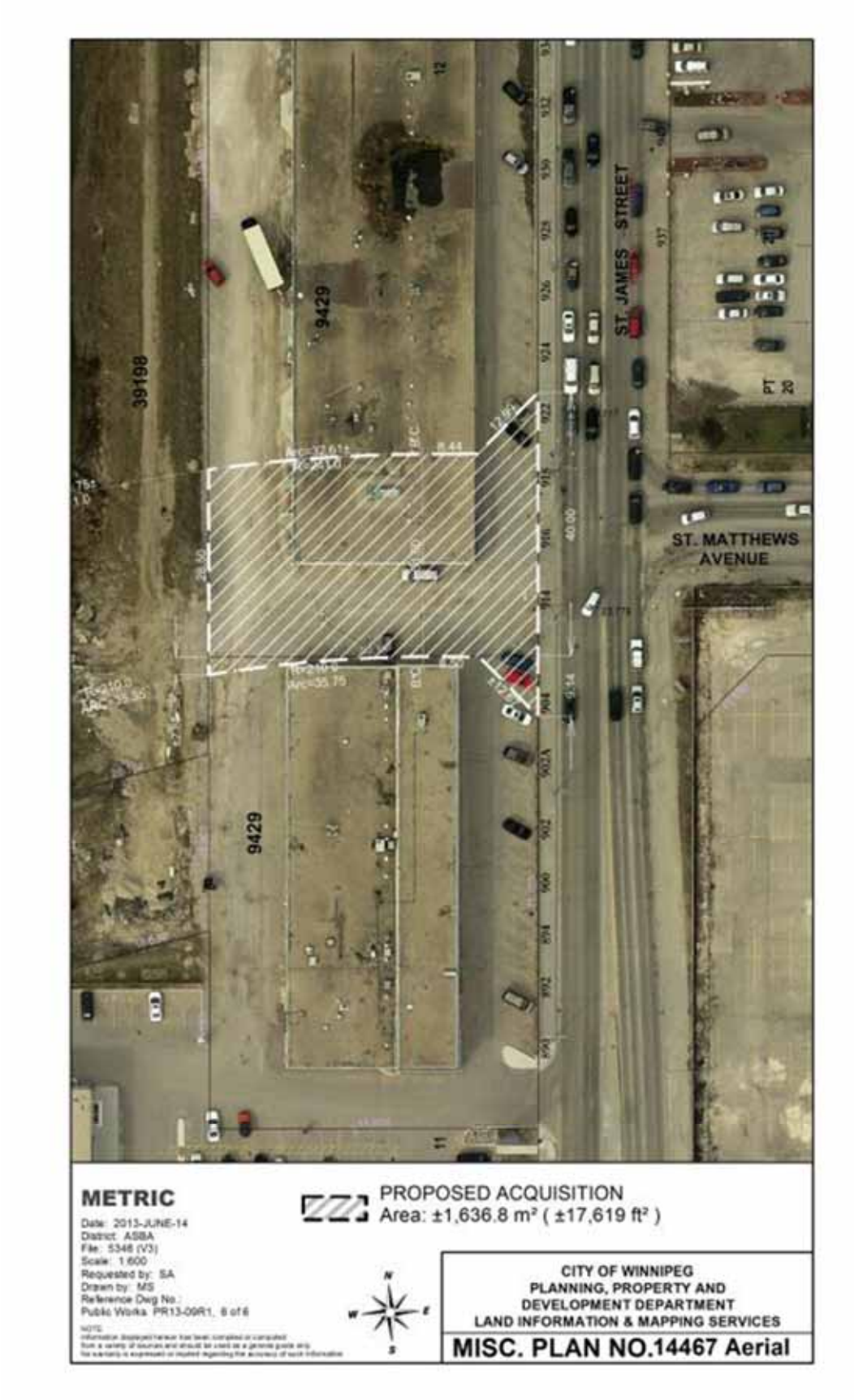

HOLDING 15
PT. 11
ELLICE AVENUE
ST. JAMES STREET
DETAIL
SCALE 1:500
PT. 12
HOLDING 15
ELLICE AV
CENTURY ST
MADISON ST
ST. JAMES ST
ST. MATTHEWS AV
HOLDING 16
HOLDING 5
PROPERTY OWNERS
PROPOSED ACQUISITION AREA
HOLDINGS
METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPARTMENT
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN No. 14543/4


METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND
DEVELOPMENT DEPARTMENT
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 14465 / 6
ST. MATTHEWS AVENUE
ST. JAMES STREET
MADISON STREET
ST. MATTHEWS AVENUE
57393
9429
39198
PARCEL 1
PCL 2
PCL 3
DETAIL
Scale: 1:125
OXBOW PROPERTY - Area: 1,886.5± m² (20,306± ft²)
PARCEL 1 - CITY OWNED LAND - Area: 1,468.4± m² (15,805± ft²)
PARCEL 2 - RIGHT OF WAY TO BE CLOSED AND INCLUDED IN CITY OWNED LAND - Area: 227.6± m² (2,450± ft²)
PARCEL 3 - RIGHT OF WAY TO BE CLOSED FOR TRANSFER TO MANITOBA HYDRO - Area: 298.4± m² (3,212± ft²)


ST. JAMES STREET
ST. MATTHEWS AVENUE
9429
39198
9429
METRIC
Date: 2013-JUNE-14
District: ASBA
File: 5348 (V3)
Scale: 1:600
Requested by: SA
Drawn by: MS
Reference Dwg No.:
Public Works PR13-09R1, 6 of 6
PROPOSED ACQUISITION
Area: ±1,636.8 m² (±17,619 ft²)
CITY OF WINNIPEG
PLANNING, PROPERTY AND
DEVELOPMENT DEPARTMENT
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO.14467 Aerial