Minute No. 829
Report - Standing Policy Committee on Property and Development – September 5, 2006

Item No. 27 **Sale and Exchange of Lands - west side of rue Archibald at Mission Street**
File FI-2.4(35)

COUNCIL DECISION:

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

1. That the subject City-owned property, shown outlined on Misc. Plan No. 12786/2, be declared surplus to the City's requirements.

2. That the sale and exchange of lands between the City and Round Table Management Ltd. be approved as follows:

   A. Round Table Management Ltd. to receive title to the City-owned property shown outlined on Misc. Plan No. 12786/2.

   B. The City to receive title to the property shown hatched on Misc. Plan No. 12786/2 and $79,000.00 in accordance with the terms and conditions of the Offer to Purchase dated May 25, 2006, and subject to such additional terms and conditions that the Director of Planning, Property and Development and the City Solicitor/Manager of Legal Services consider necessary to protect the interest of the City.

3. 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 – September 5, 2006

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 September 21, 2006, 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 September 5, 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 and Exchange of Lands located on the West side of Rue Archibald at Mission Street
Riel Community
St. Boniface Ward

For submission to: Standing Policy Committee on Property and Development

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

Report date: August 23, 2006

Recommendation(s):

1. That the subject City-owned property shown outlined on Misc. Plan No. 12786/2, be declared surplus to the City's requirements.
2. That subject to the approval of Recommendation No. 1, the proposed sale and exchange of lands between the City and Round Table Management Ltd. be approved as follows:
   a) Round Table Management Ltd. to receive title to the City-owned property shown outlined on Misc. Plan No. 12786/2, and
   b) The City to receive title to the property shown hatched on Misc. Plan No. 12786/2 and $79,000.00, all in accordance with the terms and conditions of the attached Offer to Purchase dated May 25, 2006, and subject to such additional terms and conditions that the Director of the Planning, Property and Development Department and the City Solicitor/Manager of Legal Services consider necessary to protect the interest of the City.
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:

- At its meeting held November 13, 1974, the Board of Commissioners authorized the acquisition of certain properties located on the east side of the Red River between Midwinter Park and the junction of the Seine River. In 1975, the City acquired the properties including the riverbank portions shown outlined on Misc. Plan No. 12786/2.
- Round Table Management Ltd. has acquired the adjoining properties (71 & 75 Rue Archibald) from Habitat for Humanity and is now proposing an exchange of lands with the City as recommended.

- The Planning, Property and Development Department is of the opinion that the proposed land exchange is beneficial and will allow the City to acquire riverbank land, which has been rated as #6 in priority under the Winnipeg Parkway System. In addition, new development will occur on the lands fronting Rue Archibald.
- The Planning, Property and Development Department recommend that the proposed sale and exchange of lands between the City and Round Table Management Ltd. be approved.

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):

-

Regulatory Implications

X	None
	Eliminates or reduces regulatory impact
	Proposes regulatory impact

Comments(s):

Environmental Implications:

X	No
	Yes

Comment(s):

- The Real Estate Division has not conducted an Environmental Site Assessment (ESA) on this property. In accordance with the Sales and Purchase Agreement, the Purchaser will have an opportunity to conduct its own ESA, at its own cost.

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 the City-owned property shown outlined on Misc. Plan No. 12786/2. Council approval is required to 1) declare the City property surplus 2) authorize the acquisition of the riverbank lands as specified in the attached Offer to Purchase.

HISTORY:

At its meeting held November 13, 1974, the Board of Commissioners authorized the acquisition of certain properties located on the east side of the Red River between Midwinter Park and the junction of the Seine River. In 1975, the City acquired the properties including the riverbank portions shown outlined on Misc. Plan No. 12786/2.

Round Table Management Ltd. has acquired the adjoining properties (71 & 75 Rue Archibald) from Habitat for Humanity, and is now proposing an exchange of lands with the City as recommended.

DISCUSSION:

The Water and Waste Department has identified that the Montcalm Pumping Station, as well as the 2,400mm outfall pipe running to the river, is located in close proximity to the subject lands. It has no objections to the land exchange being proposed.
The Planning, Property and Development Department is of the opinion that the proposed land exchange is beneficial and will allow the City to acquire riverbank land, which has been rated as #6 in priority, under the Winnipeg Parkway System. In addition, new development will occur on the lands fronting Rue Archibald.

Under the terms and conditions of the Offer to Purchase, Round Table Management Ltd. is responsible for the following:

1. Transfer to the City, free and clear of all encumbrances, the property shown hatched on Misc. Plan No. 12786/2 and payment of $79,000.00 (supported by an internal appraisal report).
2. Consolidate title to the lands being transferred by the City with the Purchaser's adjoining lands.
3. Accept the lands on an "as is" basis including the house located at 87 Archibald Street, which is occupied by a tenant on a month-to-month basis.
4. All activities and associated costs to create a plan of subdivision.

5. Construct a four-foot high metal fence at the rear of the Purchaser's property to prevent boundary creep into the riverbank forest; such fencing to meet the specifications of the City, as determined by the Director of the Planning, Property and Development Department.

6. Discharge Mortgage No. 3170519 from all lands being transferred to the City.

7. As part of the plan of subdivision, the purchaser shall extinguish, discharge and remove from title, all of the rights-of-way for all purposes that apply to all land, now owned by the City or to be transferred to the City.

Financial Impact Statement

Date: August 18, 2006

Project Name:

Sale/Exchange of Lands at 73,75 and 87 Archibald Street

First Year of Program 2006

	2006	2007	2008	2009	2010
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
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	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	79,864	3,457	3,457	3,457	3,457
Net Cost/(Benefit)	$ (79,864)	$ (3,457)	$ (3,457)	$ (3,457)	$ (3,457)
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ (79,864)	$ (3,457)	$ (3,457)	$ (3,457)	$ (3,457)

Additional Comments:

Revenues in 2006 consist of the $79,000 to be paid to the City by Round Table Mgmt. Ltd. and $864 in incremental property taxes. The latter amount is based on the assumptions that the assessed value and class code(s) of 73 & 87 Archibald Street remain unchanged, the portioning rates are constant at 45% & 65% for residential and industrial respectively, the mill rate remains at 0.025448, and the properties are added to the roll effective October 1, 2006. Revenues in 2007 onward represent incremental property taxes for the full year based on the same assumptions. The proceeds from the swap of lands will be credited to the Land Operating Reserve while incremental tax revenue will be credited to the General Revenue Fund.

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

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

Water and Waste Department

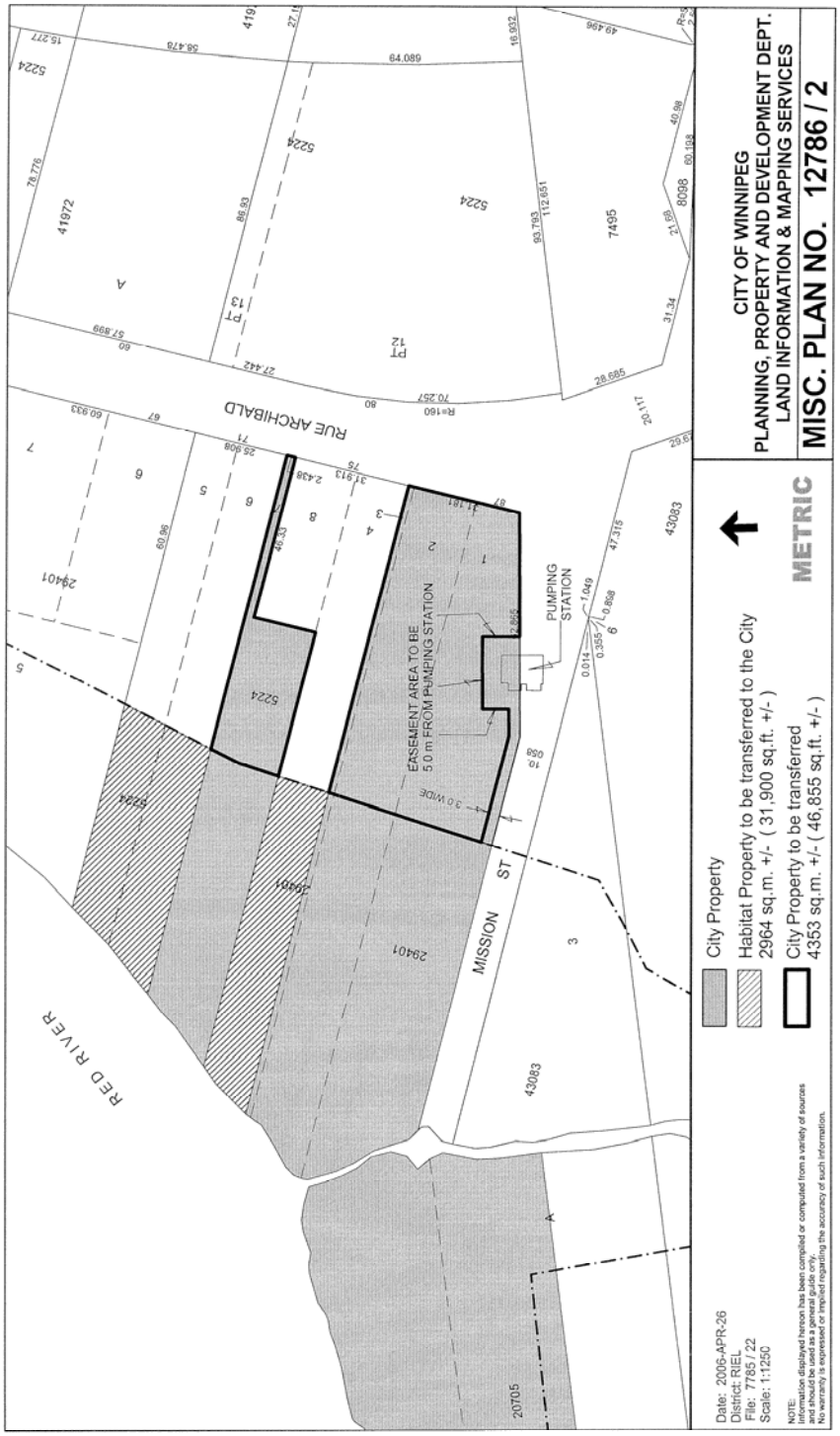
External Consultation With:

No consultation required.

THIS REPORT SUBMITTED BY:

Department: Planning, Property and Development Department
Division: Real Estate
Prepared by: Gerry Anderson
PPD File #: 7785/22, 7785/23 and 7785/24

Document name: o:\reports directive\real estate\sales\(ga)sale 73,75,87 archibald.doc


CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 12786 / 2
METRIC
City Property
Habitat Property to be transferred to the City
2964 sq.m. +/- (31,900 sq.ft. +/-)
City Property to be transferred
4353 sq.m. +/- (46,855 sq.ft. +/-)
Date: 2006-APR-26
District: RIEL
File: 7785 / 22
Scale: 1:1250
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.
RED RIVER
MISSION ST
RUE ARCHIBALD
EASEMENT AREA TO BE
5.0 m FROM PUMPING STATION
PUMPING STATION
3.0 WIDE
41972
7495
8098
43083
29401
20705

File No: 7785/22

INDUSTRIAL/COMMERCIAL

OFFER TO PURCHASE

The Undersigned (hereinafter called "the Purchaser") hereby offers to purchase from The City of Winnipeg (the "City") the following lands: -

Shown as "City Property to be Transferred on Misc. Plan No. 12786/2.

(See attached Schedule "A")

(hereinafter called the "City Lands")

for the sum of $79,000 cash (the Purchase Price), 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 $11,850, and represents an amount equal to fifteen (15%) percent 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). The Purchaser agrees to pay the balance of the purchase price, interest and adjustments on or before the date of closing.

(2) If the Purchaser fails to pay the balance of the purchase monies, interest 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.

(3) It is understood and agreed that the Purchaser will transfer to the City, free and clear of all encumbrances including but not limited to all rights of way set out in the legal description, the lands shown as "Habitat Property to be Transferred to the City" on Misc. Plan No. 12786/2 attached hereto as Schedule "A" at no cost to the City. The City shall pay the costs of registration in the Winnipeg Land Titles Office of the Transfer of the lands shown as "Habitat Property to be Transferred to the City" on Misc. Plan No. 12786/2 as well as the land transfer tax payable thereon.

2. (1) The date of Closing, Possession and adjustments shall be on or before one hundred and twenty (120) days from the date of approval of the sale

(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 City Lands as though the City 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 adjustments to and including the last day of the current taxation year.

(3) The Purchaser shall pay interest in lawful money of Canada on all monies remaining outstanding and payable to the City as of the date of adjustments, which interest shall be calculated at the rate per annum equivalent to the prime lending rate in force by the City's Banker at the date of adjustments plus one (1%) percent, computed from the date of adjustments to and including the date all such monies and interest as aforesaid have been fully paid to the City.

3. Goods and Services Tax

(1) The Purchaser agrees to pay to the City all Goods and Services Tax applicable on the sale of the Lands or, if the Purchaser is a registrant under the Goods and Services legislation, the Purchaser shall advise the City in writing of its registration number The Goods and Services Tax is to be paid or the registration number provided to the City on or before the date of closing.

(2) If the Purchaser fails to pay the Goods and Services Tax or fails to provide its registration number as prescribed in sub-clause (1) of this Clause, the Purchaser agrees that all of the Purchaser's rights and interests in respect of the CityLands shall, at the City's sole discretion, be fully ended without notice or any formality and all monies paid to the City by the Purchaser shall be retained by the City free from every claim.

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

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

6. The sale of the City 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 it's proposed use and development of the City Lands may require applications for rezoning, variances or conditional uses and/or amendments to Plan Winnipeg, which 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 City 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 City Lands according to the tenor of this Offer. Such covenant to remain in effect until closing and performance of covenants.

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

9. The Purchaser agrees that in the event the Purchaser, at its sole cost, conducts or causes to be conducted an Environmental Site Assessment, it shall

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

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

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

(4) 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 any such Environmental Site Assessment; and

(5) provide copies of any such Environmental Site Assessment of the said City Lands to the City for its own use, at no cost to the City no later than ninety (90) days from the date of approval.

AND in the event it is determined as a result of said Environmental Site Assessment, that contamination levels exceed Provincial Environmental Standards for the intended use of the City Lands and documentation to that effect is produced to the City within ninety (90) days following the Date of Approval, the City, at its sole option, shall be entitled to:

take remedial action to bring the contamination levels to within the Provincial Environmental Standards;

OR

cancel the sale and return all monies paid in respect of the proposed sale by the Purchaser to that date, PROVIDED that the Applicant shall have first satisfied all conditions of this Clause 9.

AND FURTHER if the City has not been advised of any non-compliance of the City Lands to Provincial Environmental standards within 90 days from the Date of Approval, the Purchaser agrees to complete its purchase as herein contemplated and to indemnify the City against any and all claims arising from or in any way connected with the existence of contaminants of any kind at the City Lands.

10 (1) The Purchaser agrees that the sale of the City Lands shall be subject to any easement which may be required by a public utility, including, but not limited to the Manitoba Hydro, Manitoba Telephone System, Centra Gas, or The City of Winnipeg, for the maintenance of existing and future facilities together with the right to enter upon the City Lands at any time, with or without equipment for said purposes and subject to the owner covenanting not to erect or cause to be erected upon the easement area any building or structure without the prior written consent of the public utility or The City of Winnipeg requiring such easement.

(2) the Purchaser to enter into agreements satisfactory to the said utilities or the City of Winnipeg.

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 City 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 City Lands;

(2) the Purchaser has inspected or investigated the City Lands, the title thereto, the Permitted Encumbrances, any tenancies and all other matters material to the Purchase and the proposed use of the City 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 City Lands on an "as is", "where is" basis, and is purchasing the City 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 City 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 City 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. In consideration of the sale of the lands by the City to the Purchaser, the Purchaser covenants and agrees as follows:

The Purchaser shall at its sole cost, effort and expense, do all things as are necessary, including but not limited to causing to be prepared and registered at the Winnipeg Land Titles Office, such documentation as may be required to ensure that the lands to be conveyed by the City and the Purchaser's adjoining property legally described as City property to be transferred as shown on Misc. Plan No. 12786/2 (herein called the "Purchaser's adjoining property") are consolidated so as to constitute a single and indivisible parcel. 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.

13. It is understood and agreed that the property being acquired by the Purchaser includes the land and building (a single-family residential home) at 87 Archibald Street and the Purchaser is aware that the single family residence is occupied by a tenant on a month to month lease. The Purchaser is aware that under The Residential Tenancies Act the tenant has certain rights and privileges with respect to, among other things, termination notice in order for the Purchaser to obtain occupancy of the premises.

the Residential Tenancies Act indicates that if there is a change of Landlord (LL) (i.e. Sale) the tenant's right's and obligations are binding on the new LL. Part 4 of the Act states, in general terms, that the new LL has a number of obligations including providing the Tenant written notice of the change, provide the new name, address, telephone number and the amount of the tenant's security deposit. The current LL has to pay to the new LL all of the security deposits up to the date of possession. There are a number of other clauses outlined in Section 51 of the Act.

Secondly the LL has the right to terminate a lease under certain circumstances outlined in Section 99 of the Act. The key item is that the tenant must receive at least three months notice of termination. Two of the conditions that allow for termination are in the case of demolition or converting to another use other than a rental unit. Both of these have to happen within six months after the date of termination.)

14. It is further understood and agreed between the parties that:

(a) The Purchaser agrees to be fully responsible for all activities and associated costs to create a Plan of Subdivision, including but not limited to:

(i) the cost of preparation and registration of the plan of subdivision

(ii) any dedication fees payable in connection with the creation of this subdivision.

(b) The Purchaser will be responsible for all costs of developing the Lands including the servicing of the City Lands;

(c) The Purchaser will be acquiring the Subject City Lands in an "as-is, where-is" condition and has satisfied itself as to soil conditions, zoning, access and environmental concerns;

(d) The Purchaser will be responsible for any and all costs associated with applications related to subdivision, rezoning, variances and conditional uses including application and processing costs and the payment of any dedication fees owing;

(e) The Purchaser is required to construct a four foot high metal fence at the rear of it's property to prevent boundary creepage into the riverbank forrest, such fencing to meet the specifications of the City.

(f) The Purchaser and the City shall each pay their own legal and other consultant's fees with respect to this sale.

15. Without limiting the generality of clause 1(3), the Purchaser agrees to:

(1) extinguish, discharge and remove from title all the rights of way for all purposes to which all land now owned by the City or to be transferred to the City pursuant to this agreement is subject and which is appurtenant to Lot 4 Plan 29401 (CT 2149591) and Lot 8 Plan 29401 (CT 1296642);

(2) discharge Mortgage No. 3170517 from all lands being transferred to the City pursuant to this agreement; and

(3) consolidate the adjacent land presently owned by the Purchaser with that being acquired by the Purchaser pursuant to this agreement;

all of which shall be done by the Purchaser at its expense on or before the date of Closing, Possession and Adjustments.

16. The Purchaser is responsible for providing all plans of subdivision and survey work at the Purchasers expense.

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

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

19. 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.

20. 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.

21. 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 and the City Lands being declared surplus to the City's needs.

22. In accordance with City Policy (By Law 6291/93 December 17,1993) the City hereby consents to the inclusion of the City Lands in any application by the Purchaser to re-zone and/or subdivide and/or obtain a variance and/or conditional use of the City Lands and/or the Purchasers Lands The City shall, upon written request of the Purchaser, forthwith, provide any written consent and/or authorization with respect to any such application by the Purchaser, such application to be subject to the finalization of the Sale/Exchange of lands.

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

Round Table Management 255 Robin Cres. Saskatoon, Sask.

Name (Please Print) Address

Industrial/Commercial Offer to Purchase Page 5

Purchaser's Registration No. (G.S.T.) # R134 045 038

Contact Kevin Routosse Phone 306-221-9644

IN WITNESS WHEREOF the Purchaser has signed this document in

Saskatoon, Saskatchewan, this 25 day of May 2006

Witness

Kevin Routosse.
Authorized Signature

Kevin Routosse operations manager
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

Planning,Property and Development Department

Approved:

Planning Property and Development Department

Certified as to form:

for City Solicitor/Manager of Legal Services

SCHEDULE "A"

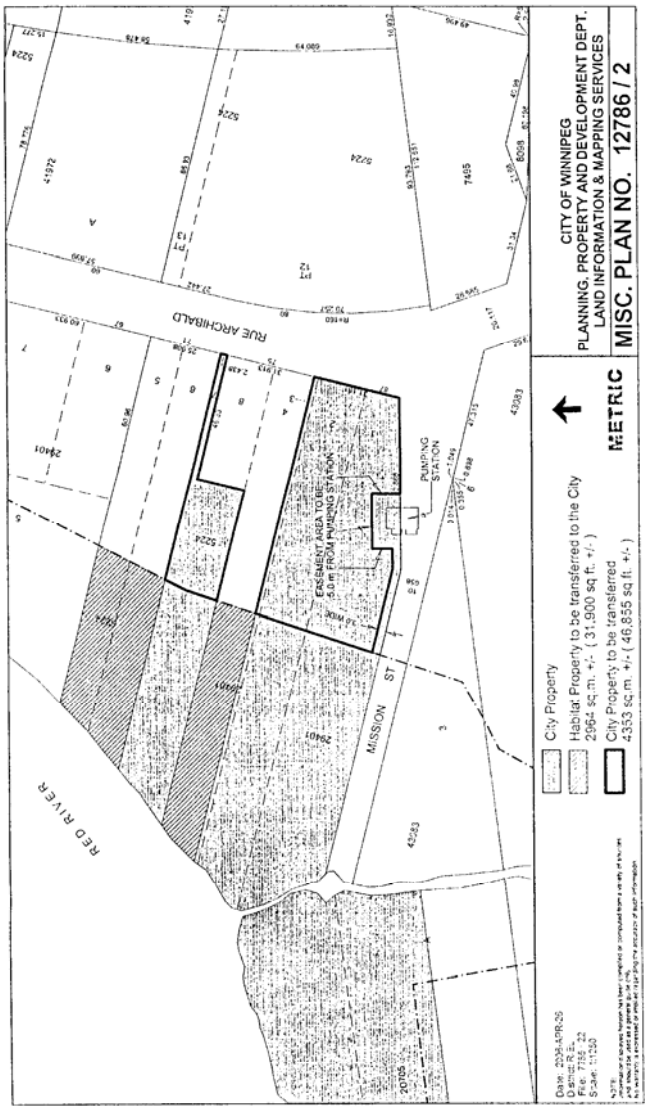

RUE ARCHIBALD
MISSION ST
RED RIVER
PUMPING STATION
EASEMENT AREA TO BE 5.0 m FROM PUMPING STATION
City Property
Habitat Property to be transferred to the City
2964 sq. m. +/- (31,900 sq ft. +/-)
City Property to be transferred
4353 sq. m. +/- (46,855 sq ft. +/-)
METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 12786 / 2

EXHIBIT "A"

Real Owner Application

To the City Assessor

(Name of Municipality) Roll No. _____

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	Block or Township	Plan or Range	Interest in Property

DRAFT

3. Municipal 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: _____ 200___ _____
(Signature of Applicant)

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