Minutes - Executive Policy Committee – July 19, 2006

Minute No. 567
Report - Standing Policy Committee on Property and Development – July 4, 2006

Item No. 23 **Sale - Portion of Estella Street and Public lane west of St. James Street, north of Portage Avenue – Manitoba Hydro**
File FI-2.4(31)

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

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

1. That the subject City-owned property be declared surplus to the City's needs.

2. That subject to enactment of the street and lane closing by-law, the sale of that portion of the Public Street and Lane shown outlined on Misc. Plan No. 10162/6 be approved to Manitoba Hydro at a price of $433,620.00 in accordance with the terms and conditions of the Offer to Purchase contained in the report from the Director of Planning, Property and Development dated June 27, 2006.

3. That the property being acquired from Manitoba Hydro on Mission Street, as shown outlined on Misc. Plan No. 10620/15, be declared surplus to the City's needs.

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

Minutes - Executive Policy Committee – July 19, 2006

Report - Standing Policy Committee on Property and Development – July 4, 2006

DECISION MAKING HISTORY:

Moved by Councillor De Smedt,
That the recommendation of the Standing Policy Committee on Property and Development be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On July 4, 2006, 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 Sale of a portion of Estella Street and the Public Lane West of St. James Street and North of Portage Avenue – Manitoba Hydro**
Assiniboia Community
St. James – Brooklands Ward

FOR SUBMISSION TO: Standing Policy Committee on Property and Development

ORIGINAL REPORT SIGNED BY: Director of Planning, Property and Development

REPORT DATE: June 27, 2006

RECOMMENDATION:

1. That the proposed sale of that portion of the Public Street and Public Lane as shown outlined on Misc. Plan No. 10162/6 to Manitoba Hydro be approved at a price of $433,620.00 and in accordance with the terms and conditions of the attached Offer to Purchase, subject to:

   (a) Council's enactment of the proposed lane closing By-law, and

   (b) Council declaring the subject property as surplus to the City's needs.

2. That the property being acquired from Manitoba Hydro on Mission Street as shown outlined on Misc. Plan No. 10620/15, be declared surplus to the City's needs.

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

Report Summary

Key Issues:

- Manitoba Hydro intends to consolidate that portion of Estella Street and Public Lane shown as "Proposed Closing and Transfer to Manitoba Hydro" on Misc. Plan No. 10162/5 with its adjacent lands, also shown as "Manitoba Hydro Lands" on Misc. Plan No. 10162/5. Manitoba Hydro is proposing this exchange in order to protect its existing buried high voltage line (115Kv) within the limits of the property, as well as the need to accommodate future facilities.
- On February 25, 1998, Council adopted the closing of Estella Street and the Public Lane west of St. James Street and north of Portage Avenue, shown outlined on Misc. Plan No. 10162/5 (DAC 24/97).

- On June 23, 1999, Council instructed the Director of the then Property and Development Services Department to negotiate the acquisition of Manitoba Hydro lands on Mission Street, shown outlined on Misc. Plan No. 10620/15.
- The Planning, Property and Development Department have completed negotiations with Manitoba Hydro, which includes the acquisition of the Manitoba Hydro property in exchange for the subject City property shown on Misc. Plan No. 10162/6.
- The Planning, Property and Development Department are now recommending approval of the terms and conditions of sale for the Estella Street and Public Lane.

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

( ) Involves a multi-year contract

Comment(s):

Policy Implications

(X) No

( ) Yes

Comment(s):

Regulatory Implications

(X) None

( ) Eliminates or reduces regulatory impact

( ) Proposes regulatory impact

Comment(s):

Environmental Implications

(X) No

( ) Yes

Comment(s):

- The City's standard terms and conditions of sale include provisions to protect the City's interests in the event that environmental contamination is discovered.

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):

Report

REASON FOR THE REPORT:

The Planning, Property and Development Department are in receipt of an Offer to Purchase a portion Estella Street and the Public Lane shown outlined on Misc. Plan No. 10162/6. Approval by the Standing Policy Committee on Property and Development is required for the proposed terms and conditions of sale as set out in the attached Offer to Purchase. Council will be required to declare the subject City property as surplus and enact the proposed closing by-law.

In addition, Council approval is required to declare the lands being acquired from Manitoba Hydro on Mission Street, outlined on Misc. Plan No. 10620/15, as surplus to the City's needs.

HISTORY:

Manitoba Hydro intends to consolidate the subject City property with its adjoining property, in order to protect an existing buried high voltage line (115Kv) within the limits of the property, and to accommodate future facilities.

On February 25, 1998, Council adopted the closing of part of Estella Street and the Public Lane west of St. James Street and north of Portage Avenue, shown outlined on Misc. Plan No. 10162/5 (DAC 24/97).

On June 23, 1999, Council instructed the Director of the then Property and Development Services Department to negotiate the acquisition of Manitoba Hydro lands on Mission Street, as shown outlined on Misc. Plan No. 10620/15.

DISCUSSION:

The Planning, Property and Development Department have determined that there is no City requirement for that portion of Estella Street and Public Lane, shown outlined on Misc. Plan No. 10162/6. The Water and Waste Department requires an easement for the maintenance of an existing combined sewer within the subject property. MTS Allstream Manitoba Inc. requires an easement for access to its facilities.

As part of the sale negotiations with Manitoba Hydro, the City will acquire from Manitoba Hydro its property on Mission Street shown outlined on Misc. Plan No. 10620/15. In addition, the City will initiate a street closing for the adjacent Auburn and Paris Streets. The street closing will be the subject of a further report to Standing Policy Committee.

The Department intends to consolidate: (1) the lands on Mission Street purchased from Manitoba Hydro, and (2) the closed Paris and Auburn Streets, with (3) the adjacent surplus City lands. The consolidation of these lands represents a logical expansion of the City's land holdings from an economic land use perspective. The assembled lands will facilitate enhanced marketability.

The Planning, Property and Development Department recommend that the sale of the subject portion of Estella Street and Public Lane to Manitoba Hydro be approved for the following reasons:

a) The property will be placed on the tax roll at the closing of the sale.

b) The Purchaser will be responsible for all costs related to the closing of the Public Street and Public Lane including the necessary closing plan.

c) The proposed purchase price of $433,620.00 is to be payable by a payment of $368,120.00 and the transfer of the Mission Street property (value of which is $65,500.00) and exceeds the value estimated by an internal appraisal report.

d) The proposed terms and conditions of sale, as recommended by the Department, are in accordance with the City's standard terms and conditions and include special conditions required by City Departments and Public Utilities.

Financial Impact Statement

Date: June 19, 2006

Project Name:

First Year of Program **2006**

Proposed sale of Closed Estella Street and Public Lane W. of St. James Street, North of Portage Avenue - Manitoba Hydro

	2006	2007	2008	2009	2010
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	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	433,620	6,089	6,089	6,089	6,089
Net Cost/(Benefit)	$ (433,620)	$ (6,089)	$ (6,089)	$ (6,089)	$ (6,089)
Less: Existing Budget Amounts	(433,620)	(6,089)	(6,089)	(6,089)	(6,089)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Proceeds of disposition of $433,620 in 2006 consists of $368,120 cash and property valued at $65,500, which will be credited to the Land Operating Reserve. The $6,089 from 2007 onward represents incremental property taxes based on the assumptions that the net taxable addition to the assessment roll of $368,120 (i.e. $433,620 added to roll less $65,500 that will become exempt) is effective Jan. 1/07 and that the portioning and mill rates remain constant at 65% and 0.025448 respectively.

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

5310

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

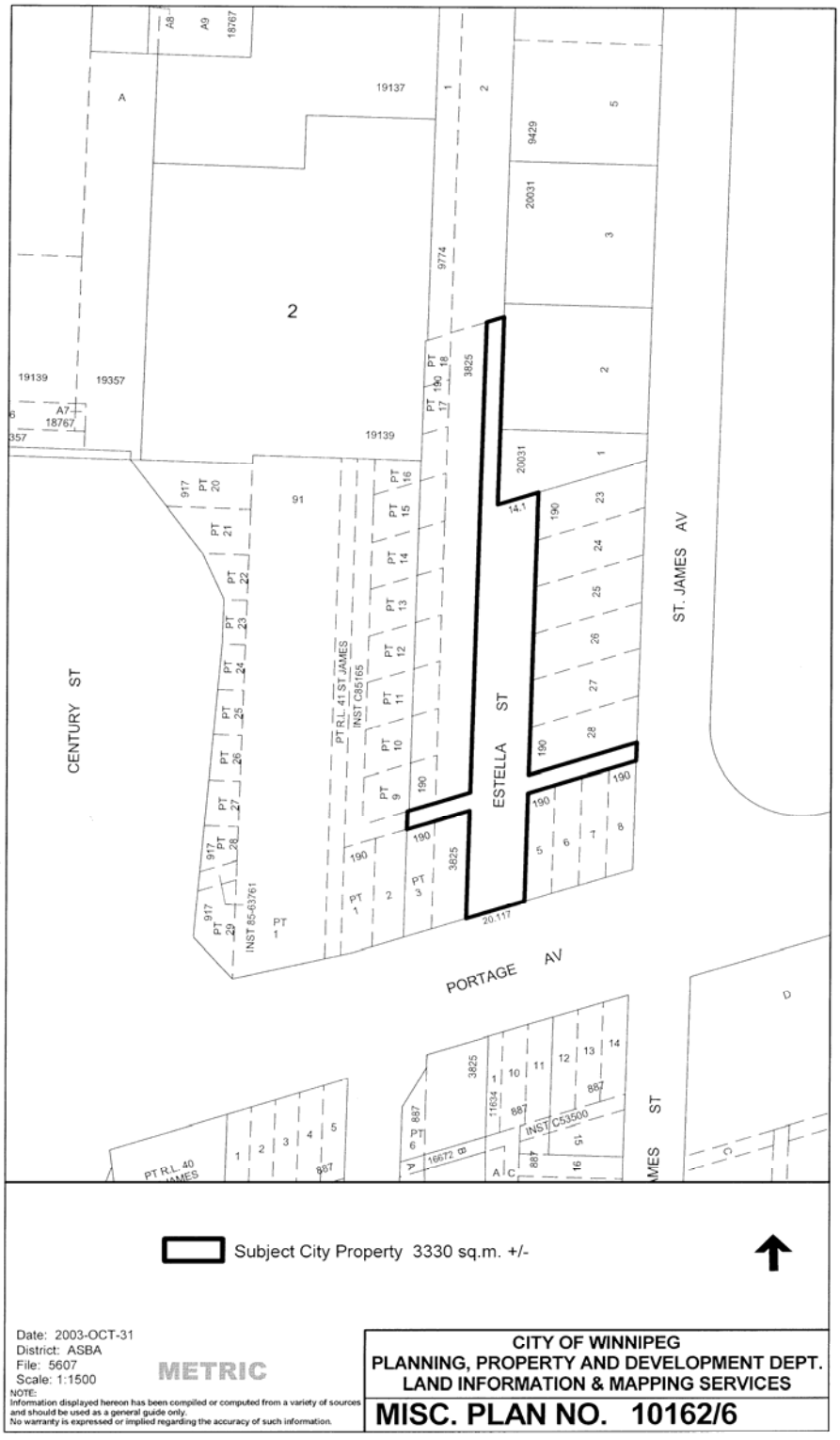
No consultation was required in preparation of this report.

External Consultation With:

No consultation was required in the preparation of this report.

THIS REPORT SUBMITTED BY:

Department	Planning, Property and Development
Division	Real Estate
Prepared by:	Barry Lucyk
PPD File No.	5607V2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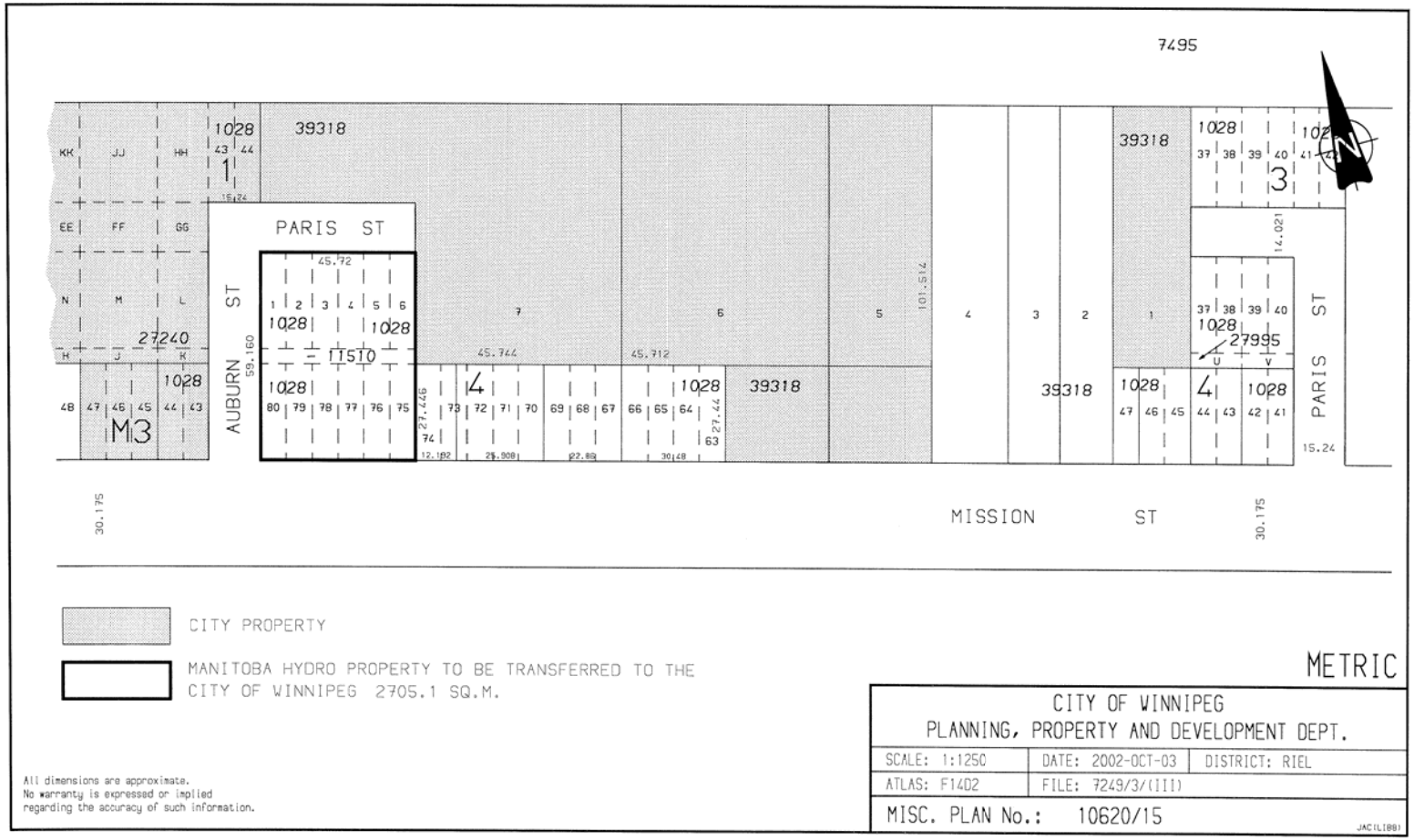
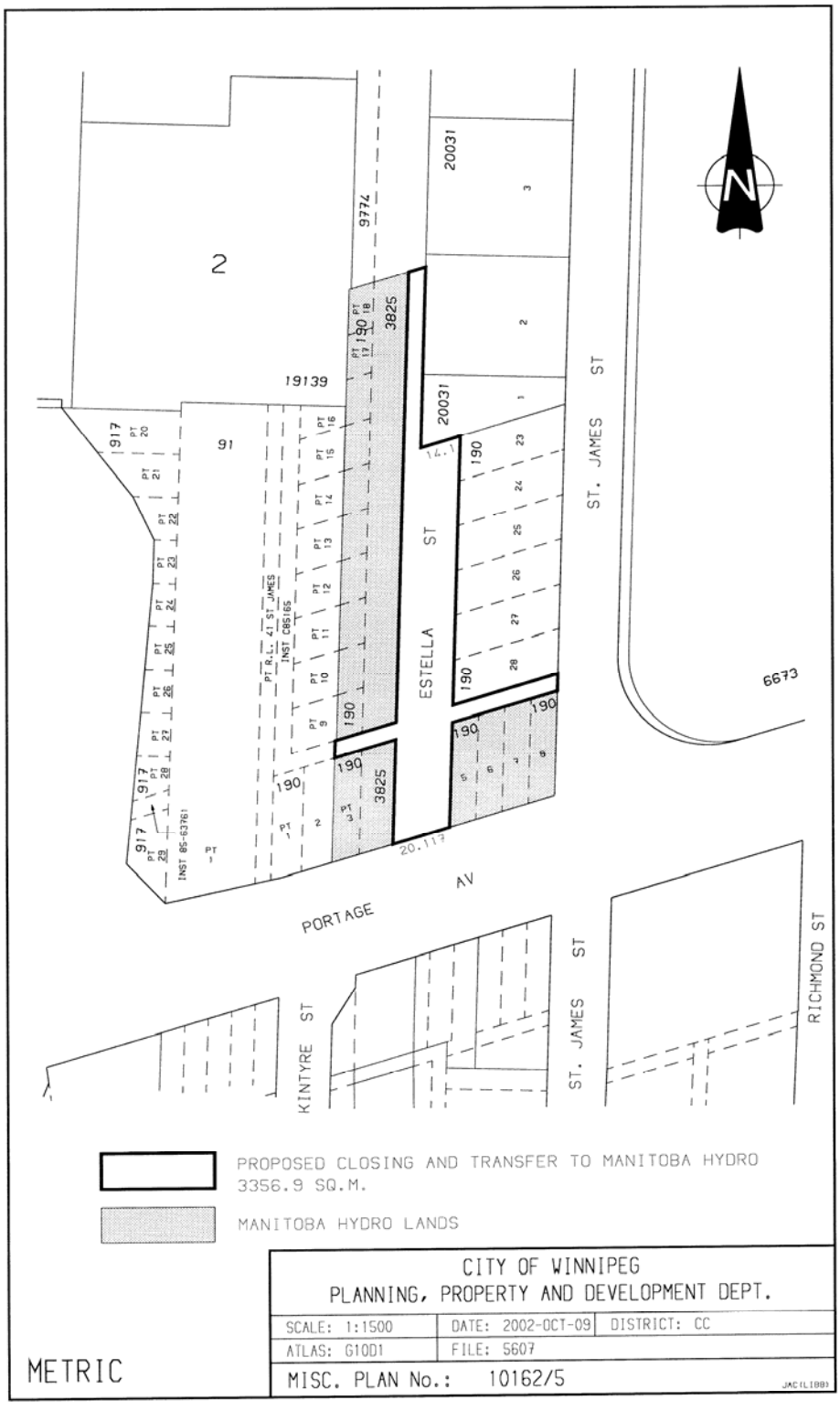
ESTELLA ST
ST. JAMES AV
PORTAGE AV
PT R.L. 41 ST. JAMES INST C85165
INST 85-63761
PT R.L. 40
INST C53500
Subject City Property 3330 sq.m. +/-
Date: 2003-OCT-31
District: ASBA
File: 5607
Scale: 1:1500
METRIC
NOTE:
Information displayed hereon has been compiled or computed from a variety of sources and should be used as a general guide only.
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. 10162/6


7495
PARIS ST
AUBURN ST
MISSION ST
PARIS ST
39318
1028
27240
11510
27995
M3
CITY PROPERTY
MANITOBA HYDRO PROPERTY TO BE TRANSFERRED TO THE CITY OF WINNIPEG 2705.1 SQ.M.
METRIC
All dimensions are approximate.
No warranty is expressed or implied
regarding the accuracy of such information.
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
SCALE: 1:1250
DATE: 2002-OCT-03
DISTRICT: RIEL
ATLAS: F14D2
FILE: 7249/3/(III)
MISC. PLAN No.: 10620/15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ESTELLA ST
ST. JAMES ST
6673
PORTAGE AV
20.117
KINTYRE ST
ST. JAMES ST
RICHMOND ST
PROPOSED CLOSING AND TRANSFER TO MANITOBA HYDRO
3356.9 SQ.M.
MANITOBA HYDRO LANDS
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
SCALE: 1:1500
DATE: 2002-OCT-09
DISTRICT: CC
ATLAS: G10D1
FILE: 5607
MISC. PLAN No.: 10162/5
METRIC

INDUSTRIAL/COMMERCIAL

OFFER TO PURCHASE

The Undersigned (hereinafter called "the Purchaser") hereby offers to purchase from The City of Winnipeg (the "City"), subject to Council enactment of the necessary By-law to effect the legal closing of the following lands:

> Estella Street, North of Portage Avenue, West of St. James Street, shown as "Subject City Property" on Misc. Plan No. 10162/6 attached hereto: (hereinafter called the "Lands");

for the sum of $433,620.00 Canadian.

The purchase price of the Lands is based on a land area of 36,135 sq. ft. (and the land area shall be verified by a legal survey and the purchase price shall be adjusted accordingly based on a purchase price of $12.00 per square foot).
The purchase price is payable as follows:

(a) By payment of $368,120.00 cash in Canadian Dollars (which may be adjusted in accordance with the verified land area) and
(b) By the transfer to the City of the real property described in title #C26894 on the Date of Closing, which property is on Mission Street and shown as "Manitoba Hydro Property to be Transferred to the City of Winnipeg" on Misc. Plan No. 10620/15 attached hereto and is hereinafter referred to as the "Hydro Property" (the agreed upon value of which is $65,500.00), and which is free and clear of any and all encumbrances and restrictions except those outlined in Clause 23 herein.

and upon the following terms and conditions:

1. (1) Attached to this Offer is the Purchaser's certified cheque payable to "The City of Winnipeg" in the amount of $65,043.00 Canadian, and represents an amount equal to fifteen (15%) per cent of the purchase price which the Purchaser tenders by way of deposit, and which sum shall be applied to the purchase price if the sale is approved by the City's Standing Policy Committee on Property and Development and/or City Council (in the event that Council approval is required), (herein after called the "Date of Approval".) The Purchaser agrees to pay $303,077.00, being the balance of the purchase price, plus adjustments, and transfer the Hydro property to the City on or before the date of closing, possession and adjustments (hereinafter called the "Date of Closing.")

1. (2) If the Purchaser fails to pay the balance of the purchase monies and adjustments on or before the Date of Closing as in sub-clause (1) above provided, the City may, at its option, cancel the sale and retain the deposit as liquidated damages.

1. (3) If the sale is not approved by the City's Standing Policy Committee on Property and Development, this Offer shall be null and void and the deposit shall be returned to the Purchaser within thirty (30) days of any non-approval.

2. (1) The Date of Closing shall be one hundred and twenty (120) days following the Date of Approval or earlier as mutually agreed to.

(2) The Purchaser agrees to pay as an adjustment an amount equal to the total of such taxes, rates and charges which would have been levied or charged against the Lands as though the Lands had been entered on the assessment rolls of the City as privately owned and subject to taxation, which adjustment shall be calculated from the Date of Closing to and including the last day of the current taxation year.

3. Goods and Services Tax

The Purchaser agrees as a registrant under the Goods and Services Tax legislation, to provide its registration number to the City in this Offer to Purchase.

4. The Purchaser will obtain possession of the Lands at the Purchaser's own expense.

5. The Purchaser will accept Title to the Lands subject to all exceptions, reservations and utility encumbrances expressed or implied in the City's title.

6. The sale of the Lands to the Purchaser shall be subject to the provisions of the By-laws of the City of Winnipeg and all amendments thereto. Furthermore, the Purchaser acknowledges and understands that if its proposed use and development of the Lands requires applications for re-zoning, variances or conditional uses, and amendments to Plan Winnipeg, such applications and resulting land dedication charges (if any) are to be at the sole cost and responsibility of the Purchaser.

7. The Purchaser agrees that the City may register and maintain a caveat against the Lands to ensure the performance of the covenants on the part of the Purchaser herein set forth, and the Purchaser agrees to grant and does hereby grant to the City an interest in the Lands according to the tenor of this Offer.

8. Upon approval of the sale by the City, the Purchaser agrees to make application to the City Assessor (in form set out in Exhibit "A" attached) at the Date of Closing, to have the Purchaser's name added to the Assessment Roll of the City as the Real Owner in respect of the Lands.

9. The City shall, at its sole cost, conduct or cause to be conducted, an Environmental Site Assessment and/or soil testing of the Lands. The City shall:

(1) ensure that all work done in connection with such Environmental Site Assessment and/or soil testing is completed no later than ninety (90) days from the Date of Approval,

(2) maintain the Lands in safe condition at all times during the conduct of any work done in pursuance of this Clause 9;

(3) restore the Lands to the same condition as prior to its entering in or upon same in pursuance of this Clause 9;

(4) provide copies of any such Environmental Site Assessment and/or Report concerning soil testing of the said lands to the Purchaser for its own use, at no cost to the Purchaser, not later than ten (10) days from receipt of such Report, and

(5) in the event it is determined as a result of said Environmental Site Assessment and/or soil testing, that contamination levels exceed Provincial Environmental Standards for the intended use of the Lands and documentation to that effect is produced to the Purchaser within ninety (90) 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 to within the Provincial Environmental Standards; and the City shall advise the Purchaser within a period of ten working days from the City's notice in 9 (4) herein, the length of time it will take the City to complete the remedial work and the Purchaser shall then have ten working days from receipt of said notice to advise the City, in writing, whether or not the specified length of time to remediate the Lands is acceptable or not to the Purchaser, and the date of possession, adjustments and closing shall be adjusted accordingly. If the amount of time specified is not acceptable to Manitoba Hydro, acting reasonably, it shall provide such notice to the City within 14 days and this Offer to Purchase shall be null and void,

OR

(b) If the City advises that it shall not complete the remedial work, it shall provide such written notice to the Purchaser. Upon receipt of said notice, the Purchaser shall

have 14 days to provide written notice to the City advising that the Purchaser will accept the Lands "as is", failing which this agreement shall be null and void.

10. (1) The Purchaser acknowledges that the City is not providing any warranty as to the environmental condition of the Lands.

(2) The Purchaser agrees that it will rely solely upon its own investigations in determining the degree of contamination, if any, existing on and within the Lands and the extent of contamination, if any.

(3) The Purchaser shall indemnify and save harmless the City from and against all claims, costs and damages arising from or in any way connected with the existence of contaminants of any kind in or on the Lands.

(4) It is understood and agreed that the terms, conditions and covenants contained in this Clause 10 shall not merge but shall survive closing.

11. The Purchaser acknowledges and agrees that notwithstanding any other terms, conditions or provisions in this agreement that:

(1) The City has given no representations or warranties with respect to the Lands or with respect to the value thereof or with respect to the Purchaser's intended uses or development or redevelopment thereof or with respect to the environmental condition of the Lands;

(2) The Purchaser has inspected or investigated the Lands, the title thereto, the permitted encumbrances, any tenancies and all other matters material to the Purchase and the proposed use of the Lands and that it is relying solely upon its own independent inquiries and investigations and the advice of its own consultants and there are no representations, warranties, guarantees, conditions, collateral agreements, covenants and agreements except those expressly set forth herein;

(3) The Purchaser agrees that it is purchasing the Lands on an "as is", "where is" basis, and is purchasing the lands based entirely on its own examinations without any representation by or on behalf of the City or any agent of the City. The Purchaser acknowledges that it has relied entirely upon its own inspection and investigation with respect to quantity, quality and value of the Lands;

(4) Any information supplied to the Purchaser by the City or its agents or representatives is and was supplied without any representation or warranty, and that the responsibility for verification of any such information shall be the responsibility of the Purchaser; and

(5) The Lands are deemed to be taken by the Purchaser at the Purchaser's own risk with all faults and imperfections whatsoever. The Purchaser agrees with the City that the application of "Buyer Beware" shall apply to the offer in the strictest meaning.

12. (1) The Purchaser acknowledges and agrees that the sale of the Lands shall be subject to the following easements: (a) An easement with MTS Allstream Inc. for an existing conduit and cable located as per the attached UGS CABLE DWG on Exhibit D, and (b) An easement with the City for an existing combined sewer located as per the attached Exhibit B for the maintenance of existing facilities together with the right to enter upon the Lands at any time, with or without equipment for the said purposes and subject to the Purchaser covenanting not to erect or cause to be erected upon the easement area(s) any building or structure without the prior written consent of the public utility or the City requiring such easement.

(2) The Purchaser to enter into easement agreements referred to in Clause 12. (1) in a form satisfactory to the City, MTS Allstream Inc. and Manitoba Hydro.

(3) The Purchaser acknowledges that the City may grant the easements referred to in Clause 12 (1) before the Transfer of Land issues.

13. In consideration of the sale of the Lands by the City to the Purchaser, the Purchaser covenants and agrees as follows:

(1) The Purchaser shall at the Purchaser's sole cost, effort and expense, do all things as are necessary, including but not limited to causing to be prepared a Closing Plan to effect the legal closing of the Lands. Any required easement agreements, caveats and plans of easement shall be prepared and registered at the sole cost, effort & expense of the party requiring the easement or caveat. Any other such documentation as may be required to effect the consolidation of the Lands and the Purchaser's adjoining property identified as "Manitoba Hydro Lands" on the attached Misc. Plan No. 10162/5 shall be at the sole cost, effort and expense of the Purchaser. In order to accommodate the consolidation, the Purchaser agrees to identify their land currently held under Certificate of Title Nos. 858806, 895127, 1779295, and 1779296 as three parcels for descriptive purposes on the said Closing Plan. The Purchaser does hereby acknowledge that in complying with this obligation it may be required to arrange for the discharge and re-registration of existing encumbrances against the Purchaser's adjoining property. The City, MTS or any other party requiring a filing of an easement caveat or plan of easement shall at their sole cost effort and expense due all things as are necessary including but not limited to causing to be prepared and register any easement, caveat or plan of easement for registration at WLTO

(2) This agreement shall run with the Lands and the Purchaser's adjoining property and shall bind the Purchaser, its successors and assigns and its successors in title.

(3) To pay the applicable Land Titles Office registration fees and Land Transfer Tax in respect to those lands identified on Misc. Plan No. 10162/6 as "Subject City Property" and including such Closing Plans and Plans of Easement as required under Clause 13. (1).

14. No commission is payable by the City on the sale of the Lands.

15. Time shall be of the essence of this Offer.

16. The Purchaser will not file any caveat or other encumbrance against the Lands before the transfer of the Lands to the Purchaser.

17. The word "Purchaser" shall have a plural meaning in the event that more than one party is making this offer, and the masculine shall mean the feminine or neuter as the case may be.

18. The Purchaser acknowledges and agrees that sale of the Lands by the City is subject to the approval of City Council or its delegated authority.

19. The Purchaser is hereby advised that soil conditions in Winnipeg are of the glacial till variety, which are composed of Lacustrine Clays with Silt Intrusions. The Purchaser shall be responsible for any increased costs of development due to this random stratification.

20. The Purchaser is aware that the Lands are currently zoned "M1" Industrial District. The Purchaser is aware that it will be responsible for any rezoning of the Lands and all related costs.

21. At the Date of Closing, the Purchaser agrees to assume an assignment of an existing "Leave and License Agreement", on a portion of the Lands, in favor of Towers Ltd., a copy of which is attached hereto as Exhibit "C".

22. The City agrees to accept title to the Hydro Property subject only to: (1) an easement for the existing hydro facilities over: (a) Lot 1, Plan 11,510 and (b) the most southerly 5 metres in depth of Lots 75 to 80, Plan 1028 and (2) Bylaw 279172 (Instrument #L 29677) dated April 10, 1973, which closes the lane. The City agrees to pay land transfer tax and registration costs for the purchase of the Hydro Property.

23. The Hydro Property shall be provided to the City with vacant possession.

24. The City agrees that within 90 days of receipt from the Purchaser of this signed Offer to Purchase, to have the matter of the Proposed Sale of that portion of Estella Street shown on Misc. Plan No. 10162/6 /Mission Street land exchange, considered by the Standing Committee on Property and Development, failing which, at the option of

the Purchaser, this Offer shall be null and void and the deposit shall be returned in full to the purchaser.

25. The full true and correct name of the Purchaser is as follows: -

The Manitoba Hydro Electric Board P.O. Box 815, Winnipeg, Manitoba R3C 2P4
Name(Please Print) Address

Purchaser's Registration No. (G.S.T.) R122063779

N WITNESS WHEREOF the Purchaser has signed this document in

Winnipeg, Manitoba, this 7th day of June 2006

Witness

Authorized Signature

J. Quinn Menec
Manager, Property Department
Name and Title of Authorized Signature (Please print)

Witness

Authorized Signature

Name and Title of Authorized Signature (Please print)

ACCEPTED this _____ day of _____, A.D., 2006

THE CITY OF WINNIPEG

Per: _____
DIRECTOR of Planning, Property and Development

Approved as to details:

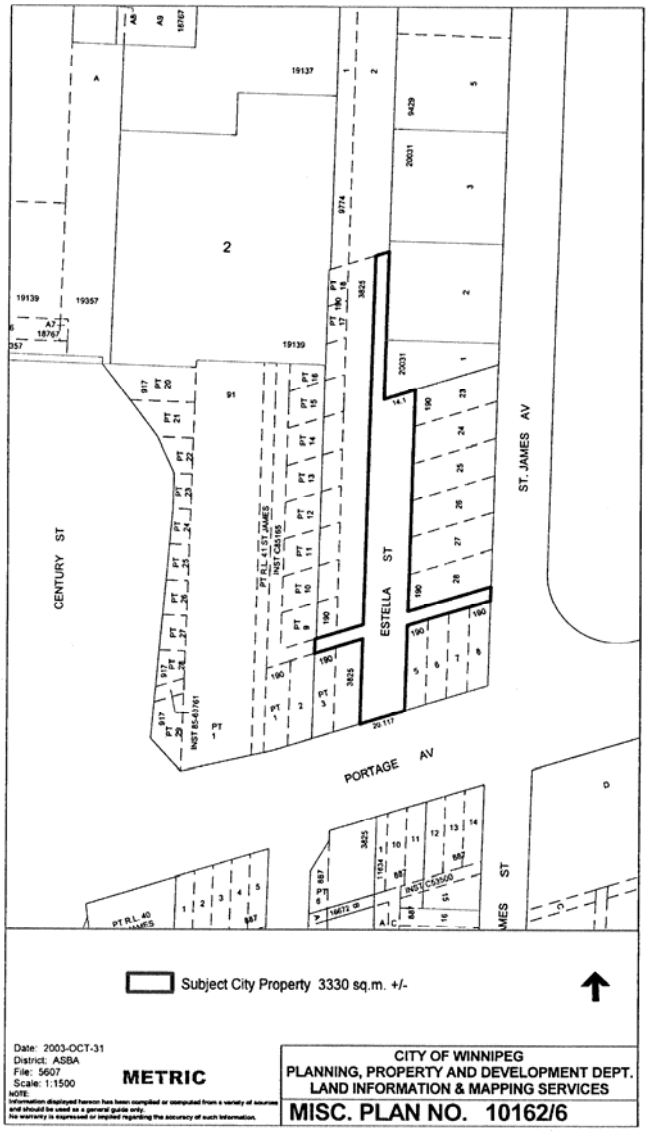
Planning, Property and Development

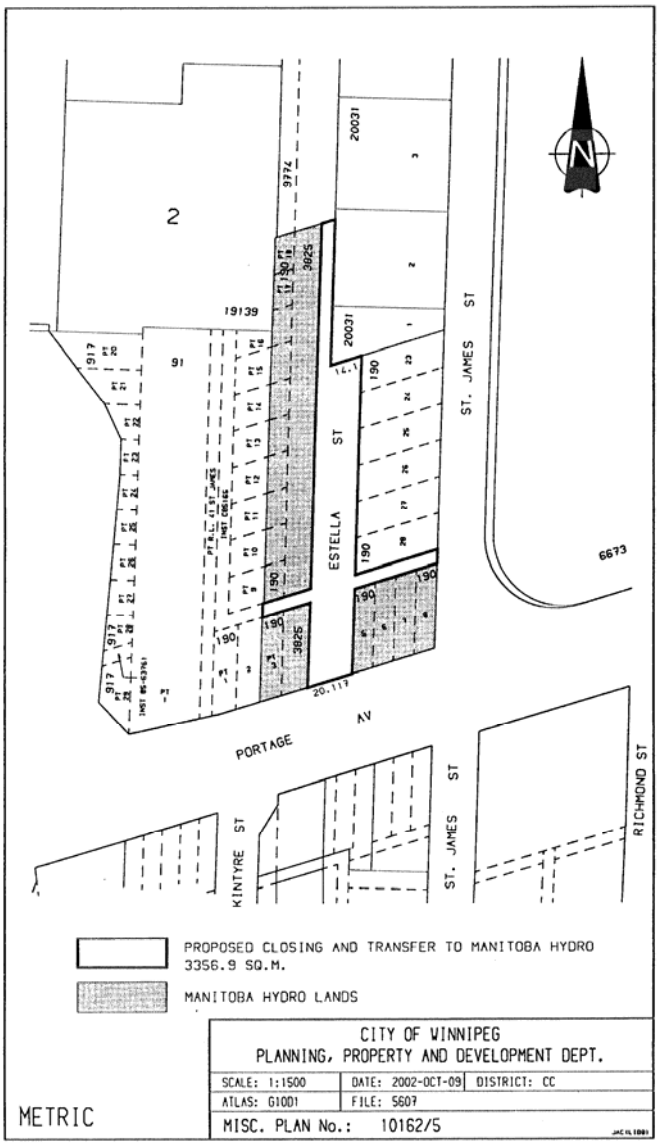
Approved as to form:

for City Solicitor/Manager of Legal Services

Approved as to details:

Water & Waste Department


CENTURY ST
ESTELLA ST
ST. JAMES AV
PORTAGE AV
Subject City Property 3330 sq.m. +/-
Date: 2003-OCT-31
District: ASBA
File: 5607
Scale: 1:1500
METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 10162/6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ESTELLA ST
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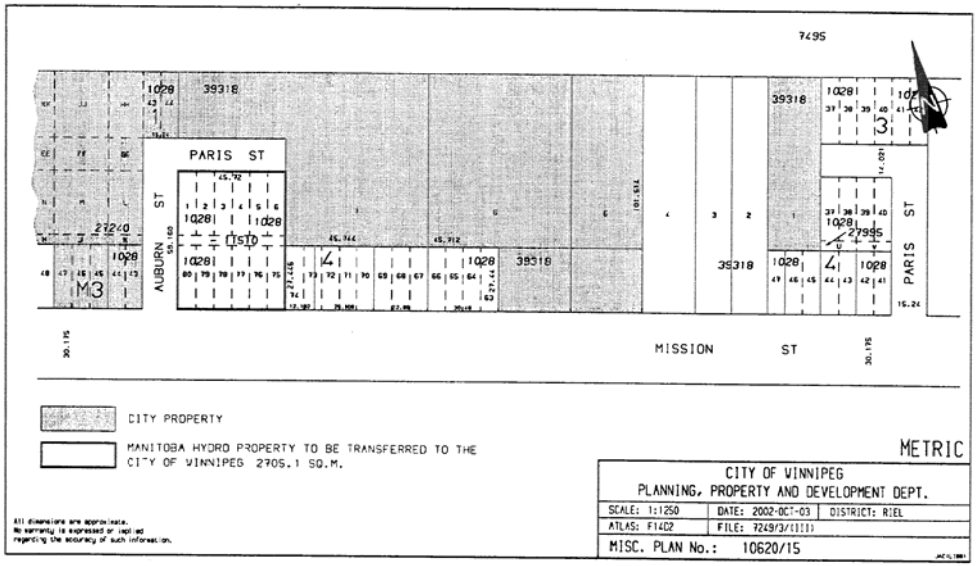
PORTAGE AV
KINTYRE ST
ST. JAMES ST
RICHMOND ST
PROPOSED CLOSING AND TRANSFER TO MANITOBA HYDRO 3356.9 SQ.M.
MANITOBA HYDRO LANDS
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
SCALE: 1:1500
DATE: 2002-OCT-09
DISTRICT: CC
ATLAS: G10D1
FILE: 5607
MISC. PLAN No.: 10162/5
METRIC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MISSION ST
PARIS ST
39318
27240
27995
CITY PROPERTY
MANITOBA HYDRO PROPERTY TO BE TRANSFERRED TO THE CITY OF WINNIPEG 2705.1 SQ.M.
METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
SCALE: 1:1250
DATE: 2002-OCT-03
DISTRICT: RIEL
ATLAS: F14D2
MISC. PLAN No.: 10620/15

EXHIBIT "A"
Real Owner Application

To the City Assessor

_____ Roll No. _____
(Name of Municipality)

1. I/We_____
(Print Full Name)
request that my/our name(s) appear in the Assessment Roll of the City of Winnipeg in respect to the following property, pursuant to Section 12(1) of "The Municipal Assessment Act", Cap. M 226 S.M..
2. Description of Properties: (Give description of all property in respect of which you wish your name to appear).

Part of Lot or Section	Lot or Section	Block or Township	Plan or Range	Interest in Property

3. Mailing Address_____
4. Place of Residence_____
5. Name and Address of Registered Owner_____
(Print)
_____
(Print)
6. Description of building on property:
Dwellings _____
Other Buildings _____
7. Date of Purchase _____ 8. Purchase Price_____

Date: _____ 20 ___ _____
(Signature of Applicant)

Office of the City Assessor
The City of Winnipeg _____
(Signature of Registered Owner)

EXHIBIT B

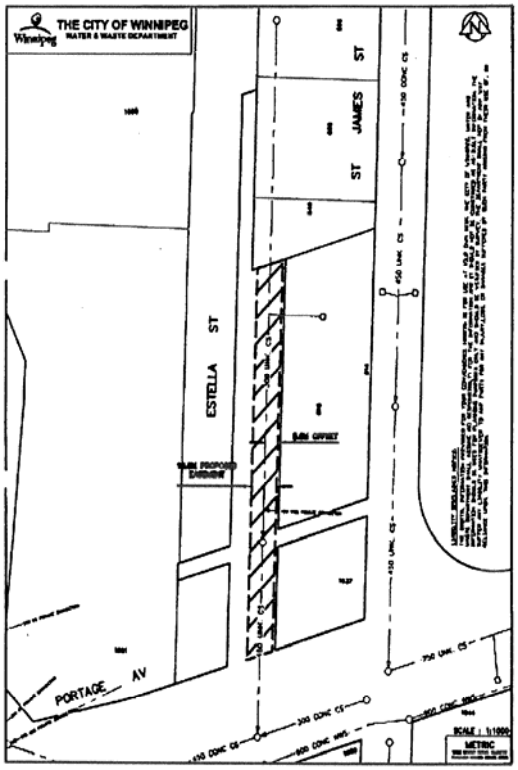
THE CITY OF WINNIPEG
WATER & WASTE DEPARTMENT
JAMES ST
ESTELLA ST
PORTAGE AV
METRIC

EXHIBIT C



DATED the day of , AD. 1998.

BETWEEN:

THE CITY OF WINNIPEG,

(hereinafter called the *"City"*),

OF THE FIRST PART,

- and -

TOWERS LTD.,

(hereinafter called the *"Licensee"*),

OF THE SECOND PART

LEAVE AND LICENSE AGREEMENT

Ursula B. Goeres
City Solicitor/Manager of
Legal Services
The City of Winnipeg
3rd Floor - 185 King Street
Winnipeg, Manitoba
R3B 1J1

L. E. STRIJACK
File - R.6/98(5)

File No. R.6/98(5)

THIS AGREEMENT made in duplicate this 8th day of September, A.D., 1998.

BETWEEN:

THE CITY OF WINNIPEG,

(hereinafter called the ***"City"***),

OF THE FIRST PART,

- and -

TOWERS LTD.,

(hereinafter called the ***"Licensee"***),

OF THE SECOND PART.

WITNESSETH THAT in consideration of the rents and covenants hereinafter contained on the part of the Licensee to be paid, observed and performed, the City does demise and lease unto the Licensee, all that portion of the public lane north of Portage Avenue, west of Estella Street outlined in black and identified as "LEAVE AND LICENSE 76.2 SQ.M." on Misc. Plan No. 10162/3, attached hereto as Schedule "A", (hereinafter called the ***"demised premises"***);

TO HAVE AND TO HOLD the demised premises unto the Licensee on a year to year basis, commencing the 30th day of April, 1998, (hereinafter called the ***"commencement date"***);

YIELDING AND PAYING THEREFOR unto the City, the sum of One Thousand ($1,000.00) Dollars, per annum, payable in advance, together with additional rent as hereinafter provided. Such rental shall be subject to annual review by the City, and in no event shall it be less than that paid in the previous year.

1. The Licensee hereby covenants and agrees with the City as follows:

   (a) To pay to the City as additional rental, an amount equal to the total of such taxes, rates, local improvements and charges assessed for the demised premises in the same manner as if the demised premises had been entered on the assessment roll of the City as privately owned and subject to taxation.

(b) In addition to the payment aforesaid, to pay all license fees and business tax which may be charged in respect of the use and occupation of the demised premises by the Licensee and any Goods and Services Tax charged in respect of rent payable under the lease, whether such fees and taxes are charged by any municipal, provincial or federal authority or otherwise.

(c) To comply with all applicable statutes, by-laws, ordinances and regulations of any federal, provincial or municipal authority pertaining to the use and occupancy of the demised premises by the Licensee and shall obtain all necessary permits.

(d) Not to erect or permit the erection of any building, or other structure upon the demised premises, or make any excavation or place any fill therein other than to facilitate the construction of a parking area within the premises in accordance with specifications provided by the City's Zoning Branch.

(e) To use the demised premises, at the Licensee's sole cost and expense, for parking purposes only, and not to permit the demised premises, or any part thereof, to be used for any other purpose.

(f) To indemnify and keep indemnified the City from and against all claims, actions or proceedings for loss, injury, damages or compensation by any person, firm or corporation, whether to real or personal property wheresoever situated, or by any member, employee, agent, licensee, invitee, tenant or third party whether claiming through or under the Licensee or in any way attributable to the Licensee's use of the demised premises, or the construction, maintenance, existence or use of any buildings erected thereon, or in any way connected therewith or otherwise by reason of the exercise by the Licensee of the use hereby granted or the performance of or failure to perform its obligations hereunder.

To further safeguard the City, the Licensee shall purchase and keep in force during the full term of this Lease, a Comprehensive General Liability Policy including, but not limited to, the following provisions:

(i) The City of Winnipeg to be named as additional insured;
(ii) the policy to contain a cross-liability clause;
(iii) minimum limits of $1,000,000.00 all inclusive;

and the Licensee shall file with the City a certified copy of the Policy in a form satisfactory to the City Solicitor.

The City shall have the right to alter the limits and/or coverage as required from time to time during the continuance of the lease.

(g) Not to file any Caveat or other encumbrance against the demised premises.

(h) To maintain, at its own expense, the demised premises in a neat and tidy condition to the satisfaction of the City's Director of Property and Development Services Department (hereinafter called the ***"Director"***):

(i) Not to assign this Agreement nor sublet the demised premises without the prior written consent of the Director. Notwithstanding the foregoing, the Licensee may license or sublet all or a portion of the demised premises to its customers so long as the Licensee fulfills its obligations for payment of rent and the performance of the terms and conditions contained in this Agreement.

(j) Upon such request for an assignment as set out in the above Clause 1(i), the Licensee shall forthwith pay to the City an administrative fee of Two Hundred and Fifty ($250.00) Dollars plus applicable Goods and Services Tax, which fee shall not be refundable for any reason whatsoever.

(k) Any consent by the City to an assignment or sub-let shall not relieve the Licensee of its obligations for the payment of rent and the performance of the terms and conditions contained in this Agreement.

(l) To pay all utilities and operating costs in connection with its use and occupancy of the demised premises.

2. The parties agree, each with the other, as follows:

(a) The City shall retain its right to enter upon the demised premises at any time with or without equipment:

(i) to view the state of repair of the demised premises, and the Licensee shall repair according to notice in writing given by the City. If the Licensee fails to repair according to notice, the City may do such work at the sole cost and expense of the Licensee; or

(ii) for the purpose of maintaining or repairing its utilities in or near to the demised premises together with the right to enter upon and make full use of the demised premises at any time with or without equipment, for the purpose of renewing, altering or repairing its facilities including the right to exclude all others for as long as may be necessary to carry out such work; or

(iii) for any other reasonable purpose;

without being responsible for any damage occasioned thereby, provided the activity is conducted carefully in the circumstances and the demised premises is put back in the same condition immediately thereafter.

AND the Licensee hereby acknowledges and agrees that it shall assume all loss, injury and damage to the property of the Licensee arising out of the doing of any act or thing by the City under this sub-clause 2(a).

AND FURTHER, the Licensee hereby acknowledges and agrees that it shall assume all costs and expenses incurred by the City in repairing actual damage to the demised premises and/or utilities therein, which is cause by or arises out of the Licensee's use and occupancy of the demised premises.

(b) The Licensee acknowledges that Manitoba Hydro has and maintains an existing utility pole located within the demised premises and that at least five (5) feet of clearance must be maintained to the pole and anchor wires.

(c) The City reserves the right to Manitoba Hydro and/or other utilities to enter upon the demised premises for maintenance and/or repair of their utilities, without being responsible for any damage occasioned thereby.

(d) This Agreement is subject to cancellation at any time upon ninety (90) days' notice by either party.

(e) In the event of the Licensee not complying with the terms and conditions contained in this Agreement and such default continues for a period of ten (10) days after notice to remedy such default, this Agreement is subject to immediate cancellation by the Director.

(f) If the term hereby granted shall be at any time seized or taken in execution or attachment by any creditor of the Licensee or its permitted assigns, or if the Licensee or its permitted assigns shall make any assignment for the benefit of creditors or become bankrupt or insolvent shall take the benefit of any Act that may be in force for bankrupt or insolvent debtors, the current year's rental shall immediately become due and payable and the said term shall immediately become forfeited and void.

(g) Notwithstanding the forfeiture or termination of this Agreement in any manner herein provided for, the Licensee shall be and remain liable to the City for all payments due and obligations and liabilities incurred hereunder up to the date of such forfeiture or termination and for the fulfilment of all obligations herein contained on the part of the Licensee to be observed and performed upon or after said forfeiture or termination.

3. The Licensee shall:

(a) Ensure that access is conducted in a careful manner in accordance with good industry standards and in compliance with the provisions of any applicable environmental, health or safety statutes, regulations, orders or directives of any government or governmental agency having jurisdiction over such operations;

(b) Ensure that all environmental contaminants are received, handled, used, stored, treated, shipping and disposed of in the manner required from time to time by applicable laws, by-laws, regulations, rules or requirements of all authorities having jurisdiction over the demised premises or the Licensee;

(c) Not release into the environment, or deposit, discharge, place or dispose of, at, on or near the demised premises or any adjoining City land, dangerous goods as that term is defined in The Dangerous Goods Handling and Transportation Act, R.S.M. 1987, c.D12, as amended, replaced or

(e) In the event of the Licensee not complying with the terms and conditions contained in this Agreement and such default continues for a period of ten (10) days after notice to remedy such default, this Agreement is subject to immediate cancellation by the Director.

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substituted from time to time.

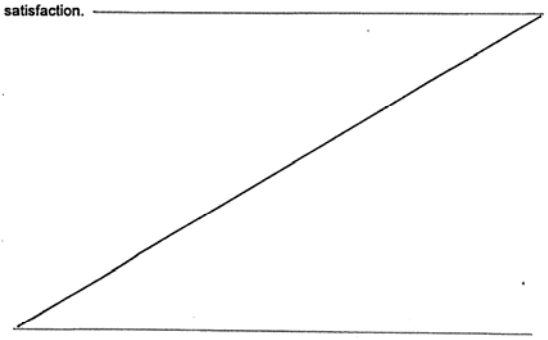
4. The Licensee, prior to the commencement date, may at its sole cost, effort and expense, conduct or cause to be conducted an Environmental Assessment and/or soil testing (hereinafter called the ***"Environmental Assessment"***) of the demised premises;

   (a) Upon receipt of forty-eight (48) hours' prior notice, the City will consent to the Licensee, its employees or agents, entering on the demised premises for the purpose of the Environmental Assessment;

   (b) The Licensee may, in its sole discretion, terminate this Agreement and cancel the proposed license should it be determined as a result of the Environmental Assessment, that there are environmental concerns and/or contamination of the demised premises;

   (c) The Licensee shall at its sole cost, effort and expense, provide to the City, prior to the commencement date, copies of the Environmental Assessment.

5. Upon termination or cancellation of this Agreement in any such manner aforesaid, the Licensee shall at its own expense, remove all its property and other materials from the demised premises and restore the demised premises to a condition satisfactory to the Director. Should the Licensee default in so doing, then in such event the City may remove the Licensee's property and other material at the sole risk and expense of the Licensee and the Licensee shall pay to the City the entire cost and expense which may be incurred by the City in carrying out any such work or removal and/or disposal, and for the restoration of the demised premises to its satisfaction.



6. This Agreement shall be binding upon the parties hereto and their successors and assigns.

IN WITNESS WHEREOF the parties hereto have executed these presents as of the day and year first above written.

THE CITY OF WINNIPEG
Per:

Director, Property and Development
Services Department

TOWERS LTD.

Per:

Per:

Approved:

Property and Development Services

Certified as to form:

for City Solicitor/Manager of
Legal Services
[File No. R.6/98(5) LES]

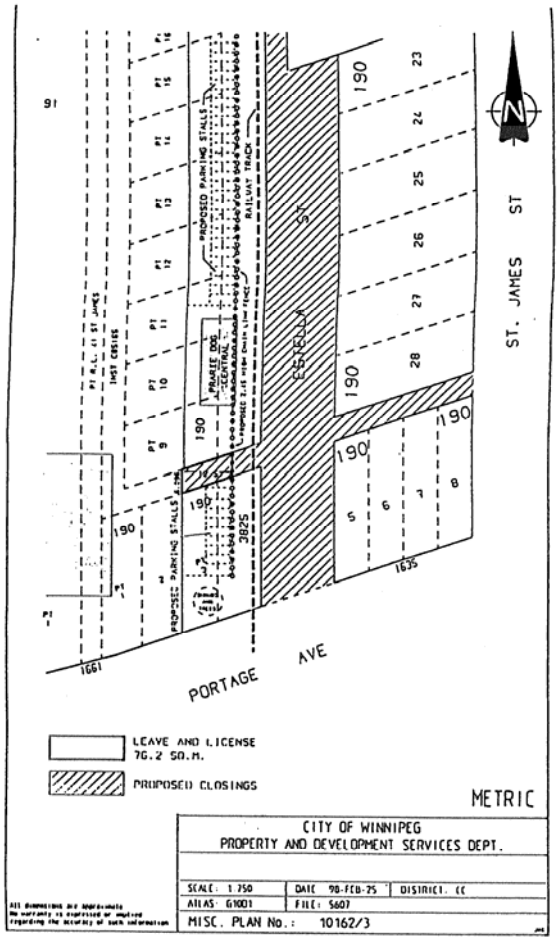
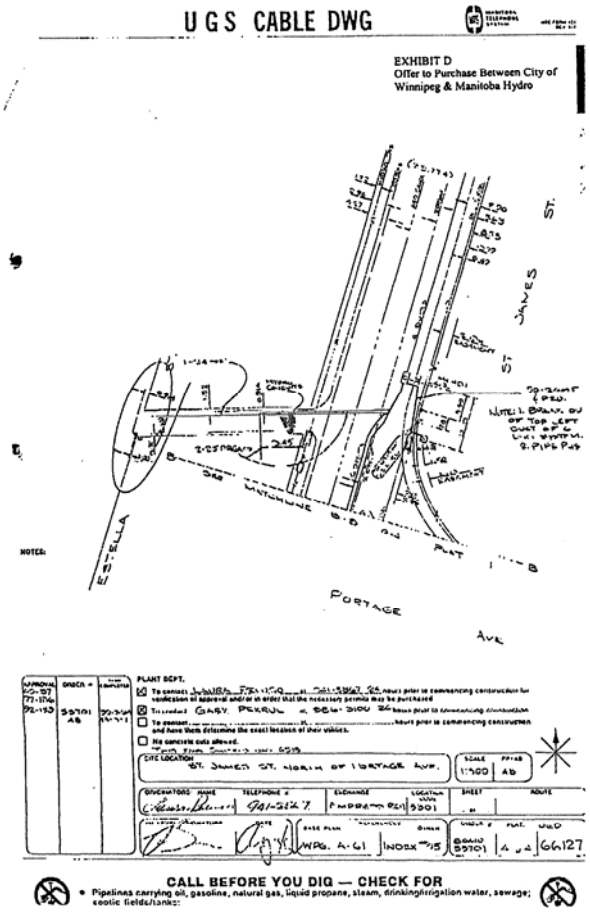

ST. JAMES ST
ESTELLA ST
PORTAGE AVE
PROPOSED PARKING STALLS
PRAIRIE DOG CENTRAL
190
1661
1625
3825
LEAVE AND LICENSE 76.2 SQ.M.
PROPOSED CLOSINGS
METRIC
CITY OF WINNIPEG
PROPERTY AND DEVELOPMENT SERVICES DEPT.
SCALE: 1:750
DATE: 98-FEB-25
DISTRICT: CC
ATLAS: G1001
FILE: 5607
MISC. PLAN No.: 10162/3

EXHIBIT D


UGS CABLE DWG
EXHIBIT D
Offer to Purchase Between City of Winnipeg & Manitoba Hydro
ST. JAMES ST.
ESTELLA
PORTAGE AVE
NOTES:
PLANT DEPT.
ST. JAMES ST. NORTH OF PORTAGE AVE.
CALL BEFORE YOU DIG — CHECK FOR
• Pipelines carrying oil, gasoline, natural gas, liquid propane, steam, drinking/irrigation water, sewage; septic fields/tanks;