Minute No. 511
Report - Standing Policy Committee on Infrastructure Renewal and Public Works - June 20, 2007

Item No. 2 Twinning of Plessis Road - Genstar Development Company
File SC-2

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Infrastructure Renewal and Public Works and adopted the following:

1. That the details of the "Front Ending" (Financing) Agreement with Genstar Development Company for the Construction and Twinning of Plessis Road be received as information and that the proposed terms be approved.

2. That pursuant to the draft Development Agreement for DASZ 21/2006, additional capital funding be accommodated in the 2008 budget process, for inclusion in the 2012 Capital Forecast to facilitate the twinning of Plessis Road.

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 Infrastructure Renewal and Public Works - June 20, 2007

DECISION MAKING HISTORY:

Moved by Councillor Clement,

That the recommendation of the Standing Policy Committee on Infrastructure Renewal and Public Works be adopted.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 20, 2007, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Infrastructure Renewal and Public Works and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On June 20, 2007, the Standing Policy Committee on Infrastructure Renewal and Public Works concurred in the administrative recommendation and submitted the matter to the Executive Policy Committee and Council.

RE: DASZ 21/06 – Genstar Development Company/Twinning of Plessis Road

FOR SUBMISSION TO: Executive Policy Committee

ORIGINAL REPORT SIGNED BY: Annitta Stenning, Chief Administrative Officer

REPORT DATE: June 8, 2007

RECOMMENDATION:

1. That the details of the "Front Ending" (Financing) Agreement with Genstar Development Company for the Construction and Twinning of Plessis Road be received as information and that the proposed terms be approved by Council.

2. That pursuant to the draft Development Agreement for DASZ 21/06, additional capital funding be accommodated in the 2008 budget process, for inclusion in the 2012 Capital Forecast to facilitate the twinning of Plessis Road.

Report Summary

Key Issues:

- The current cost estimate, excluding the City's internal overheads[1], for the twinning of Plessis Road from Victoria Avenue to Devonshire Drive has increased from the 2006 estimate of $6.1 million to $8.7 million. The total cost of construction, including interest has increased from $7.7 million to $11.4 million, based upon a developer payback in 2012.

- Council approval would be necessary to accommodate additional capital funding of $3.967 million, which includes $340,000 for the City's internal overheads, in the 2008 budget process, for inclusion in the 2012 Capital Forecast to facilitate the twinning of Plessis Road.

- Genstar Development Company (Genstar) has proposed to develop 396 residential lots, a 6.05 acre park, a 7.28 acre commercial site, and 10 acres of multi-family lands on lands north of Devonshire Drive West and west of Plessis Road under DASZ 21/06. The proposed subdivision (now called Kildonan Green) is shown on Appendix "A" attached.

[1] City overheads include Public Works "Strategic Research & Innovative Partnership Program" @ 0.5% and Corporate Finance short-term financing and administration charges of 2% and 1% (maximum of $100,000 per project) respectively.

Implications of the Recommendation(s):

General Implications

( ) None

( ) For the organization overall and/or for other departments

( ) For the community and/or organizations external to the City

(X) Involves a multi-year contract

Comment(s):

Provisions of the Council approved Development Agreement provide for Genstar to front end financing related to the twinning of Plessis Road. The Front Ending/Financing Addendum to the draft Development Agreement for DASZ 21/06 states "*the City will reimburse the Developer…by 2012 or sooner…with interest at a borrowing rate acceptable to the City and the Developer…and that the Chief Administrative Officer be delegated the authority to negotiate these terms and conditions and report back to Council."*

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):

Human Resources Implications

(X) No

( ) Yes

Comment(s):

Financial Implications

( ) Within approved current and/or capital budget

(X) Current and/or capital budget adjustment required

Comment(s):

Pursuant to the draft Development Agreement for DASZ 21/06, it would be necessary to accommodate additional capital funding of $3.967 million, which includes $340,000 for the City's internal overheads, in the 2008 budget process, for inclusion in the 2012 Capital Forecast to facilitate the twinning of Plessis Road. Council approval of this additional forecasted funding is required.

Report

REASON FOR THE REPORT:

Provisions of the Council approved Development Agreement for DASZ 21/06 provide for Genstar to front end financing related to the twinning of Plessis Road. The current cost estimate for the twinning of Plessis Road from Victoria Avenue to Devonshire Drive has increased from the 2006 estimate of $6.1 million to $8.7 million. The total projected cost of construction, including interest, based upon a developer payback in 2012, has increased from $7.7 million to $11.4 million.

Pursuant to the draft Development Agreement for DASZ 21/06, Council approval is required to accommodate additional capital funding of $3.967 million, which includes $340,000 for the City's internal overheads, in the 2008 budget process, for payback to the developer in the 2012 Capital Forecast.

HISTORY:

On September 27, 2006, Council concurred in the recommendation of the Standing Committee on Property and Development and approved a subdivision/rezoning application (DASZ 21/06) submitted by Genstar Development Company for land located north of Devonshire Drive and west of Plessis Road. Genstar Development Company (Genstar) currently proposes to develop 396 residential lots, a 6.05 acre park, a 7.28 acre commercial site, and 10 acres of multi-family lands on lands north of Devonshire Drive West and west of Plessis Road. The proposed subdivision (now called Kildonan Green) is shown on Schedule "A" attached. Excerpts of the Development Agreement pertaining to financing of Plessis Road are attached as Appendix "B".

Council adopted the recommendation *"that the plan of subdivision proposed under File DASZ 21/06 be approved…subject to the following:*

- The Developer entering into Zoning Agreement with the City; and,
- The Developer entering into Development Agreement with the City containing conditions related to the scope, standards, staging and servicing requirements related to construction and development of the subdivision.

Provisions of the Development Agreement also state:

- *"that the developer shall finance and construct the twinning of Plessis Road from Victoria Avenue to Devonshire Drive as determined by and to the satisfaction of the Director of Public Works*,

- *"the City will reimburse the Developer…by 2012 or sooner…with interest at a borrowing rate acceptable to the City and the Developer…and that the Chief Administrative Officer be delegated the authority to negotiate these terms and conditions and report back to Council."*

In 2006 the preliminary estimate for the widening/twinning of Plessis Road from Victoria to Kildare Avenue (for construction in 2007) was $2.8 million. The 2006 estimate for the widening/twinning of Plessis Road from Kildare Avenue to Devonshire in the year 2009 was $3.3 million, for a total cost of $6.1 million. The total cost of this project including interest (at prime+0) was estimated at $7,726,000. The twinning of Plessis Road has been included under "Developer Paybacks" in the adopted 2008-2012 Capital Budget forecast for payment in the amount of $7,726,000 in 2012.

The Public Works Department has advised that the above noted construction estimates included an annual 10% increase based upon an anticipated escalation in construction costs. The Department recently advised that construction estimates provided by Genstar's consultant have indicated that costs related to the twinning of Plessis Road are now projected to increase by approximately 40 percent over those estimated in 2006, due to unforeseen market forces.

As a result, the current cost estimate for the twinning of Plessis Road from Victoria Avenue to Devonshire Drive has increased to $8.7 million. The total cost of construction, including interest is $11.4 million, based upon a developer payback in 2012.

Pursuant to the draft Development Agreement for DASZ 21/06, it would be necessary to accommodate additional capital funding of $3.967 million in the 2008 budget process in order to facilitate the twinning of Plessis Road in the 2012 Capital Forecast.

DISCUSSION:

Provisions of the Draft Development Agreement for DASZ 21/06 (see Appendix B attached) state:

The twinning of Plessis Road from Victoria Avenue to Devonshire Drive shall be undertaken as follows:

- Upon commencement of any development within the proposed plan of subdivision, the improvements in Plessis Road from Victoria Avenue to Kildare Avenue shall commence within the same construction season and be completed that season.
- Prior to commencement of development exceeding 200 units (any combination of single family and multi family), the improvements in Plessis Road from Kildare Avenue to Devonshire Drive shall commence and be completed in the same construction season.

Projected Costs:

The following Table (Table 1) outlines the total revised cost, including interest, of financing the Plessis Road twinning based upon staged construction commencing in 2007 with completion in 2008 (projected):

Table 1

FINANCING COSTS PROJECTION - PROPOSED PLESSIS ROAD WIDENING

	2007	2008	2009	2010	2011	2012	Total
		Note 3					
Interest	82,500	351,000	562,000	597,000	634,000	444,000	2,670,500
Principal	4,107,500	4,575,000					8,682,500
	4,190,000	4,926,000	562,000	597,000	634,000	444,000	**11,353,000**

Assumptions

1) Total Estimated Cost of Plessis Road Widening-Public Works (Engineering Division) 8,682,500

- First draw on loan amount assumed to occur on September 1, 2007 & repaid to Genstar's lender on August 31, 2012.
- Second draw on loan amount assumed to occur on September 1, 2008 & repaid to Genstar's lender on August 31, 2012.

Balance Owing as at Dec. 31/07	4,190,000
Balance Owing as at Dec. 31/08	9,116,000
Balance Owing as at Dec. 31/09	9,678,000
Balance Owing as at Dec. 31/10	10,275,000
Balance Owing as at Dec. 31/11	10,909,000
Balance Owing as at August 31/12	11,353,000

2) Estimated Interest Rate to be Charged on the Loan to Genstar (prime + 0) 6.00%
- Interest assumed to be compounded monthly beginning in September 2007.
- Accrued interest assumed to be repaid to Genstar's lender on August 31, 2012.

3) Costs in 2008 include a 20% inflation factor on the costs projected in 2007 dollars.

Front Ending Agreement:

As previously noted, on September 27, 2006, Council adopted the recommendation that the plan of subdivision proposed under File DASZ 21/06 be approved subject to the Developer entering into a Development Agreement with the City containing, among others, the following provision:

- *"The City shall reimburse the Developer the City's share (of the cost of twinning Plessis Road) with interest at a borrowing rate acceptable to the City and the Developer, and in accordance with terms approved by City Council...and that the Chief Administrative officer be delegated the authority to negotiate these terms and conditions and report back to Council".*

A Front Ending Agreement has been negotiated with the Developer, which is attached as Appendix C.

Genstar Development Company has arranged financing for the twinning of Plessis Road through the Canadian Western Bank (CWB). The terms and conditions proposed in the Front Ending Agreement include the following:

1. Loan principal of approximately $8.7 million.
2. Interest rate equal to CWB's Prime Lending Rate, currently 6%, calculated daily and at month-end either added to the outstanding principal amount, which must be paid in full by 2012, or paid by the Borrower (i.e. by Genstar, who would expect reimbursement by the City) on a monthly basis.
3. Interest to be applicable upon the first draw down of the loan.
4. Repayment of principal and/or accrued interest can be made at any time during the term of the agreement without penalty provided CWB is given at least 48 hours notice.

Economic Benefits:

The following Table (Table 2) outlines the property tax revenue that will accrue to the City with the completion of the Plessis Road twinning and the resulting construction that will commence within the Genstar subdivision in 2007. It should be noted that the following revenue projections are based upon the assumption that current market conditions will continue in both the projected lot absorption rates and house pricing. Because market conditions are subject to change, both the servicing and the lot absorption rates could improve or decline.

Table 2

PROPERTY TAX REVENUE PROJECTION - TRANSCONA WEST

UNITS

	2007	2008	2009	2010	2011	2012	Total
SFD							
Lots	86	80	80	80	70	0	396
Houses	9	100	86	109	78	14	396
Remaining Lots	77	57	51	22	14	0	0
Condos							
Units	25	18					43
Seniors units			136				136
Commercial							
				1			1

REVENUES

SFD							
Lots	9,625	34,000	27,000	18,000	9,000	4,000	101,625
Houses	6,000	159,000	410,000	674,000	926,000	1,050,000	3,225,000
	15,625	193,000	437,000	692,000	935,000	1,054,000	3,326,625
Condos							
Units	11,000	61,000	77,000	77,000	77,000	77,000	380,000
Seniors units	0	0	95,000	190,000	190,000	190,000	665,000
	11,000	61,000	172,000	267,000	267,000	267,000	1,045,000
Commercial							
Major Grocery (national chain) & Other Retail				58,000	116,000	116,000	290,000
TOTAL REVENUE	26,625	254,000	609,000	1,017,000	1,318,000	1,437,000	**4,661,625**

Assumptions

1) Municipal Tax Revenue per annum:

Lots	500	
Houses	2,700	(i.e. assessed value of $235,000; portioning rate of 45%; mill rate of 0.025448)
Condos (non-Seniors units)	1,800	(i.e. assessed value of $160,000; portioning rate of 45%; mill rate of 0.025448)
Condos (Seniors units)	1,400	(i.e. assessed value of $125,000; portioning rate of 45%; mill rate of 0.025448)
Commercial	116,000	(i.e. assessed value of $7,000,000; portioning rate of 65%; mill rate of 0.025448)

2) Plans to be registered and first houses to be completed as at September 30, 2007.

3) Lots/Houses to come on stream effective September 30 of 2008 and June 30 of each year from 2009 to 2012.

4) Commercial development to come on stream effective June 30, 2010.

5) Quantity/timing of lots, commercial as per Genstar Pro-formas.
Absorption rate of lots for SFD & Condos estimated by Planning, Property and Development Department - Real Estate Division.

The net costs to the City for the widening of Plessis Road are outlined on Table 3 below. The collection of Municipal Realty Tax revenues are projected to be approximately $4,662,000 by 2012, while the total cost, including interest and the City's internal overheads, of completing the Plessis Road twinning is estimated at $11,693,000.
See Appendix "D" for reconciling items between the estimated construction costs of $7,920, 000 (per Appendix "C", Schedule "A") and the estimated 2012 capital budget requirement of $11,693,000.

On the basis of the costs and tax revenues estimated in Table 3, it is projected that full cost recovery (the break even point) would occur during the year 2017.

Table 3

PROPOSED PLESSIS ROAD WIDENING - NET COST PROJECTION *(Note: Assumes Phase 2 in 2008)*

	2007	2008	2009	2010	2011	2012	Total	2013 to 2017	Long Range Total
Financing Costs	4,190,000	4,926,000	562,000	597,000	634,000	444,000	11,353,000	-	11,353,000
City Overhead Costs	-	-	-	-	-	340,000	340,000	-	340,000
Capital Budget Required	4,190,000	4,926,000	562,000	597,000	634,000	784,000	11,693,000	-	11,693,000
Property Tax Revenue	26,625	254,000	609,000	1,017,000	1,318,000	1,437,000	4,661,625	7,260,000	11,921,625
	4,163,375	4,672,000	(47,000)	(420,000)	(684,000)	(653,000)	7,031,375	(7,260,000)	(228,625)

Based on the assumptions outlined in this workbook, the capital funding requirement for 2012 to retire the debt associated with the proposed Plessis Road Widening will be approximately $7,031,375. ***This amount is premised on the assumption that the property tax revenues collected from the Transcona West development would be used to reduce the amount of capital funding otherwise required to retire the debt.***

All assumptions remaining constant, full cost of widening would be recovered through property taxes some time in 2017.

The subject lands form part of the City of Winnipeg/Genstar Transcona West Joint Venture. Therefore, in addition to the Municipal Realty Tax revenue, the project is expected to generate the total net revenue for the City's Land Operating Reserve (LOR) in the amount of $5,844,865 (see Table 4). This revenue will help sustain the LOR, which is forecasted to be in a deficit position by 2008.

Table 4

Transcona Joint Venture Updated May-07

Kildonan Green Projected Cash Flow

	Total	2007	2008	2009	2010	2011	2012
Total Lot Sales	396	86	80	80	80	70	
Lot Revenue	29,210,426	6,278,650	5,930,386	5,720,190	5,712,000	5,569,200	
Town Home	1,658,000	829,000	829,000				
Multi-Family Revenue	1,467,000		1,467,000				
Commercial Revenue	2,003,000			2,003,000			
Total Revenue	34,338,426	7,107,650	8,226,386	7,723,190	5,712,000	5,569,200	-
Collections	34,338,426	3,553,825	9,076,457	8,138,868	5,715,276	5,626,320	2,227,680
Costs & Expenditures							
Development Expenditures	18,582,645	6,105,000	2,605,000	5,175,000	2,903,000	1,250,000	544,645
Other cost of sales, Fees & Expenses	4,066,052	390,980	480,633	1,233,292	1,324,299	393,744	243,104
Total Costs & Expenditures	22,648,697	6,495,980	3,085,633	6,408,292	4,227,299	1,643,744	787,749
Project Net Cash Flow	**11,689,729**	**(2,942,155)**	**5,990,824**	**1,730,576**	**1,487,977**	**3,982,576**	**1,439,931**
City of Winnipeg Share @ 50%	**5,844,865**	**(1,471,078)**	**2,995,412**	**865,288**	**743,989**	**1,991,288**	**719,966**

A 2006 Clayton Research Report on the New Housing Industry in Winnipeg indicates that 2.8 person years of employment are generated from each single detached or semi detached housing start. On this basis, the Genstar project could produce approximately 2,089 person years of employment for residents within the City of Winnipeg.

Financial Impact Statement

Date: June 7, 2007

Project Name: **First Year of Program** **2008**

DASZ 21/06 – Genstar Development Company/Twinning of Plessis Road

	2008	2009	2010	2011	2012
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ 11,693,000
Less: Existing Budgeted Costs	-	-	-	-	7,726,000
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ 3,967,000
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ 3,967,000
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ 3,967,000
Total Additional Capital Budget Required	$ 3,967,000				
Total Additional Debt Required	$ 3,967,000				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	280,625	609,000	1,017,000	1,318,000	1,777,000
Net Cost/(Benefit)	$ (280,625)	$ (609,000)	$ (1,017,000)	$ (1,318,000)	$ (1,777,000)
Less: Existing Budget Amounts	(280,625)	(609,000)	(1,017,000)	(1,318,000)	(1,777,000)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Incremental revenues consist of municipal property taxes (note: 2007 & 2008 amounts included in 2008 figure above) generated by the development. For 2012, revenues include $1,437,000 in taxes + $310,000 in recoveries by Corporate Finance of short-term financing and admin costs and a recovery of $30,000 by Public Works for the Strategic Research & Innovative Partnership program. An additional $3,967,000 in capital funding would be required in 2012 to repay to Genstar the loan + accrued interest and to cover internal overheads. Note that beginning in 2013, debt & finance charges of approximately $1 million/annum would be charged to Public Works' current budget.

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

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:
Public Works Department
Legal Services

External Consultation With:
Genstar Development Company

THIS REPORT SUBMITTED BY:

Department	Planning, Property and Development
Division	Real Estate
Prepared by:	Ray Klassen
File No.	DASZ 21\06

Attachments:

- Appendix "A" - Proposed Subdivision – DASZ 21/06
- Appendix "B" - Draft terms of the Development Agreement for DASZ 21/06
- Appendix "C" - Front Ending Agreement for the financing of Plessis Road
- Appendix "D" - Reconciliation of Schedule A to the Front Ending Agreement

Appendix "A"

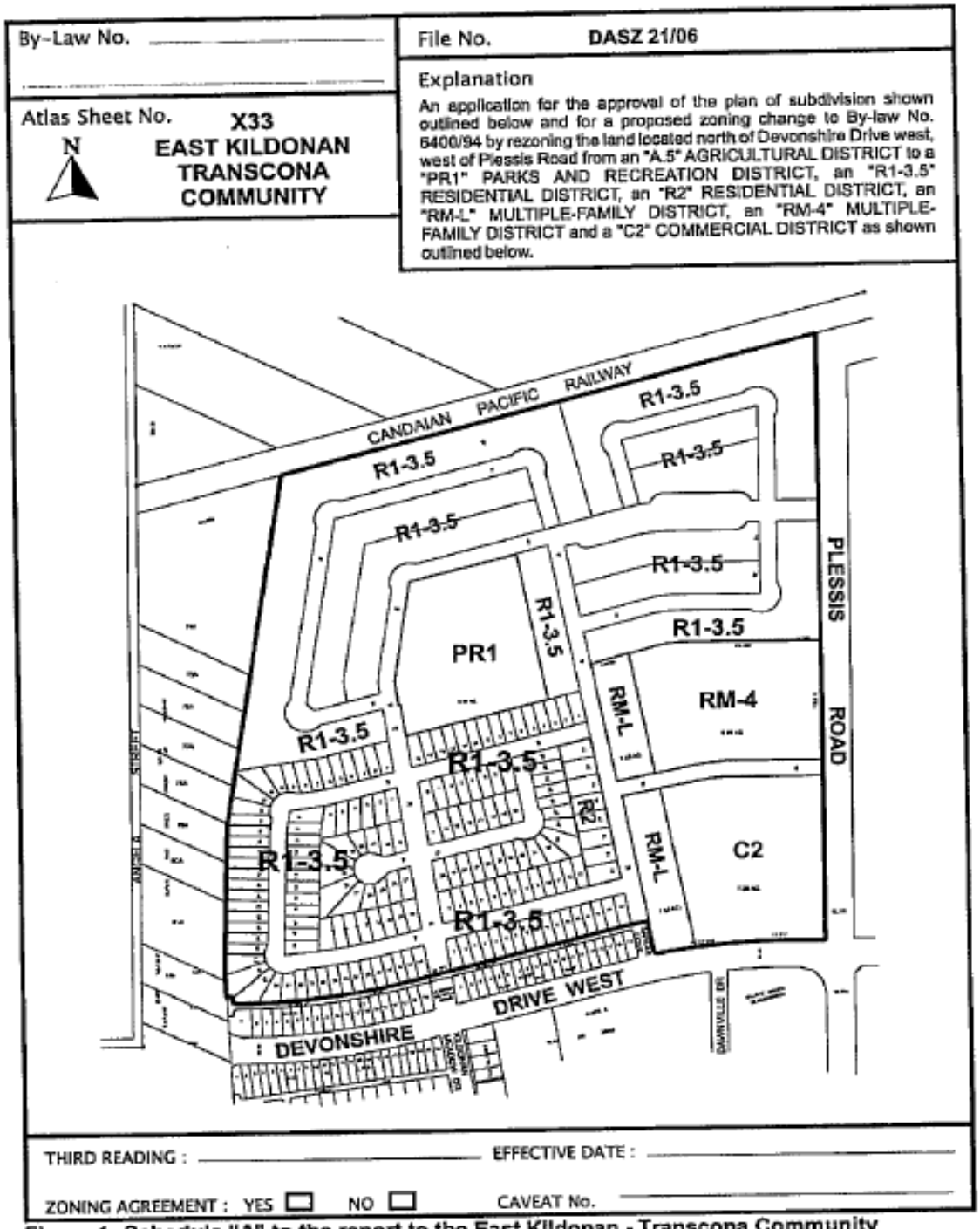

Figure 1: Schedule "A" to the report to the East Kildonan - Transcona Community Committee for File No. DASZ 21/2006, dated May 30, 2006.

Appendix "B"

Draft Development Agreement Report on DASZ 21/06

5. Plessis Road Twinning

a) The Developer shall* finance and construct the twinning of Plessis Road from Victoria Avenue to Devonshire Drive as determined by and to the satisfaction of the Director of Public Works, including by not necessary limited to the following:

i) an 8.0m in width by 200mm in thickness portland cement concrete pavement and all related works;

ii) 1.5m in width by 100mm in thickness portland cement concrete sidewalks in both the east and west boulevards;

iii) street lighting;

i) boulevard landscaping;

ii) modifications to existing intersections;

iii) all related works.

***** The City may, at its sole discretion, construct and self-finance the cost of the work.

b) The twinning of Plessis Road from Victoria Avenue to Devonshire Drive shall be undertaken as follows:

i) Upon commencement of any development within the proposed plan of subdivision, the improvements in Plessis Road from Victoria Avenue to Kildare Avenue shall commence within the same construction season and be completed that season.

ii) Prior to commencement of development exceeding 200 units (any combination of single family and multi family), the improvements in Plessis Road from Kildare Avenue to Devonshire Drive shall commence and be completed in the same construction season.

iii) The Developer's share of the cost of services described in ii) above shall be determined in accordance with the provisions of Clause 7 – Off-site traffic improvements, and the City shall reimburse the Developer for the difference as determined by the Director of Public Works.

c) The City shall reimburse the Developer the City's share of the cost of the twinning of Plessis described in a) above by 2012 or sooner.

d) The City shall reimburse the Developer the City's share with interest at a borrowing rate acceptable to the City and the Developer, and in accordance with terms and conditions of a supplementary Agreement dated _____ between the City and the Developer…..

Appendix "C"

THIS AGREEMENT dated this ___ day of June, 2007

BETWEEN:

GENSTAR DEVELOPMENT PARTNERSHIP,
by its managing partner, GENSTAR DEVELOPMENT COMPANY
(hereinafter called the "Developer)

- and –

THE CITY OF WINNIPEG
(hereinafter called the "City")

FRONT-ENDING AGREEMENT TO TWIN PLESSIS ROAD FROM VICTORIA AVENUE TO DEVONSHIRE DRIVE

RECITALS

A. WHEREAS the Developer has made application to the City under File DASZ 21/2006 to subdivide and rezone certain land north of Devonshire Drive West, west of Plessis Road;

B. AND WHEREAS City Council approved the Developer's proposed plan of subdivision under File DASZ 21/2006 on September 27, 2006 subject to certain conditions more particularly set forth in the recommendations in a Report of the Standing Policy Committee on Property and Development dated September 19, 2006;

C. AND WHEREAS it was a condition of approval that the Developer shall finance and construct the twinning of Plessis Road from Victoria Avenue to Devonshire Drive as determined by and to the satisfaction of the Director of Public Works;

D. AND WHEREAS the Developer's share and the City's share to construct the said twinning of Plessis Road shall be determined in accordance with the provisions of the Development Agreement applicable to the Plan of Subdivision;

E. AND WHEREAS it is acknowledged that Genstar may have certain outstanding obligations under the provisions of previous Development Agreements between Genstar and the City for improvements in Plessis Road;

F. AND WHEREAS the City has agreed to reimburse the Developer by no later than December 31st, 2012, the City's share of the Developer payments, for the said twinning of Plessis Road;

G. AND WHEREAS the Developer now wishes to proceed with the development of its Plan of Subdivision inclusive of the twinning of Plessis Road;

NOW THEREFORE in consideration of the covenants contained herein and such further consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

I DEFINITIONS

1.1 "Agreement" means this Front-Ending Agreement, including the Recitals and Schedules.

1.2 "Bank" means Canadian Western Bank or such other lending institution acceptable to the City and the Developer.

1.3 "City" means The City of Winnipeg.

1.4 "City Solicitor" means the individual appointed to the position of City Solicitor and General Council, from time to time, or the person designated by such individual to carry out the duties contained herein.

1.5 "Consulting Engineer" means Stantec Consulting Ltd. or such other engineering consulting firm acceptable to the City and Developer.

1.6 "Contractor" means the construction contractor or contractors the Developer selects to construct the Transportation Infrastructure.

1.7 "Cost Schedule" means the estimated Costs in Place, as shown on the attached **Schedule "A"** to this Agreement.

1.8 "Costs in Place" means the costs actually incurred by the Developer including cost overruns, to be jointly approved by the Developer and the City, in connection with the construction of the Transportation Infrastructure as certified for payment by the Consulting Engineer.

1.9 "Developer Payments" means the payment by the Developer of the invoices for Costs in Place and the cost of borrowing funds from the Bank to cover the Costs in Place which cost of borrowing shall constitute interest to be calculated daily on the daily closing loan balance at a floating rate of interest equivalent to the Bank's prime lending rate currently six percent (6%) per annum.

1.10 "Developer" means Genstar Development Partnership, managed by one of the partners namely Genstar Development Company, a corporation registered and carrying on business in the Province of Manitoba.

1.11 "Director of Public Works" means the individual appointed to the position of Director of Public Works, from time to time, or the person designated by such individual to carry out the duties under this Agreement.

1.12 "Plan of Subdivision" means the Developer's proposed plan of subdivision under File DASZ 21/2006.

1.13 "Transportation Infrastructure" means the twinning of Plessis Road from Victoria Avenue to Devonshire Drive, including, but not necessarily limited to the following:

i. Portland cement concrete pavement and all related works;
ii. Portland cement concrete sidewalk;
iii. street lighting;
iv. boulevard landscaping;
v. modifications to existing intersections;
vi. all related works.

II OBLIGATIONS OF THE DEVELOPER

2.1 Once the design and the plans and specifications for the construction of the Transportation Infrastructure have been finalized by the Consulting Engineer and released for construction by the Director of Public Works, the Developer shall call for tenders for the work associated with the Transportation Infrastructure.

2.2 All bids received by the Developer in response to the tender call shall be scrutinized by the Consulting Engineer and a recommendation forwarded to the Director of Public Works.

2.3 Upon acceptance of the above-noted recommendation by the Director of Public Works, the Developer shall enter into a Construction Contract with such Contractor for the construction of the Transportation Infrastructure.

2.4 The Developer together with the Consulting Engineer shall ensure that the Transportation Infrastructure is constructed in accordance with the design and the plans and specifications prepared by the Consulting Engineer as submitted to the Director of Public Works.

2.5 The Developer shall front-end the cost of construction of the Transportation Infrastructure including any cost overruns as jointly agreed upon by the Developer and the City. Payment of the invoices or progress payments for the cost of construction of the Transportation Infrastructure shall only be made by the Developer following receipt of the Consulting Engineer's written certification of the invoices or progress payments.

2.6 The payment of all invoices and progress payments shall be made in accordance with the provisions of *The Builders' Liens Act*.

III OBLIGATIONS AND ENTITLEMENTS OF THE CITY

3.1 The City agrees to reimburse the Developer for the City's share of the Developer Payments by no later than December 31st, 2012. It is understood and agreed that the City may make payments prior to December 31st, 2012, without penalty, upon providing to the Bank at least forty-eight (48) hours notice, which payments shall firstly be applied to accrued interest and then to principal if applicable.

3.2 It is further understood and agreed that any unpaid balance of the City's share of the Developer Payments after December 31st, 2012 shall in addition be subject to a penalty payment by the City equal to the prime lending rate of the Bank as established as a yearly or per annum basis and as charged from time to time **PLUS** five percent (5%) per annum, computed from day to day on such unpaid balance.

IV LOAN AND ASSIGNMENT

4.1 The City acknowledges that the Developer intends to borrow funds in the approximate amount of $11.9 million from the Bank to cover the cost of construction of the Transportation Infrastructure including any cost overruns jointly agreed to by the Developer and the City.

4.2 The City and the Developer agree that the interest rate to be charged on the loan from the Bank to cover the cost of construction of the Transportation Infrastructure including any cost overruns jointly agreed to by the Developer and the City, and the terms of repayment of the loan shall be at a rate and upon terms of repayment acceptable to the City and the Developer.

4.3 The City acknowledges that the Developer intends to transfer and assign to the Bank the Developer's right and entitlement to receive the City's share of the Developer Payments. The City hereby consents to any such assignments and agrees to honour same.

V GENERAL

5.1 Notices and communications, including demands and certificates, made in connection with this Agreement must be in writing and delivered to the parties at the following addresses:

a) To the City:
The City of Winnipeg
Planning, Property and Development Department
3rd Floor – 65 Garry Street
Fax: (204) 942-3820
Winnipeg, MB R3C 4K4
Attention: Mr. Ray Klassen, Manager of Real Estate

b) To the Developer:
Genstar Development Company
530 Kenaston Boulevard, Suite 320
Winnipeg, MB R3N 1Z4
Fax: (204) 489-6918
Attention: Mr. Jerry C. Klein, Vice-President

5.2 For the purposes of this Agreement, any communication that is required to be in writing includes any electronic communications, and the parties hereto hereby waive their right to contest whether electronic communications constitute written notice and communication. The parties further agree that copies of any electronic communication will be admissible in any legal, administrative or other proceedings as conclusive evidence as to the content of the communication to the same extent as an original document in non-electronic form. The parties hereby acknowledge and agree that they cannot ensure confidentiality when non-secure electronic communications are used, as they may be intercepted by third parties, to which each party accepts the risk of any consequences arising from loss occurred in connection with the use of electronic communications.

5.3 When the notices and demands are made in connection with this Agreement are sent by:

a) mail, they are deemed to be received on the third (3rd) day after posting; and

b) by fax or electronic communication, they are deemed to be received at 9:00 a.m. on the business day following the day on which they were successfully faxed or sent.

5.4 Any party may change its address for service by written notice to the other party.

5.5 Either party may waive any breach by the other of any provision contained in this Agreement or default in the observance or performance of any covenant or condition required to be observed or performed by the other under the terms of this Agreement, provided that no such waiver shall be binding upon such party unless given in writing, and no such waiver shall extend or be taken to affect any subsequent breach or default or affect the right of the waiving party.

5.6 The Recitals and Schedules attached hereto shall form part of this Agreement.

5.7 This Agreement shall be governed by and interpreted according to the laws of the Province of Manitoba.

5.8 This Agreement may not be varied unless same is evidenced in writing signed by both of the parties hereto.

5.9 Time shall be of the essence hereof.

5.10 The parties acknowledge that this Agreement contains the entire terms, conditions and warranties agreed to by the parties.

5.11 If any paragraph, subparagraph, clause or phrase of this Agreement is, for any reason, held to be invalid by the decision of any Court of competent jurisdiction, then the invalid portion shall be severed and the portion hereof that is declared invalid shall not affect the validity of the remainder hereof.

5.12 This Agreement constitutes and expresses the whole arrangement between the parties hereto. It is understood and agreed that there are no covenants, warranties, guarantees, promises or agreements (verbal or otherwise) between the parties other than those contained herein.

5.13 This Agreement shall be binding upon and enure to the benefit of the parties thereto and their respective successors and permitted assigns.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and year first above written.

GENSTAR DEVELOPMENT COMPANY,
as Managing Partner of
Genstar Development Partnership

Per: _____
Vice-President

THE CITY OF WINNIPEG

Per: _____
Manager of Real Estate

CERTIFIED AS TO FORM:

_____
for City Solicitor

APPROVED AS TO DETAILS:

_____
Director
Planning, Property and Development

Schedule "A"

Cost Schedule

Roadwork - includes boulevards, medians - includes incidental underground works	$5,400,000
Street Lighting	$ 200,000
Utilities	$ 155,000
Traffic Signals	$ 300,000
Traffic Services	$ 100,000
Railway Crossing	$ 300,000
Engineering and Testing	$ 925,000
Contingency	$ 540,000
Total	**$7,920,000**

Note: 1) All figures shown in 2007 dollars
2) Interest and inflation not included

Appendix "D"

RECONCILIATION OF SCHEDULE "A" TO THE FRONT ENDING AGREEMENT WITH ESTIMATED REQUIRED CAPITAL BUDGET IN 2012

Estimated Costs of Phase 1 - Kildare to Victoria Avenue:		
Construction including 10% contingency	2,970,000	
Engineering and testing	462,500	
Street lighting, utilities, traffic signals & services	675,000	4,107,500
Estimated Costs of Phase 2 - Kildare to Devonshire Drive:		
Construction including 10% contingency	2,970,000	
Engineering and testing	462,500	
Street lighting, utilities, traffic signals & services	380,000	3,812,500
Cost Estimate per "Schedule A" to Front Ending Agreement		**7,920,000**
Add:		
Inflation factor of 20% applied Phase 2 costs		762,500
Construction Cost Sub-total		**8,682,500**
Estimated Accrued Interest (see Table 1)	2,670,500	
Internal Overheads (corporate admin & finance, PW Engineering)	340,000	3,010,500
Estimated Capital Budget Requirement in 2012		**11,693,000**