Minute No. 446
Report - Standing Policy Committee on Property and Development - May 3, 2005

Item No. 19 **Rapid Transit Project - Land Exchange - Part (454) Warsaw Avenue - Part Parker Avenue at Pembina Highway**
Files TT-5.1 and FI-2.4.4.1

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That the exchange of the lands shown as Parcel "A" on Misc. Plan No. 11974 and Parcel "B" on Misc. Plan No. 11949/2 be approved in accordance with the terms and conditions outlined on Schedule "A1" to the report from the Director of Planning, Property and Development dated March 18, 2005, subject to Council's enactment of a by-law for the street closing, which includes Parcel "B", as shown on Misc. Plan No. 11949/2.

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 - May 3, 2005

DECISION MAKING HISTORY:

Moved by Councillor De Smedt,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On May 11, 2005, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On May 3, 2005, the Standing Policy Committee on Property and Development concurred in the administrative recommendation and submitted the matter to the Executive Policy Committee and Council.

Re: Proposed Rapid Transit Project – Proposed Land Exchange –
Part (454) Warsaw Avenue – Part Parker Avenue at Pembina Highway
City Centre Community
Fort Rouge – East Fort Garry Ward
River Heights – Fort Garry Ward

For submission to: **Standing Policy Committee on Property and Development**

Original report signed by: **Director of Planning, Property and Development**

Report date: March 18, 2005

Recommendation(s):

That the proposed exchange of the lands shown as Parcel "A" on Misc. Plan No. 11974 and Parcel "B" on Misc. Plan No. 11949/2 be approved, in accordance with the terms and conditions as specified on the attached Schedule "A1"; subject to Council's enactment of a by-law for the proposed street closing; which includes Parcel "B", as shown on Misc. Plan No. 11949/2.

REPORT SUMMARY

Key Issues:

- In February, 2004, Manitoba Hydro proposed an equitable land exchange.
- The City requires (Parcel "A") shown on Misc. Plan No. 11974 for the Southwestern Corridor of the proposed Rapid Transit Project.
- Manitoba Hydro requires Parcel "B" shown on Misc. Plan No. 11949/2 for the installation of a proposed above grade natural gas valve box.
- The terms and conditions of the land exchange require approval.
- This proposed land exchange will be subject to Council's enactment of a by-law for the proposed street closing; which includes Parcel "B", as shown on Misc. Plan No. 11949/2.
- At its meeting held on December 15, 1999, Council had adopted the proposed closing of the subject portion of Parker Avenue and Pembina Highway; and the Administration is taking final steps to provide the by-law to Council for enactment.

Implications of the Recommendation(s):

General implications:

X	**None**
	For the organization overall and/or for other departments
	For the community and/or organizations external to the City of Winnipeg
	Involves a multi-year contract

Comment(s):

-

Policy implications:

X	**No**
	Yes

Comment(s):

-

Environmental implications:

X	**No**
	Yes

Comment(s):

- No environmental issues are anticipated. However, as a precaution, the proposed transaction contains terms that protect the City's interests regarding environmental matters.

Human resources implications:

X	**No**
	Yes

Comment(s):

-

Financial implications:

X	**Within approved current and/or capital budget**
	Current and/or capital budget adjustment required

Comment(s):

- The Transit Department has advised that funding for this land exchange is available in Capital Account No. 442-181000-420754-4220000394-PROPERTY CNOTH.

REASON FOR THE REPORT:

The Standing Policy Committee on Property and Development approval is required for the proposed land exchange in accordance with the negotiated terms and conditions.

HISTORY:

On July 23, 2003, Council approved the proposed Rapid Transit project and authorized the Director of the Planning, Property and Development Department to negotiate such property acquisitions as the Transit Department through its consultants may identify for completion of Stage 1 of the Southwestern Corridor and Stage 1 of the Eastern Corridor for construction after 2004, and to report back with the results thereon.

Ensuing negotiations by the Real Estate Division with Manitoba Hydro have produced an agreement to a proposed land exchange. The particulars of the subject properties and the negotiated settlement are as follows:

Parcel "A" (Manitoba Hydro to convey to City)

Location:	Part (454) Warsaw Avenue (North side of Warsaw Avenue, West of Osborne Street)
Legal Description:	Part Lots 17/19, Block 14, Plan 208 (shown as Parcel "A" on Misc. Plan No. 11974, attached)
Ownership:	Manitoba Hydro (Property Department) c/o Marc Wankling, 1464 Chevrier Boulevard, Winnipeg, Manitoba, R3C 2P4
Certificate of Title No.	Part 1949699
Zoning:	"C-2" Commercial District
Site Size/Area:	±448.2 square metres (±4823.9 square feet)
Description of Property:	Parcel "A" forms part of a parking lot for a Hydro-electric substation site and is improved with chain-link fencing. Any and all affected improvements are to be relocated by the City as part of the proposed Rapid Transit Project.

Parcel "B" (City to convey to Manitoba Hydro)

Location:	North side of Parker Avenue, West of Pembina Highway
Legal Description:	Part of Parker Avenue and Pembina Highway (shown as Parcel "B" on Misc. Plan No. 11949/2, attached.
Ownership:	City of Winnipeg

Site Size/Area:	±478.8 square metres (±5,154 square feet)
Description of Property:	Vacant land which is partly encumbered by an easement for underground sewer and water facilities.

DISCUSSION:

In a letter dated February 11, 2004, Manitoba Hydro proposed an equitable exchange of a portion of Manitoba Hydro's Warsaw Avenue site (Parcel "A") shown on Misc. Plan No. 11974 and required by the Transit Department for the Southwestern Corridor of the proposed Rapid Transit Project, for a portion of the City-owned land (Parcel "B") shown on Misc. Plan No. 11949/2, and required by Manitoba Hydro for the installation of a proposed above grade natural gas valve box; which is slated for installation in July or August, 2005.

In March 2004, the Transit Department stated that from its perspective, the exchange as proposed by Manitoba Hydro was worth pursuing and instructed the Real Estate Division to undertake negotiations for the acquisition of Parcel "A" via a proposed land exchange.

In May 2004, the Public Works Department stated that it has reviewed the referenced proposed land exchange and had no objections thereto.

By proceeding with this proposed acquisition, based on the proposal as recommended herein and the terms and conditions as now accepted by the property owner, the City will be in possession of the subject property (Parcel "A") in order to accommodate the Southwestern Corridor of the proposed Rapid Transit Project. Also, Manitoba Hydro will be able to undertake the installation of the proposed gas valve box on Parcel "B" in the Summer of 2005.

The Planning, Property and Development Department considers the proposed land exchange to be equitable since both parcels are valued at approximately $17,000.00. The associated terms and conditions are considered reasonable and consistent with other land exchanges negotiated by the City. A copy of Schedule "A1", containing the terms and conditions of this proposed land exchange is attached hereto.

Thus, the Transit Department and the Public Works and Planning, Property and Development Departments are of the opinion that it would be in the best interests of the City to settle this matter on the basis of the proposal as specified herein.

This proposed land exchange will be subject to Council's enactment of a by-law for the proposed closing of Parcel "B" as shown on the accompanying Misc. Plan No. 11949/2. At its meeting held on December 15, 1999, Council had adopted Clause 1 of the Report of the Standing Policy Committee on Property and Development dated November 25, 1999, regarding the proposed closing of the subject portion of Parker Avenue and Pembina Highway; and the Administration is taking final steps to provide the by-law to Council for enactment.

The Transit Department has advised that adequate funding for this proposed land exchange is available in Capital Account No. 442-181000-420754-4220000394-PROPERTY CNOTH.

Financial Impact Statement

Date: March 14, 2005

Project Name:

First Year of Program 2005

Proposed Rapid Transit Project - Proposed Land Exchange - Part (454) Warsaw Avenue - Part Parker Avenue and Pembina Highway

	2005	2006	2007	2008	2009
Capital					
Capital Expenditures Required	$ 3,605	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	3,605	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
External	-	-	-	-	-
Grants (Identify)	-	-	-	-	-
Reserves, Equity, Surplus, Other	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ 324	$ 324	$ 324	$ 324
Less: Incremental Revenue/Recovery	105	-	-	-	-
Net Cost/(Benefit)	$ (105)	$ 324	$ 324	$ 324	$ 324
Less: Existing Budget Amounts	(105)	324	324	324	324
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments:

On February 14, 2005, the Transit Department advised the Real Estate Division of the Planning, Property and Development Deaprtment that the costs of implementing this transaction are to be charged to Capital Account No. 442-181000-420754-4220000394-PROPERTY CNOTH. Closing and associated costs with this proposed land exchange should be achievable within an approximate amount of $3,600.00.

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

IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

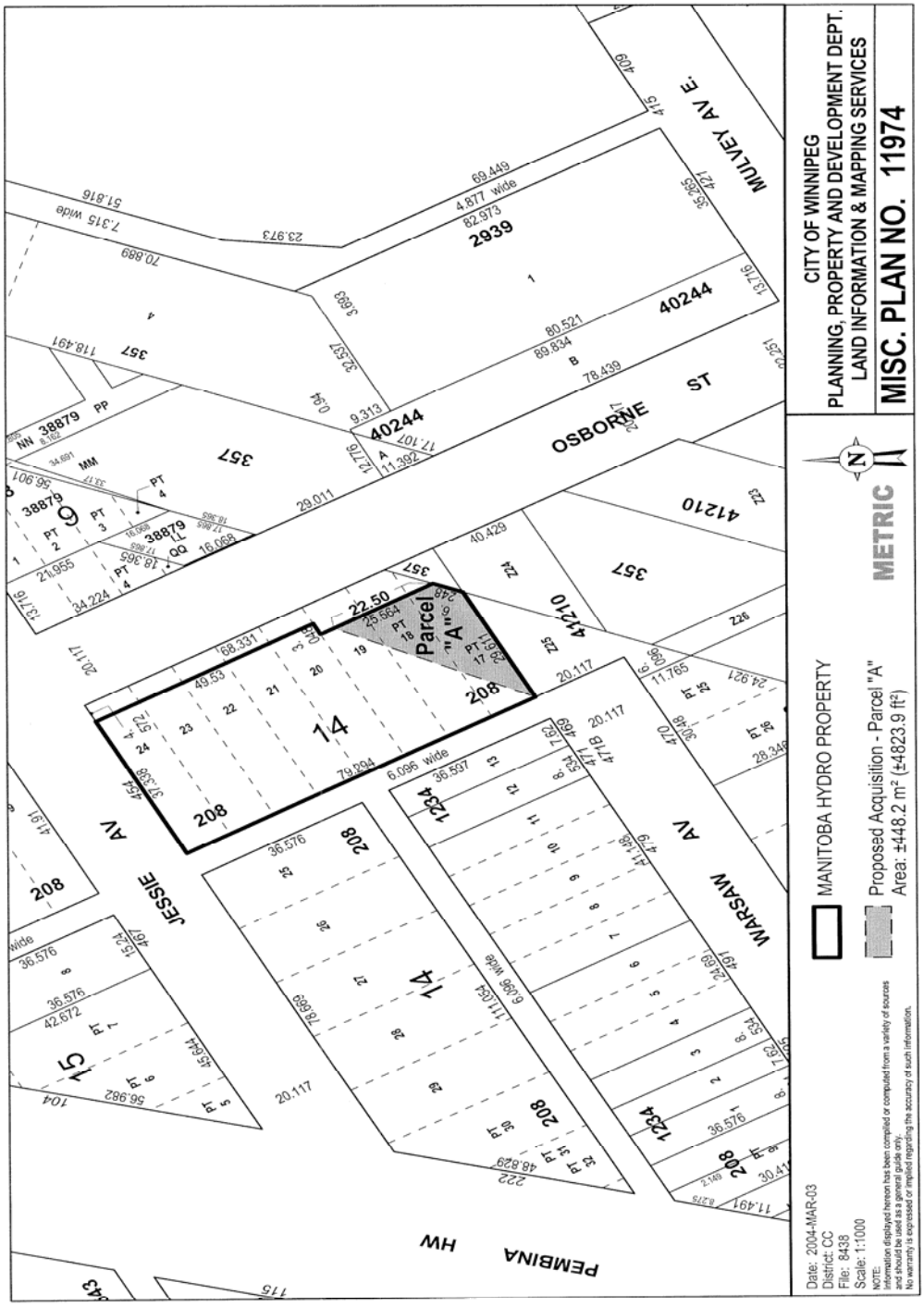
The Transit Department

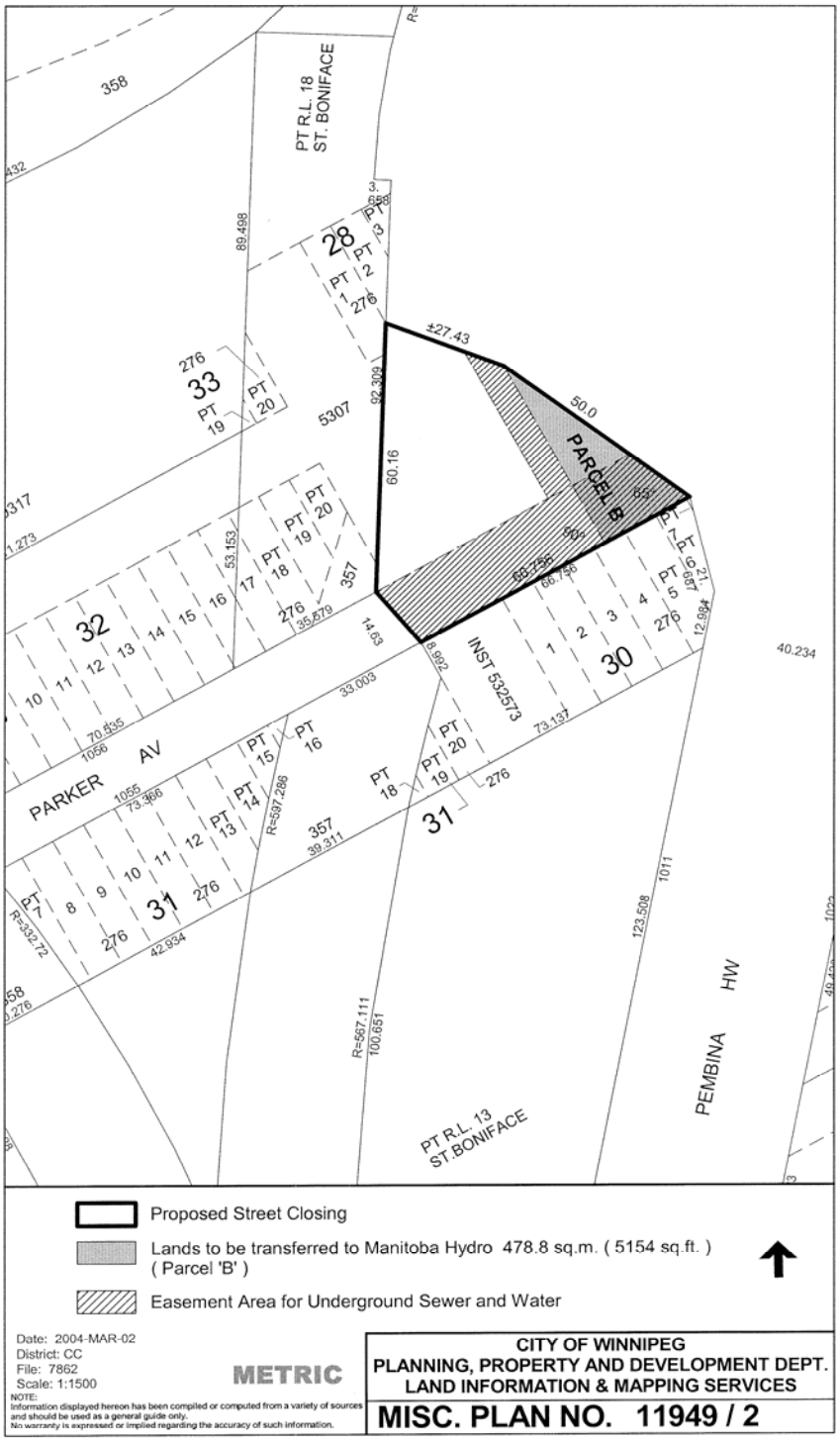
The Public Works Department.

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Real Estate Division
Prepared by: Maria Haddock, Senior Negotiator
PPD File #: 8438 and 7862

Document name: O:\Reports Directive\Real Estate\Acquisition\(mh)rapid transit-Warsaw.doc


CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 11974
METRIC
MANITOBA HYDRO PROPERTY
Proposed Acquisition - Parcel "A"
Area: ±448.2 m² (±4823.9 ft²)
Date: 2004-MAR-03
District: CC
File: 8438
Scale: 1:1000
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.
Parcel "A"
OSBORNE ST
MULVEY AV E.
JESSIE AV
WARSAW AV
PEMBINA HW


PT R.L. 18
ST. BONIFACE
PARCEL B
±27.43
50.0
60.16
INST 532573
PARKER AV
PEMBINA HW
PT R.L. 13
ST.BONIFACE
Proposed Street Closing
Lands to be transferred to Manitoba Hydro 478.8 sq.m. (5154 sq.ft.)
(Parcel 'B')
Easement Area for Underground Sewer and Water
Date: 2004-MAR-02
District: CC
File: 7862
Scale: 1:1500
METRIC
NOTE:
Information displayed hereon has been compiled or computed from a variety of sources and should be used as a general guide only.
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CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 11949 / 2

SCHEDULE "A1"

PROPOSED TERMS AND CONDITIONS FOR AN EXCHANGE OF LAND – THE MANITOBA HYDRO – ELECTRIC BOARD (VENDOR) – AND THE CITY OF WINNIPEG (CITY) – PART 454 JESSIE AVENUE FOR PEMBINA HIGHWAY AT PARKER AVENUE (TO BE CLOSED)

1. The Vendor hereby agrees to transfer and convey Parcel "A" shown as "Proposed Acquisition-Area: ±448.2 m2 (±4,823.9 sq.ft.)"on Misc. Plan No. 11974 to the City free and clear of any and all liens, charges, encumbrances and leasehold interests, excepting standard utility caveats acceptable to the City.

2. The City, in exchange for Parcel "A" being conveyed to it by the Vendor, hereby agrees to transfer and convey Parcel "B" shown as "Land to be transferred to Manitoba Hydro - 478.8 m2 (5,154 sq.ft.)" on Misc. Plan No. 11949/2, subject only to any standard utility caveats registered against the title to the subject property, and an easement required by the City for underground sewer and water within the area shown hatched on the attached plan.

3. The adjustment date and vacant possession date for the respective parcels to be mutually agreed upon between the parties following approval of this land exchange proposal by the City's Standing Policy Committee on Property and Development and/or City Council; and the Vendor's Board, and to be no later than May 31, 2005.

4. The City to attend to the survey work required by the Winnipeg Land Titles Office to effect the transfer of Parcel "B" to the Vendor at no cost to the Vendor.

5. The Vendor to attend to the survey work required by the Winnipeg Land Titles Office to effect the transfer of Parcel "A" to the City at no cost to the City.

6(a) The City agrees to grant to the Vendor a temporary easement, and in a form satisfactory to the Vendor, permitting the Vendor to use a portion of Parcel "A" for vehicle traffic and machinery to access the adjacent land owned by the Vendor.

6(b) The City shall have the right to terminate the said easement if termination is required to permit construction in, under and upon the easement area for the proposed Rapid Transit Corridor, upon giving to the Vendor (90) days notice in writing.

6(c) Upon termination of the easement, the City shall reimburse the Vendor for the cost of relocating the portion of affected chain link fence to the limits of the new property line at 454 Jessie Avenue; including reasonable internal costs applicable thereto. The Vendor shall obtain at least

three (3) Contractor quotations for the performance of the relocation work, and shall submit its estimates of the cost of the work to the City for approval prior to the commencement of the relocation work.

7(a) The Vendor covenants, warrants and represents to the City and it is a condition of the agreement that to the best of the Vendor's knowledge and belief:

(a) Parcel "A" complies with all applicable environmental laws, regulations and by-laws;

(b) there are no outstanding governmental orders or requests for information;

(c) there are no existing, pending or threatened actions of an environmental nature;

(d) there are no waste disposal sites on the property, nor has the property ever been used as a landfill or waste disposal site, or for temporary storage of special wastes on an interim basis pending treatment or fill; and,

(e) the Vendor shall provide copies of any environmental audits or reports that it has in its possession.

7(b) The City covenants, warrants and represents to the Vendor and it is a condition of the

agreement that to the best of the City's knowledge, information and belief:

(a) Parcel "B" complies with all applicable environmental laws, regulations and by-laws;

(b) there are no outstanding governmental orders or requests for information,

(c) there are no existing, pending or threatened actions of an environmental nature;

(d) there are no waste disposal sites on the property, nor has the property ever been used as a landfill or waste disposal site, or for temporary storage of special wastes on an interim basis pending treatment or fill; and,

(e) the City shall provide copies of any environmental audits or reports that it has in its possession.

8(a) The Vendor permits the City, at its discretion and expense, prior to possession, to conduct or have conducted on its behalf, an environmental assessment together with any soil testing and analysis required.

8(b) The City acknowledges and agrees that in the event the City conducts an environmental audit and/or soil testing of the Vendor's land, the City shall:

(i) ensure that all work done in connection with the testing is completed no later than the possession date;

(ii) maintain the Vendor's land in a safe condition at all times during the conduct of any work done;

(iii) restore the Vendor's land to the same condition as prior to its entering in or upon the same;

(iv) indemnify and save harmless the Vendor from and against all damages and claims arising out of or in any way attributable to the conduct of the testing.

8(c) The Vendor further acknowledges and accepts that should the City determine that there are environmental concerns or contamination, it may elect to cancel the proposed exchange.

9(a) The City permits the Vendor, at its discretion and expense, prior to possession, to conduct or have conducted on its behalf, an environmental assessment together with any soil testing and analysis required.

9(b) The Vendor acknowledges and agrees that in the event the Vendor conducts an environmental audit and/or soil testing of the City's land, the Vendor shall:

(i) ensure that all work done in connection with the testing is completed no later than the possession date;

(ii) maintain the City's land in a safe condition at all times during the conduct of any work done;

(iii) restore the City's land to the same condition as prior to its entering in or upon the same;

(iv) 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 the testing.

9(c) The City further acknowledges and accepts that should the Vendor determine that there are environmental concerns or contamination, it may elect to cancel the proposed exchange.

10. The property (Parcels "A" and "B"), until possession is delivered to the City and the Vendor, shall remain at the risk and responsibility of the respective parties.

11. The Vendor agrees to enter into an appropriate Land Exchange Agreement with the City embodying the within terms and conditions and in a form satisfactory to the City Solicitor/Manager of Legal Services and the Vendor's solicitor. It is further acknowledged that the said Land Exchange Agreement will be filed as a Caveat against each of the Vendor's and the City's titles pending conveyance of the subject property each to the other.

12(a) The Vendor agrees that Parcel "A" will not be conveyed, disposed of or encumbered in any manner whatsoever, except subject to this agreement.

12(b) The City agrees that Parcel "B" will not be conveyed, disposed of or encumbered in any manner whatsoever, except subject to this agreement.

13. The City and the Vendor agree to complete Real Owner Application Forms to reflect the change of ownership on the Assessment Rolls of the City.

14. The Vendor agrees to declare that it is a "Registrant" for the purposes of the Goods and Services Tax and that its G.S.T. Registration Number is 12206 3779 RT0001.

15. The City (Goods and Services Tax Registrant No. R121682967) will self-assess any G.S.T. payable by the City in respect of the acquisition of Parcel "A". The Vendor will self-assess any G.S.T. payable by the Vendor in respect of the acquisition of Parcel "B".

16. This proposal is a recommendation only and is subject to the final approval of the City's Standing Policy Committee on Property and Development and/or City Council; and subject to the approval of The Manitoba Hydro – Electric Board.