Agenda – Council – January 31, 2019

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – January 7, 2019

Item No. 2 Expropriation Settlement – CentrePort Canada Way Expropriation

STANDING COMMITTEE RECOMMENDATION:

On January 22, 2019, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the following to Council:

1. That the proposed expropriation settlement made by the Province of Manitoba to the City of Winnipeg for the CentrePort Canada Way expropriation, be approved at a negotiated price of $1,793,902.40 (excluding interest) plus applicable taxes.

2. That the City enter into, execute and deliver an Agreement of Purchase and Sale and Conditional Release with the Province of Manitoba, and such other agreements as determined necessary by the City Solicitor / Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

3. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions of the Agreement of Purchase and Sale and Conditional Release, and the Ancillary Agreements**,** in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor / Director of Legal Services to protect the interests of the City.

4. 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, Heritage and Downtown Development – January 7, 2019

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 22, 2019, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On January 7, 2019, the Standing Policy Committee on Property and Development, Heritage and Downtown 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 Settlement – CentrePort Canada Way Expropriation

Critical Path: Standing Policy Committee on Property and Development, Heritage and Downtown Development – Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
M. Pittet	J. Kiernan	B. D'Avignon, Acting for M. Ruta	D. McNeil

EXECUTIVE SUMMARY

In 2010, the Province of Manitoba (the "Province") expropriated 41.4 acres of City-owned land near Summit Road in order to construct CentrePort Canada Way (the "Project"). At the time of the expropriation, the City's holding consisted of the Summit Road Landfill, Optimist Park and various other unused City land.

Of the 41.4 acres expropriated, 11.0 acres was located within the boundaries of Optimist Park (the "Park"). The Park was significantly impacted by the expropriation as a football field, baseball diamond, soccer field, playground, parking lot and various other items were no longer available for use. The remaining 30.4 acres of City land was minimally impacted.

After several years of negotiations, the Province has provided the City with a final settlement offer of $1,793,902.40, as well as proposing to transfer back 9.17 acres of land to the City. The proposed settlement includes a payment for the market value of the City land and compensation for impacts to the Park.

Public Works has been consulted and supports the proposed settlement.

RECOMMENDATIONS

1. That the proposed expropriation settlement made by the Province of Manitoba to the City of Winnipeg for the CentrePort Canada Way expropriation, be approved at a negotiated price of $1,793,902.40 (excluding interest) plus applicable taxes.

2. That the City enter into, execute and deliver an Agreement of Purchase and Sale and Conditional Release with the Province of Manitoba, and such other agreements as determined necessary by the City Solicitor / Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

3. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions of the Agreement of Purchase and Sale and Conditional Release, and the Ancillary Agreements**,** in accordance with this report and such other

terms and conditions deemed necessary by the City Solicitor / Director of Legal Services to protect the interests of the City.

4. 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 settlement of claims arising out of expropriations (excluding interest and legal and appraisal fees) exceeding $250,000.00.

IMPLICATIONS OF THE RECOMMENDATIONS

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

The expropriation is considered to be an involuntary sale of land used for park purposes. Section 205(2) of The City of Winnipeg Charter states “no land owned by the City and used for park or cemetery purposes on the day this Act came into force or acquired after that date by the city for park or cemetery purposes may be disposed of without approval by a vote of 2/3 of all members of Council”. However, section 2(2) of The Expropriation Act (the “Act”) states: “Where there is a conflict between a provision of this Act and a provision of any other general or special Act, the provision of this Act prevails.” Therefore, the requirement of 2/3 Council approval to dispose of land used for park purposes is not required.

Further, the City property was not declared surplus to the City’s needs or circulated to civic departments. The expropriation represents an involuntary sale but includes a mutually agreed upon settlement. The Province has also agreed to transfer back 9.17 acres of expropriated land to the City.

The total settlement equals $1,793,902.40 plus applicable taxes, however the Province has already made an advance payment of $45,540.00 and is proposing to transfer back 9.17 acres of land to the City that has a value of $201,740.00. After deductions, the balance owing is $1,546,622.40 of which $635,360.00 will be deposited into the Land Operating Reserve (30.4 acres of the 41.4 acres expropriated is not considered to be parkland). The remaining balance of $911,262.40 will be held in a separate account and, subject to Council approval of recommendations to be included in a separate report, will be utilized for the restoration of Optimist Park.

HISTORY/DISCUSSION

On January 13, 2010, the signing officer for the Minister of Infrastructure and Transportation of the Province of Manitoba executed the Declaration of Expropriation for the land required for the construction of CentrePort Canada Way. The expropriation was confirmed on February 12, 2010 and possession by the Province was obtained on April 7, 2010. The City of Winnipeg was one of several land owners in the area that were affected by the Project.

The City of Winnipeg owns a total of 440 acres adjacent to CentrePort Canada Way, 41.4 acres of which were expropriated by the Province (identified as “Public Road Plan 49690 WLTO” on

Misc. Plan 14910/1, attached as Schedule A). At the time, the City's holding consisted of the Summit Road Landfill, Optimist Park and various other unused City land.

Of the 41.4 acres expropriated, 11.0 acres was located within the boundaries of Optimist Park (the "Park"). The Park was significantly impacted by the expropriation as a football field, baseball diamond, soccer field, playground, parking lot and various other items were no longer available for use. The remaining 30.4 acres of City land was minimally impacted.

After several years of negotiations, the City and the Province were able to reach a mutual agreement for settlement purposes. Details of the settlement are as follows:

- The market value of the City's land was established through a recent Land Value Appraisal Commission award, where another affected owner received $22,000 per acre. The Province has agreed to pay the City $22,000 per acre for 41.4 acres (less the advance payment of $45,540).

- For items permanently removed from the Park, the Province agreed to provide the City with compensation that will allow the playground, parking lot, and other amenities to be reconstructed.

- The disruption to the baseball diamond and football field was resolved by transferring back approximately 2.43 acres to the City (at the same market value rate of $22,000 per acre). The 2.43 acre site is identified as "Subject Property" in Schedule B.

- The soccer field was the most significantly impacted item and the Province agreed to transfer back approximately 6.74 acres to the City (at the same rate of $22,000 per acre) and provide compensation for the reconstruction of the soccer field (grading, sodding, etc.). The 6.74 acre site is identified as "Subject Property" in Schedule C.

Subject to the settlement being approved by Council, the City will enter into an Agreement of Purchase and Sale and Conditional Release with the Province. Once fully executed, and subject to Treasury Board approval, the Province will provide the outstanding balance of compensation owed to the City.

Public Works has been consulted and supports the proposed settlement.

It is noted that the transaction will not be compliant with certain elements of the Real Estate Transaction Management Framework (the "Framework"). The Province expropriating from the City is a very rare occurrence, and the Framework wasn't developed with this in mind.

FINANCIAL IMPACT

Financial Impact Statement

Date: November 30, 2018

Project Name:

First Year of Program 2019

Proposed Expropriation Settlement of the CentrePort Canada Way Expropriation

	2019	2020	2021	2022	2023
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	$ 201,740	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	1,793,902	-	-	-	-
Net Cost/(Benefit)	$ (1,592,162)	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	(45,540)	-	-	-	-
Net Budget Adjustment Required	$ (1,546,622)	$ -	$ -	$ -	$ -

Additional Comments: Direct costs represent the value of the 9.17 acres to be transferred by the Province to the City while incremental revenue represents the amount of the final settlement offer from the Province. Existing budget amounts represents the advance payment received from the Province. Of the $1,546,622 in net proceeds, $635,360 will be credited to the Land Operating Reserve and $911,262 will be held in a separate account to be used, subject to Council approval, for the restoration of Optimist Park.

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

CONSULTATION

This Report has been prepared in consultation with:

Legal Services (as to legal issues)
Public Works Department

OURWINNIPEG POLICY ALIGNMENT

N/A

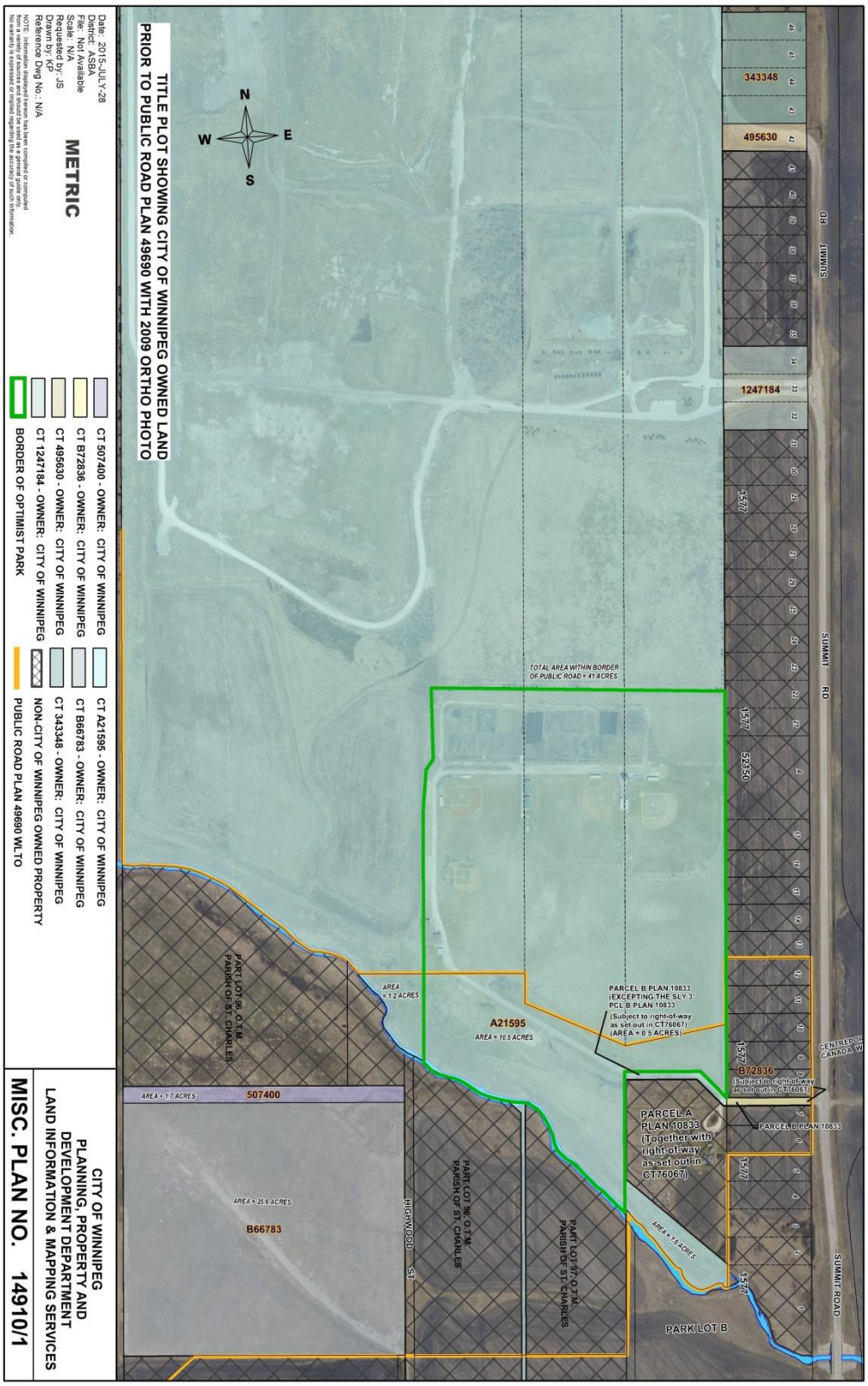
SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: Gord Chappell, Real Estate Administrator
Date: December 7, 2018
File No: 7071/6

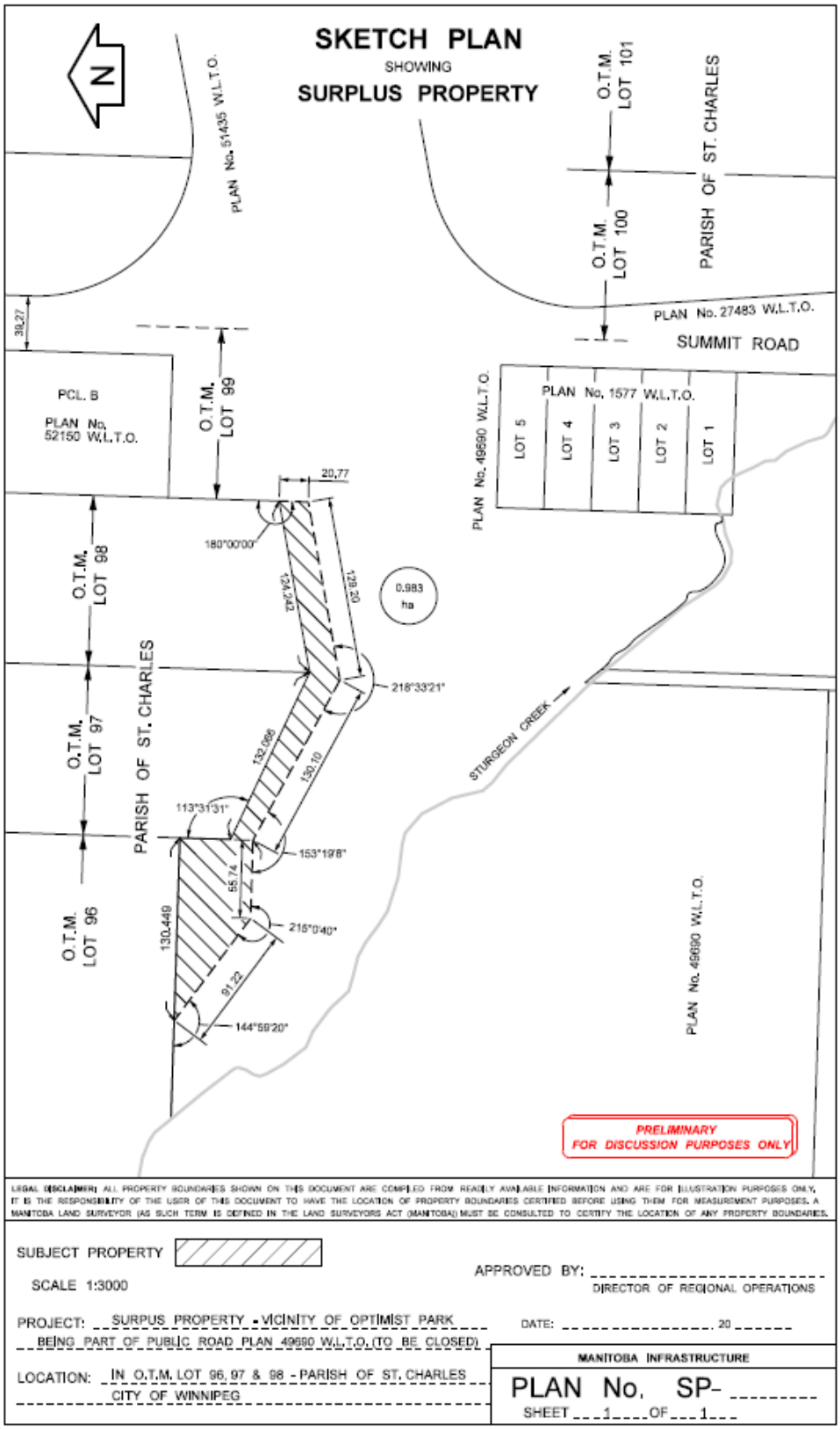
Attachments:

Schedule A – Misc. Plan 14910/1
Schedule B – 2.43 Acre Site
Schedule C – 6.57 Acre Site

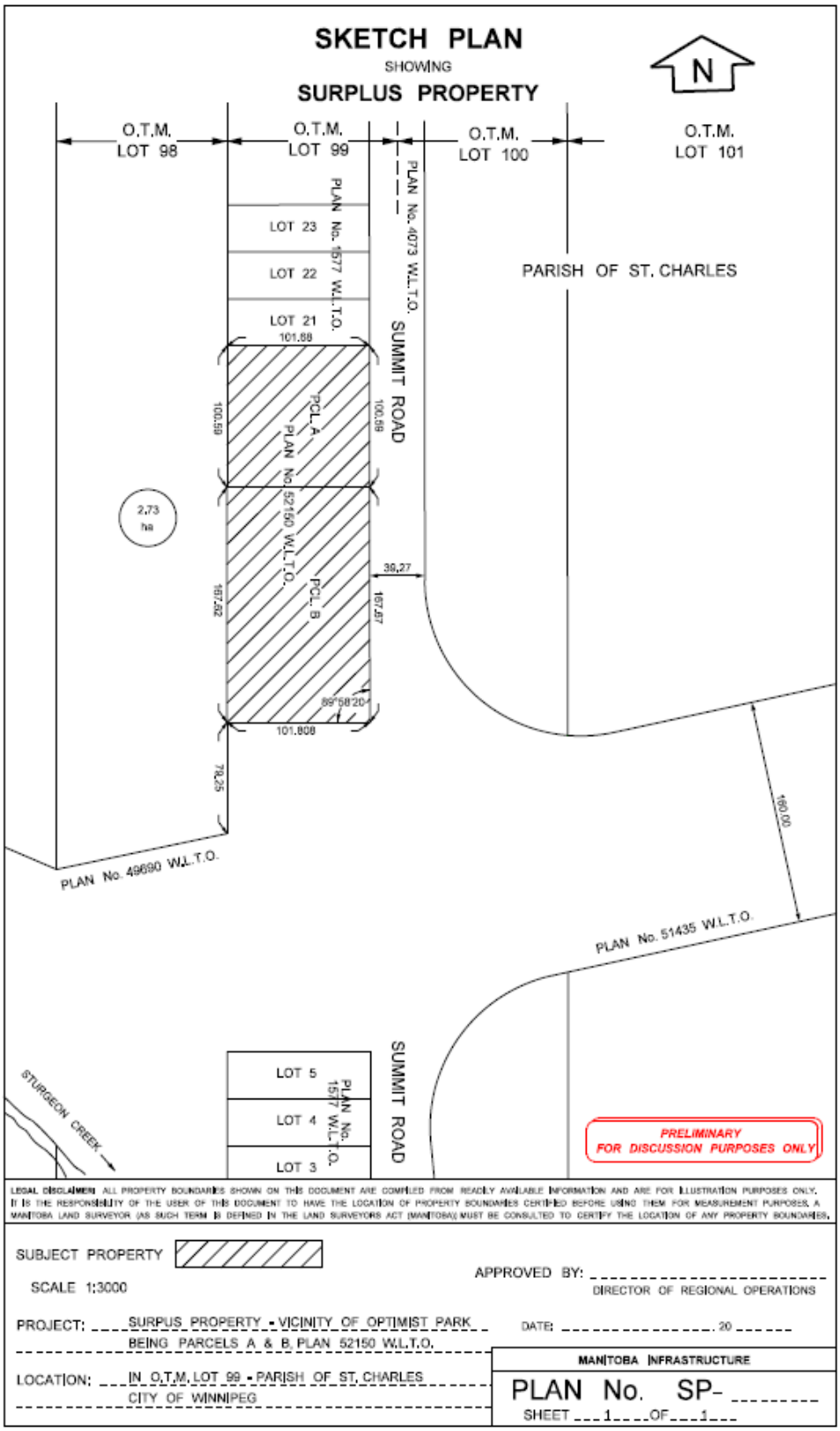
Schedule A


TITLE PLOT SHOWING CITY OF WINNIPEG OWNED LAND
PRIOR TO PUBLIC ROAD PLAN 49690 WITH 2009 ORTHO PHOTO
Date: 2015-JULY-28
District: ASBA
File: Not Available
Scale: N/A
Requested by: JS
Drawn by: KP
Reference Dwg No.: N/A
METRIC
CT 507400 - OWNER: CITY OF WINNIPEG
CT B72836 - OWNER: CITY OF WINNIPEG
CT 495630 - OWNER: CITY OF WINNIPEG
CT 1247184 - OWNER: CITY OF WINNIPEG
BORDER OF OPTIMIST PARK
CT A21595 - OWNER: CITY OF WINNIPEG
CT B66783 - OWNER: CITY OF WINNIPEG
CT 343348 - OWNER: CITY OF WINNIPEG
NON-CITY OF WINNIPEG OWNED PROPERTY
PUBLIC ROAD PLAN 49690 WLTO
CITY OF WINNIPEG
PLANNING, PROPERTY AND
DEVELOPMENT DEPARTMENT
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 14910/1
N
S
E
W
343348
495630
1247184
52150
507400
B66783
A21595
B72836
TOTAL AREA WITHIN BORDER OF PUBLIC ROAD = 41 ACRES
PARCEL B PLAN 10833 (EXCEPTING THE SLY 3' PCL B PLAN 10833 (Subject to right-of-way as set out in CT76067) (AREA = 0.5 ACRES)
PARCEL A PLAN 10833 (Together with right-of-way as set out in CT76067)
PARCEL B PLAN 10833
PARK LOT B
SUMMIT RD
SUMMIT ROAD
HIGHWOOD ST
PART LOT 96, O.T.M. PARISH OF ST. CHARLES
PART LOT 97, O.T.M. PARISH OF ST. CHARLES
AREA = 1.2 ACRES
AREA = 10.5 ACRES
AREA = 1.7 ACRES
AREA = 25.6 ACRES
AREA = 1.5 ACRES

Schedule B


SKETCH PLAN
SHOWING
SURPLUS PROPERTY
N
PLAN No. 51435 W.L.T.O.
O.T.M. LOT 101
O.T.M. LOT 100
PARISH OF ST. CHARLES
PLAN No. 27483 W.L.T.O.
SUMMIT ROAD
39.27
PCL. B
PLAN No. 52150 W.L.T.O.
O.T.M. LOT 99
20.77
180°00'00"
PLAN No. 49690 W.L.T.O.
PLAN No. 1577 W.L.T.O.
LOT 5
LOT 4
LOT 3
LOT 2
LOT 1
O.T.M. LOT 98
124.42
129.20
0.983 ha
218°33'21"
O.T.M. LOT 97
PARISH OF ST. CHARLES
132.66
130.10
STURGEON CREEK
113°31'31"
153°19'8"
55.74
O.T.M. LOT 96
130.449
216°0'40"
91.22
144°59'20"
PLAN No. 49690 W.L.T.O.
PRELIMINARY
FOR DISCUSSION PURPOSES ONLY
LEGAL DISCLAIMER: ALL PROPERTY BOUNDARIES SHOWN ON THIS DOCUMENT ARE COMPILED FROM READILY AVAILABLE INFORMATION AND ARE FOR ILLUSTRATION PURPOSES ONLY. IT IS THE RESPONSIBILITY OF THE USER OF THIS DOCUMENT TO HAVE THE LOCATION OF PROPERTY BOUNDARIES CERTIFIED BEFORE USING THEM FOR MEASUREMENT PURPOSES. A MANITOBA LAND SURVEYOR (AS SUCH TERM IS DEFINED IN THE LAND SURVEYORS ACT (MANITOBA)) MUST BE CONSULTED TO CERTIFY THE LOCATION OF ANY PROPERTY BOUNDARIES.
SUBJECT PROPERTY
SCALE 1:3000
APPROVED BY:
DIRECTOR OF REGIONAL OPERATIONS
PROJECT: SURPUS PROPERTY - VICINITY OF OPTIMIST PARK
BEING PART OF PUBLIC ROAD PLAN 49690 W.L.T.O. (TO BE CLOSED)
DATE: 20
LOCATION: IN O.T.M. LOT 96, 97 & 98 - PARISH OF ST. CHARLES
CITY OF WINNIPEG
MANITOBA INFRASTRUCTURE
PLAN No. SP-
SHEET 1 OF 1

Schedule C


SKETCH PLAN
SHOWING
SURPLUS PROPERTY
N
O.T.M. LOT 98
O.T.M. LOT 99
O.T.M. LOT 100
O.T.M. LOT 101
PLAN No. 4073 W.L.T.O.
PLAN No. 1577 W.L.T.O.
LOT 23
LOT 22
LOT 21
101.88
SUMMIT ROAD
PARISH OF ST. CHARLES
100.59
PCL A
PLAN No. 52150 W.L.T.O.
100.59
2.73 ha
39.27
167.62
PCL B
167.87
89°58'20"
101.808
79.25
160.00
PLAN No. 49690 W.L.T.O.
PLAN No. 51435 W.L.T.O.
STURGEON CREEK
LOT 5
LOT 4
LOT 3
PLAN No. 1577 W.L.T.O.
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SUBJECT PROPERTY
SCALE 1:3000
APPROVED BY:
DIRECTOR OF REGIONAL OPERATIONS
PROJECT: SURPLUS PROPERTY - VICINITY OF OPTIMIST PARK
BEING PARCELS A & B PLAN 52150 W.L.T.O.
DATE: 20
LOCATION: IN O.T.M. LOT 99 - PARISH OF ST. CHARLES
CITY OF WINNIPEG
MANITOBA INFRASTRUCTURE
PLAN No. SP-
SHEET 1 OF 1