Minute No. 202
Report - Executive Policy Committee - February 26, 2003

Item No. 1 Proposed Sale of 999, 1029 and 1033 Henry Avenue to International Paper Industries Ltd. or Nominee
File FI-2.4 (34) (Vol. 9)

COUNCIL DECISION:

Council amended the recommendation of the Executive Policy Committee and adopted the following:

1. A. That the "subject City property" as shown on Misc. Plan No. 11751/2 be declared as surplus to the City's requirements.

   B. That the property identified as "proposed closing", as shown on Misc. Plan No. 11751/2, be declared as surplus to the City's requirements, subject to the enactment of a road closing by-law.

2. That the sale of the land identified on Misc. Plan No. 11751/2 as the "subject City property" and the sale of that portion of Higgins Avenue identified as "proposed closing" on Misc. Plan No. 11751/2 to International Paper Industries Ltd. or Nominee, for the price of $1.00, and in accordance with the terms and conditions of the attached Offer to Purchase dated January 16, 2003, be approved subject to the proposed amendments as recommended by the Planning, Property and Development Department as set out herein.

3. That Subject to approval of Recommendation Nos. 1 and 2, that Council approve, in principle, the grant of a "leave of licence" agreement to International Paper Industries Ltd., or Nominee, in accordance with the offer to purchase as amended by the 19 amendments recommended by the Planning, Property and Development Department in the attached report.

4. That the Chief Administrative Officer be delegated the authority to:

   A. Approve a "Leave and Licence" Agreement in favour of International Paper Industries Ltd., or Nominee, subject to the results of a public hearing before the Lord Selkirk –West Kildonan Community Committee;

   B. Either proceed with the environmental remediation of the property proposed to be sold, or, to cancel the sale in accordance with the intent of the amended Clause 9 of the Offer to Purchase as amended herein;

   C. Approve, as and when required, such "additional appropriations" as are necessary to finance the City's obligations under this amended Offer to Purchase;

Report - Executive Policy Committee - February 26, 2003

COUNCIL DECISION (continued)

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

Report - Executive Policy Committee - February 26, 2003

DECISION MAKING HISTORY:

Moved by His Worship Mayor Murray,
That the recommendation of the Executive Policy Committee be adopted.

In amendment,

Moved by Councillor Angus,
Seconded by Councillor O'Shaughnessy,

WHEREAS Executive Policy Committee at its meeting of February 26, 2003 recommended adoption of a report proposing the sale of 999, 1029 and 1003 Henry Avenue to International Paper Industries Ltd.,

AND WHEREAS it is deemed desirable to amend the recommendations of said report,

THEREFORE BE IT RESOLVED that resolution 3 of the report be replaced with the following:

3. That Subject to approval of Recommendation Nos. 1 and 2, that Council approve, in principle, the grant of a "leave of licence" agreement to International Paper Industries Ltd., or Nominee, in accordance with the offer to purchase as amended by the 19 amendments recommended by the Planning, Property and Development Department in the attached report.

The motion for the adoption of the amendment was put.

Councillor Lazarenko called for the yeas and nays, which were as follows:-

Yea: His Worship Mayor Murray, Councillors Eadie, Angus, Clement, De Smedt, Gerbasi, Lubosch, Pagtakhan, Smith, Steek, Steeves, Deputy Mayor Thomas, Vandal and The Speaker Councillor O'Shaughnessy. 14

Nay: Councillors Wyatt and Lazarenko. 2

and the motion for the adoption of the amendment was declared carried.

The motion for the adoption of the item, as amended, was put.

Report - Executive Policy Committee - February 26, 2003

DECISION MAKING HISTORY (continued):

Councillor Lazarenko called for the yeas and nays, which were as follows:-

Yea: His Worship Mayor Murray, Councillors Eadie, Angus, Clement, De Smedt, Gerbasi, Lubosch, Pagtakhan, Smith, Steek, Steeves, Deputy Mayor Thomas, Vandal and the Speaker Councillor O'Shaughnessy. 14

Nay: Councillors Wyatt and Lazarenko. 2

and the motion for the adoption of the item, as amended, was declared carried.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On February 26, 2003, the Executive Policy Committee concurred in the administrative recommendation, and submitted the matter to Council.

Re: Proposed Sale of 999, 1029 and 1033 Henry Avenue to International Paper Industries Ltd. Or Nominee
Lord Selkirk-West Kildonan Community
Point Douglas Ward

For submission to: Executive Policy Committee

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

Report date: February 24, 2003

Recommendation(s):

1. That Council:

   A. declare the "subject city property" as shown on Misc. Plan No. 11751/2 as surplus to the City's requirements;

   B. declare the property identified as "proposed closing" as shown on Misc, Plan No. 11751/2 as surplus to the City's requirements, subject to the enactment of a road closing by-law;

2. That, subject to the approval of Recommendation No. 1, that the sale of the land identified on Misc. Plan No. 11751/2 as the "Subject City Property" and the sale of that portion of Higgins Avenue identified as "Proposed Closing" on Misc. Plan No. 11751/2 to International Paper Industries Ltd. or Nominee, for the price of $1.00, and in accordance with the terms and conditions of the attached Offer to Purchase dated January 16, 2003, be approved subject to the proposed amendments as recommended by the Planning, Property and Development Department as set out herein;

3. That subject to approval of Recommendation Nos. 1 and 2, that Council approve, in principle, the grant of a "leave and licence" agreement to International Paper Industries Ltd., or Nominee, in accordance with the tenor of this report;

4. That the Chief Administrative Officer be delegated the authority to:

   A. approve a "Leave and Licence" Agreement in favour of International Paper Industries Ltd., or Nominee, subject to the results of a public hearing before the Lord Selkirk – West Kildonan Community Committee;

   B. either proceed with the environmental remediation of the property proposed to be sold, or, to cancel the sale in accordance with the intent of the amended Clause 9 of the Offer to Purchase as amended herein;

C. approve, as and when required, such "additional appropriations" as are necessary to finance the City's obligations under this amended Offer to Purchase;

5. 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:

- The Henry Avenue properties were formerly utilized by the Public Works Department and the Water and Waste Department. The old incinerator facility located at 1033 Henry Avenue has been shut down since 1979.
- On March 21, 2001, Council adopted the Public Works/Water and Waste Facilities Master Plan which identified the city-owned properties at 999, 1029, 1033 Henry Avenue as potentially being available for future disposition. The future sale proceeds were earmarked to finance the Facilities Master Plan.
- The Civic Accommodations Division advises that these properties should now be declared surplus and sold as no municipal interest of a material nature was identified pursuant to a circularization process.
- The Planning, Property and Development Department is in receipt of an Offer to Purchase dated January 16, 2003 from International Paper Industries Ltd. to purchase the subject properties, inclusive of a portion of the Higgins Avenue right-of-way, for the purchase price of $1.00. The terms and conditions of the offer are hereto attached.
- International Paper Industries Ltd. has a contract with the City to provide residential recycling services for a 14 year term. The Company is committed to the City to have its recycling facility operational by September 15, 2003.
- The Planning, Property and Development Department has completed its negotiations and is, by this report, recommending that the Offer to Purchase be accepted subject to amendments.
- This report also identifies a strategy to implement this transaction and requests a delegation of authority to the Chief Administrative Officer to expedite the subsequent granting of a Leave and License Agreement.
- This report also identifies funding implications and recommends that an additional appropriation be approved to finance the City's obligations under this proposed agreement.
- The proposed sale of these lands will: facilitate a new business in this community; provide a productive use of this property, and; expand the City's realty tax base. In addition, the sale will result in the immediate handling of the matter of environmental remediation and will enable the City to avoid costs as it pertains to future and ongoing property maintenance, security, demolition and other costs.

IMPLICATIONS

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: •

Policy implications

X	No (*There are no policy implications if the report is asking for a one-time decision.)*
	Yes *(There are policy implications if the recommendation(s) is/are asking for a decision that will be used to guide decisions over time.)*

Comment:

Financial implications

	Within approved current and/or capital budget
X	Current and/or capital budget adjustment required
	No financial implications

Comment:

- The proposed terms and conditions of the sale will require the City to fund certain obligations. There is no available funding source and as a result, an additional appropriation, is being recommended.

REPORT

RECOMMENDATION(S):

1. That Council:

    A. declare the "subject city property" as shown on Misc. Plan No. 11751/2 as surplus to the City's requirements;

    B. declare the property identified as "proposed closing" as shown on Misc, Plan No. 11751/2 as surplus to the City's requirements, subject to the enactment of a road closing by-law;

2. That, subject to the approval of Recommendation No. 1, that the sale of the land identified on Misc. Plan No. 11751/2 as the "Subject City Property" and the sale of that portion of Higgins Avenue identified as "Proposed Closing" on Misc. Plan No. 11751/2 to International Paper Industries Ltd. or Nominee, for the price of $1.00, and in accordance with the terms and conditions of the attached Offer to Purchase dated January 16, 2003, be approved subject to the proposed amendments as recommended by the Planning, Property and Development Department as set out herein;

3. That subject to approval of Recommendation Nos. 1 and 2, that Council approve, in principle, the grant of a "leave and licence" agreement to International Paper Industries Ltd., or Nominee, in accordance with the tenor of this report;

4. That the Chief Administrative Officer be delegated the authority to:

A. approve a "Leave and Licence" Agreement in favour of International Paper Industries Ltd., or Nominee, subject to the results of a public hearing before the Lord Selkirk –West Kildonan Community Committee;

B. either proceed with the environmental remediation of the property proposed to be sold, or, to cancel the sale in accordance with the intent of the amended Clause 9 of the Offer to Purchase as amended herein;

C. approve, as and when required, such "additional appropriations" as are necessary to finance the City's obligations under this amended Offer to Purchase;

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

REASON FOR THE REPORT:

The Planning Property and Development Department is in receipt of an Offer to Purchase the property shown as the "Subject City Property" and the "Proposed Closing" on Misc. Plan No. 11751/2, from International Paper Industries Ltd. By this report the Department is advising as to the results of its negotiations and is seeking Council's consideration to the sale as recommended herein.

HISTORY:

An incinerator was constructed at 1033 Henry Avenue in the late 1940s with additional sections added to it in 1958, 1967, 1968 and 1970. The incinerator was used to burn city trash and was shut down on April 1, 1979. Other buildings were added to other portions of the site in 1968 and 1981.

The building built at 1029 Henry Avenue in 1968 is currently being used on a temporary basis for movie production and the storage of sports equipment that is to be auctioned for fundraising in support of underprivileged children. The Water and Waste Department has been using the facility constructed in 1981 at 999 Henry Avenue on a temporary basis for purposes of an "anode project" and for storage. The Civic Accommodations Division has advised that these occupancies can be relocated into other City facilities within a reasonably short period of time. On February 19, 2003 the Civic Accommodations Division advised that the "Fringe Festival" is also occupying a portion of one of the buildings and that the Festival has requested continued occupancy in the building until July 16, 2003. This request has been forwarded to International Paper Industries Ltd. for its consideration.

On March 21, 2001, Council adopted the Public Works/Water and Waste Facilities Master Plan that identified the city-owned properties at 999, 1029, 1033 Henry Avenue as potentially being available for future disposition. The future sale proceeds were earmarked to finance the Facilities Master Plan. The Council approved report did not specifically declare the Henry Avenue properties to be surplus to the City's requirements.

The Civic Accommodations Division was in the process of preparing to have the properties declared surplus when the Offer was received. The subject properties were circularized to the various departments and it was determined that no City requirements of a material nature were identified for the properties.

On October 23, 2002 the Planning, Property and Development Department received a letter from Sutton Realty indicating that they were working with International Paper Industries Ltd., a company that has a contract with the City's Water and Waste Department to provide residential recycling services for a 14 year term. Sutton Realty indicated that the Company. was interested in acquiring the subject City properties for their purposes of establishing a recycling facility in Winnipeg. The Company is committed to the City to have its recycling facility operational by September 15, 2003. As a point of interest, this company has advised that it has similar operations established in Ottawa, Burlington, London and Vancouver.

The Division has been having negotiations with International Paper Industries Ltd. since early December of 2002. Simply, this company wants to acquire the city-owned incinerator site on Henry Avenue to utilize for the purposes of its operations in connection with its new contract to provide residential recycling services for the City.

On January 16, 2003, the Planning Property and Development Department received an Offer to Purchase the property shown as Subject City Property and Proposed Closing on Misc. Plan No. 11751/2 from International Paper Industries Ltd., or Nominee, dated January 16, 2003.

International Paper Industries Ltd. has also been negotiating for other locations in view of the timing of their project start-up. The Department is informed that the Company will be making an offer on one other property as well as the City's Henry Avenue property to ensure that it has a back-up position.

DISCUSSION:

Details of the Subject City Property are as follows:

Location:	999, 1029 and 1033 Henry Avenue North side of Henry Avenue, East of McPhillips Street (identified as the "Subject Property" on Misc. Plan No. 11751/2), and a portion of the Higgins Avenue (identified as the "Proposed Closing" on Misc. Plan No. 11751/2) Misc. Plan No. 11751/2 is attached herewith as Appendix "1"
Legal Description:	- Parcel A Plan 15491 - Lots 1/10 and Part Lots 11/12 Block 71 Plan 331 - Maude Street closed By-law 16214 - Lots 1/12 Block 66 Plan 331 - Parcel A Plan 16358

	- Parcel A Plan 19235 - A portion of Higgins Avenue to be closed
Certificate of Titles:	497024, 516767, 1799209, 463943, 462134, 432240, 528771, 406361, 1786992, 1701516
Roll Number:	13092260000 (The portion of Higgins Avenue right of way to be closed is not included in this roll number)
Tax Assessment:	$4,806,000 (2002) The portion of the Higgins Avenue right of way to be closed is not included in this assessment.
Zoning:	M3 Industrial District
Servicing:	Fully serviced
Site Size:	5.497 acres "Subject City Property"
	1.996 acres "Proposed Closing" of Higgins Avenue
	7.493 acres for the combined sites
Property Description:	- 1033 Henry Ave. consists of the incinerator building and the smoke stacks
	-1029 Henry Ave. a building of approximately 21,600 sq. ft. - 999 Henry Ave. a building of approximately 7,156 sq. ft. - an outbuilding of approximately 1,200 sq. ft. (at the rear of the site)

The Department's Response to the Initial Expression of Interest and to the Offer to Purchase

The Department has responded to the Company's proposals as follows:

- on December 10, 2002 the Real Estate Division and the Company entered into an Agreement to conduct and to share in the financing of an Environmental Site and Hazardous Waste Assessment (50/50 cost share) which is required to: understand the condition of the property; enable the finalization of the terms of sale, and; to identify the relative obligations and their risks to the Company and to the City. Please see Appendix "3";

- the Real Estate Division has spent considerable time and effort in arranging for and coordinating the Environmental Site and Hazardous Waste Assessment investigations and analysis. The Division contracted with Pinchin Environmental to perform Phase I, II and III Environmental and Hazardous Waste Assessments on the property. It is estimated that these assessments will be completed within the next 2 to 3 weeks;

- the Division has received a preliminary ESA analysis which has been shared with the Company;

- pursuant to the Offer to Purchase dated January 16, 2003, the Division has expended considerable effort in negotiating the terms and conditions of a possible sale. There have been numerous communications and meetings directly with the Chief Executive Officer of the Company, Ms. Emmie Leung, and with the Company's 2 local representatives (i.e. Mr. Jim Moore, and Mr. Ed Baetz of Sutton Realty);

- as the Company requires a closure of part of Higgins Avenue the Division has initiated a road closing application. It is expected that this application (DAC 2/2003) will be considered by the Lord Selkirk–West Kildonan Community Committee on March 11th, 2003;

- the Division has met and communicated on several occasions with the CPR with regard to the Company's existing trackage in the city-owned Higgins Avenue proposed to be legally closed and sold;

- the Division has also been communicating with internal stakeholders with regard to:

    - identifying city and private occupancies in this property which will require termination or relocation. More work is required in connection with this issue;

    - working with the Water and Waste Department relative to the relocation of a combined sewer located in Higgins Avenue which relocation is required by the Purchaser in order to enable its construction of an expansion of the existing incinerator building to access the rail trackage;

    - identifying funding sources to finance the City's obligations under the anticipated terms of the Sales Agreement;

    - the matter of the level of "assessment" for realty taxation purposes.

Offer To Purchase – Dated January 16, 2003

The Company’s Offer to Purchase dated January 16, 2003 is attached herewith as appendix “2”. The Purchaser is International Paper Industries Ltd., or Nominee. This Offer provides for a sale price of $1.00 and a closing, possession and adjustment date to be on or before 120 days from the date of approval of the sale.

The Offer to Purchase is comprised of two parts. The first part, Pages 1 through 4 inclusive are the City’s standard terms which are acceptable and only require minor revision. The second part of the Offer is identified as Schedule “A (page 5 of the Offer to Purchase) and states those special terms as proposed by the Purchaser. These special terms are of substantial concern to the Department and are discussed in the following section.

The Department’s Recommended Amendments to the Offer to Purchase

The original expression of interest was structured on the basis that the Purchaser would acquire the subject property for $1.00 with the City incurring any and all associated costs. The Department found this unacceptable and responded by advising that if a sale was to be contemplated at a price of $1.00, then, the Purchaser would need to be fully responsible for all

costs. Further discussion resulted in the Purchaser submitting its Offer of January 16, 2003. Further negotiation has resulted in the following agreements on amendments to the Offer. The result has been to cause the Purchaser to become responsible for the range of costs as further identified in this section of this Report.

The Department has identified the following issues pursuant to its review of the Offer to Purchase and arising out of its investigations during the project review and negotiation process. Several of these issues have been resolved with the Purchaser, while others have not. Where there is no agreement, the Department is presenting recommendation(s) for Council's consideration as a counter proposal to the Purchaser.

PAGES 1 THROUGH 4 OF THE OFFER (Please see Appendix "2")

1. **description of property to be sold – second paragraph of Offer**

   The description of the property to be sold needs to be amended to refer to both the Subject City Property and the Proposed Closing on the attached Misc. Plan No. 11751/2. The combined area is approximately 7.493 acres.

   The purchaser has orally advised that it is in agreement with this amendment.

2. **Environmental Clause – Clause 9 of the Offer**

   The last paragraph of Clause 9 on page 2 of the Offer to Purchase must be amended to add the following:

   " It is further understood and agreed that the Purchaser and the City will each be responsible for payment of 50% of the costs of a Phase I, II, and III Environmental Site Assessment which is to be undertaken by the City in accordance with the attached Environmental Site and Hazardous Waste Agreement dated December 10, 2002."

   The purchaser has orally advised that it is in agreement with this amendment.

3. **Easement Clause – Clause 10 of the Offer**

   This clause must be amended to include the following additional provision

   "*but not be limited to the retention of an easement by the City to protect a combined sewer in Higgins Avenue. There may be other easement requirements which may be identified in the road closure process."*

   The purchaser has orally advised that it is in agreement with this amendment.

SCHEDULE "A" TO THE OFFER (Please see Page 5 of Appendix "2")

This part of the Offer is identified as Schedule "A" (page 5 of the Offer to Purchase) and identifies those special terms as proposed by the Company which are of substantial concern to the Division and which are discussed in the following section.

Existing Clauses in Schedule "A"

1. Obligations for Local Improvement Payments – Clauses 1 and 2

These 2 Clauses as stated, require the City to pay for any outstanding Local Improvements. The Department has determined that there are no outstanding Local Improvement charges against these properties. The Department, therefore proposes the deletion of both of these clauses and to replace them with the following text which would acknowledge that there is no financial obligation to the City for the payment of outstanding local improvements:

"*In accordance with a communication dated January 24, 2003 received from the Revenue & Local Improvement Section of the Taxation & Revenue Branch of the Corporate Finance Department of the City of Winnipeg there are no outstanding or proposed local improvement charges pending against the subject city property and proposed closing as shown on Misc. Plan No. 11751/2*."

The purchaser has orally advised that it is in agreement with this amendment.

2. Responsibility for Environmental Remediation – Clause 3

This clause requires the City to be responsible to contract and pay for the costs of environmental and hazardous waste remediation. In the view of the Department, this clause is too open-ended. The Department has recommended the deletion of the existing clause with the following which would tie the remediation required to both the existing clause 9 in the main body of the Offer and to the intended use of the property:

"*Subject to Clause 9 of the Offer to Purchase dated January 16, 2003, the City will be responsible for all costs related to environmental clean up and hazardous waste removal to meet the Provincial Standard for the Purchasers intended use of the property as recommended in an ongoing Environmental Site and Hazardous Waste Assessment currently being conducted by Pinchin Environmental. International Paper Industries Ltd. or Nominee agree that it will finance and provide full funding for all associated costs upon the City's request, subject to the City agreeing to repay the monies to International Paper Industries Ltd. or Nominee on or before December 31, 2005 with interest at the City's prime annual borrowing rate plus 1%*."

The purchaser has orally advised that it is in agreement with this amendment.

3. Responsibility For Demolition of the Two Smoke Stacks – Clause 4

This clause requires the City to be responsible to contract and pay for the costs of demolishing the two smoke stacks. The Department does not believe that the City should be responsible for this cost if the demolition is desired by the Purchaser. Therefore, the Department is recommending that this clause be amended to require the Purchaser to be responsible for the cost of demolishing these two smoke stacks. The amended clause would read as follows:

"International Paper Industries Ltd., or Nominee, is to be responsible for all costs related to the demolition of the two smoke stacks."

The purchaser has orally advised that it is in agreement with this amendment.

4. Review of Real Property Assessment – Clause 5

This existing clause requires the City to amend the assessed value attributed to this property "to reflect the current value of the Property". The Purchaser was concerned that the property, currently assessed at $4,806,000 (not including Higgins Avenue), is not reflective of its current market value. The Department was concerned as to the intentions of the Purchaser relative to determining the quantum of the assessed value to be established. Therefore, the Department consulted with both the Purchaser and the Property Assessment Department. The Property Assessment Department has agreed to review the assessment upon the issuing of a demolition permit on the property. The Planning, Property and Development Department recommends that the existing clause 5 be replaced with the following:

"*International Paper Industries Ltd. or Nominee, is to have a 90 day due diligence period to satisfy itself as to the results of the Property Assessment Department review of the subject property to be conducted upon the issuance of a demolition permit.*

Should the Purchaser be unable to satisfy this due diligence condition and so advises the City accordingly the sale will become null and void."

The purchaser has orally advised that it is in agreement with this amendment.

5. Warranty as to Permitted Use – Clause 6

This existing clause requires the City to warrant that the Purchaser's intended use is permitted without restriction in the existing M3-Industrial District Zoning Classification. The Department was not prepared to provide this warranty. The Department recommends that this existing clause be replaced with the following:

"*International Paper Industries Ltd. or Nominee, is to have a 90 day due diligence period to satisfy itself that the zoning of the subject property is satisfactory for its intended purposes.*

Should the Purchaser be unable to satisfy this due diligence condition and so advises the City accordingly the sale will become null and void."

The purchaser has orally advised that it is in agreement with this amendment.

6. Closure of Higgins Avenue – Clause 7

This existing clause identifies two issues relative to the requested closure of Higgins Avenue. The first deals with the identification of that part of Higgins Avenue to be closed. This issue has been addressed in the confirmation of the description of the lands to be sold and can be deleted entirely from this clause.

The second issue is relative to the responsibility as to the payment of any and all costs associated with the closure of part of Higgins Avenue. This clause as stated requires the City to be responsible for these costs. The Department was not prepared to accept this responsibility. The Department has negotiated the following amendment to Clause 7:

"International Paper Industries Ltd., or Nominee, will be responsible for all costs related to the closing of that portion of Higgins Avenue, identified as Proposed Closing on Misc. Plan No. 11751/2."

The purchaser has orally advised that it is in agreement with this amendment.

7. Responsibility for Future Demolition – Clause 8

This clause advises that the Purchaser will be responsible for the costs of future demolitions. No change is required.

8. Date of Closing, Possession and Adjustment – Clause 9

This existing clause does not consider the time required for due diligence and for the process to close part of Higgins Avenue. The Department is of the view that this clause 9 should be deleted in favour of the existing clause 2 on page 1 of the Offer to Purchase. The existing clause 2 will still enable the Purchaser to accelerate the date of closing, possession and adjustment.

The purchaser has orally advised that it is in agreement with this amendment.

9. Date of Closing, Possession and Adjustments Connected with the Closure and Sale of Part of Higgins Avenue – Clause 10

This existing clause provides for the probability that the legal closure of part of Higgins Avenue can extend beyond the closing of the sale of the Henry Avenue properties. However, the clause does not specifically reference the "possession and adjustment dates". Therefore, the Department recommends that this clause be amended to also include reference to the possession and adjustment date to be coincident with the date of closing.

Although this recommended amendment has not been discussed with the Purchaser, the Department does not foresee any difficulty on their part.

10. Subject to Solicitor's Approval – Clause 11

This existing clause specifies that the Purchaser reserves the right to have its solicitor have final approval to the "Offer to Purchase". This was not acceptable to the Department. The Department advised the Purchaser that it is the City's practice that Council has the final approval to a transaction unless of course the City proposes a counter offer.

The Department advised the Purchaser that upon Council's approval, if forthcoming, the City's Legal Services Division will be asked to prepare a formal Sales and Purchase Agreement. At that time, the Purchaser's solicitor will participate in the review and documentation process.

Therefore, the Department recommends the deletion of this clause in its entirety.

The purchaser has orally advised that it is in agreement with this amendment.

Recommended Additional Clauses to be Included In Schedule "A"

11. Existing CPR Trackage

The part of the Higgins Avenue right-of-way proposed for closure contains existing CPR trackage which not only services the subject property but also services the adjacent CPR yard area. Therefore, the Department requires the inclusion of an additional Clause to be inserted into the Agreement that would read as follows:

"The sale of the lands will be subject to a right-of-way agreement in favor of the CPR in the event Council approves the closing of Higgins Avenue. It will be International Paper Industries Ltd., or it's Nominee's, responsibility to negotiate and enter into an agreement with the CPR."

The purchaser has orally advised that it is in agreement with this amendment.

12. Recommended Grant of a Leave and Licence Agreement

The Purchaser will require the use of that part of Higgins Avenue to be closed for the period of time between the closure of the sale of the Henry Avenue property and the date that Council enacts the road closing by-law and the sale of the road is completed. The only vehicle available to enable this requirement is to approve the granting of a Leave and Licence Agreement to be effective for this period of time. The Department recommends that the Leave and License Agreement be for $1.00 plus an amount equivalent to realty tax and applicable GST and subject to such other terms and conditions as are required by the Director of the Planning, Property and Development Department in consultation with the City Solicitor/Manager of Legal Services."

In the event the closing and sale of the "Proposed Closing" of part of Higgins Avenue is not approved, then the Department is recommending that a Leave and License Agreement for that portion of Higgins Avenue identified as the "Proposed Closing" on Misc. Plan No 11751/2 be granted in favour of International Paper Industries Ltd. for a term of 14 years, commencing on the date coincident with the closure of the sale of the Henry Avenue property for $1.00 plus an amount equivalent to realty tax and applicable GST and subject to such other terms and conditions as are required by the Director of the Planning, Property and Development Department in consultation with the City Solicitor/Manager of Legal Services."

At this date, the Department has not negotiated the terms and conditions of a Leave and Licence Agreement with the Purchaser. As such, in order to expedite the finalization of this overall transaction, the Department is also recommending that the Chief Administrative Officer be delegated the authority to approve a Leave and Licence Agreement under either a short or a long term basis

13. Sale to be Subject to the Legal Closure of Part of Higgins Avenue and/or the Grant of a Leave and Licence Agreement

The Purchaser requires the ability to use these lands for its purposes. Although the Department did not specifically discuss this potentiality with the Purchaser, the Department speculates that if the Purchaser is unable to satisfy this need then the Purchaser will have no

need for the Henry Avenue property for this project. Consequently, the Department recommends that the Offer to Purchase be amended to include a clause which would state that this sale would be subject to the Legal Closure of Part of Higgins Avenue and/or the Grant of a Leave and Licence Agreement.

In the event that the road cannot be legally closed and/or a Leave and Licence Agreement cannot be granted, if the Purchaser is still interested in acquiring the Henry Avenue property, then that potential transaction can be dealt with at that time.

14. No Obligation By the City to Legally Close Part of Higgins Avenue Or to Grant a Leave and Licence Agreement

The text of the Offer is drafted such that there is a requirement on the part of the City (i.e. an obligation) to legally close part of Higgins Avenue. Similarly, the probable expectation on the part of the Purchaser is that the City will in fact close part of Higgins Avenue and will in fact grant a Leave and Licence Agreement for either a short or a long term.

However, there is no absolute certainty at this time that a legal road closure or a grant of a Leave and Licence Agreement are possible. Both of these decisions are the results of a process which includes a public hearing at the Lord Selkirk-West Kildonan Community Committee.

This situation is not dissimilar to other previous transactions which included the sales of streets and lanes that had yet to be submitted to the formal closing process. In several situations the Administration has included a "no obligation" clause in the Sales and Purchase Agreement. The introduction of such a clause would then not bind the City to enact a road closing by-law or to grant a Leave and Licence Agreement, which event(s) may ultimately be deemed to be not in the best interests of the City.

The Department therefore recommends that the City Solicitor/Manager of Legal Services be instructed to include such a "no obligation" clause in the Sales and Purchase Agreement.

15. Relocation of Combined Sewer in Higgins Avenue

The Purchaser advises that it intends to build a new building addition to the incinerator structure and lying within Higgins Avenue. This new construction will conflict with the location of an existing combined sewer. The combined sewer cannot be eliminated because it services other properties and businesses lying to the west of the subject property. As such, the Purchaser required the City to relocate this sewer at the City's expense.

The Water and Waste Department advises that the relocation of the combined sewer is feasible. The very preliminary estimate of cost ranges between $25,000 and $50,000.

The Planning, Property and Development Department approached this issue on the basis that any and all costs to relocate this sewer are to be incurred by the Purchaser. In discussion, the Purchaser advanced the following compromise proposal:

- *International Paper Industries Ltd. or Nominee agree that it will be responsible for the payment of the first $25,000.00 of the relocation costs;*
- *The City agrees to be responsible for any and all costs in excess of $25,000.00 related to the relocation of the combined sewer;*

- *The Purchaser will advance the funds necessary to pay the City's share of these costs subject to the City agreeing to repay the monies to International Paper Industries Ltd. or Nominee on or before December 31, 2005 with interest at the City's prime annual borrowing rate plus 1%.*

The Department has considered the proposed compromise, but, is not prepared to recommend acceptance because it believes that this relocation is a cost attributable to the subsequent development and use of the property by the Purchaser and is appropriately an expense to be incurred by the Purchaser.

As such, the Department recommends that the Purchaser's proposal on this point be rejected and that the Purchaser be advised that the City will not accept any responsibility related to the relocation of the combined sewer.

16. Responsibility For the Payment of Costs

The Offer to Purchase is silent on the matter of responsibility for the payment for a range of costs that are associated with the sale of this property. The Department advised the Purchaser that the Purchaser would be responsible for the payment of, but not limited to, the following costs:

- All demolition costs including the smoke stacks;
- Real estate commissions;
- Any and all costs related to the closing of Higgins Avenue;
- The relocation of the combined sewer;
- Any and all costs related to subdivision, survey, zoning issues;
- Any and all costs related to the creation of easements and associated registered plans;
- The Purchaser's share of the Environmental Site and Hazardous Waste Assessment as per the terms of the Agreement dated December 10, 2002;
- WLTO Registration costs.

The Department recommends that the foregoing be captured in a specific clause to be incorporated into the subsequent Sales and Purchase Agreement.

With the exception of the combined sewer relocation costs, the Purchaser has orally advised that it is in agreement with this amendment.

Status of Environmental Site and Hazardous Waste Assessment

Pinchin has advised on a very preliminary basis, and subject to further investigation and analysis, that early indications are that the property does not appear to suffer from as extensive contamination as originally anticipated. Pinchin has advised that it has conducted and is continuing to conduct soil sampling. As at January 24, 2003, it did not find any notably impacted soils other than along the Higgins Avenue Right-of-way to the north of the 1029 Henry

Avenue small metal storage shed. No significant soil impacts were found at either of the fuel underground storage tank locations. Pinchin:

- has identified at least eight suspect asbestos containing materials;
- Pinchin is verifying the existence of 2 underground fuel tank locations which may require removal;
- has identified 1 elevated lead count at one location on the Higgins Avenue right-of-way that may not require remediation;
- has identified elevated lead nickel, cadmium, and zinc counts outside the buildings at an isolated location along the Higgins Avenue right-of-way. Further investigations are ongoing.

The estimated cost to remediate these environmental impacts are unknown at this date. The Department expects to have these estimates in approximately 2 to 3 weeks.

The Department advises that even if this proposed transaction is approved, the City has the ability to cancel the sale in accordance with clause 9 of the Offer to Purchase. If the remediation costs to correct contamination levels that exceed the Provincial standard for the intended use are deemed to be excessive in the City's opinion, then the City can cancel the sale.

Departmental Opinion

The Planning Property and Development Department supports the proposed sale for the following reasons:

1. Cost Avoidance

The Estimated Costs to the City under the proposed amended conditions of the offer to purchase are:

Clean up pigeon droppings	$ 60,000
Removal of asbestos	60,000
50% of ESA ($35,000) City share	17,500
Total	$137,500

Important Note: These estimated costs do not include the cost to the City of the environmental clean-up to meet the Provincial Standard for the Purchaser's intended use of the property which has yet to be estimated by Pinchin Environmental.

If this property was not to be sold, then the City's cost to demolish the incinerator building (to include the remediation of pigeon droppings and asbestos removal) has been estimated at approximately $1M. There could be additional costs related to environmental remediation.

2. In the Department's opinion the city-owned property, in its as-is condition is not marketable. It is recognized that because of the former use of the incinerator, the ability to attract another industry to this property is limited given the unique and obsolete improvements and environmental issues associated with this property.

   The proposed sale to International Paper Industries Ltd. represents an opportunity which may be difficult to replace in the future.

3. The sale will result in the safety and environmental concerns regarding the incinerator building to be resolved sooner as opposed to being deferred to some future date. If there were no opportunity for a sale it is probable that the demolition and environmental clean up of the property would be deferred until such time as funding could be put in place for this work.

4. The City would incur the costs associated with holding and maintaining the vacant property until such time as it might be sold. The operating costs to maintain and secure the buildings far exceeds the minimal revenue that can be generated from interim use of the buildings.

5. If the proposed sale is approved, International Paper Industries Ltd. or Nominee will finance the City's environmental clean-up, and hazardous waste removal. This enables the City to have the works performed while deferring the associated costs and interest payable to International Paper Industries Ltd. for three years, to December 31, 2005.

6. A sale of the property will relieve the City from the ongoing risks, liabilities and resources associated with the maintenance and surveillance of the property.

7. It is anticipated that the Purchaser will expend considerable monies renovating and adding on to the building if their recycling facility is developed at this location.

8. The property would be placed on the realty tax roll thereby increasing the City's realty tax base.

The Department advises that:

1. there will continue to be a risk to the City arising out of the potential for the Purchaser to close on this sale and to subsequently subdivide off and sell the marketable portion of the site (i.e. the sale of 999 and 1029 Henry Avenue land and buildings). There could be a possibility that the remainder of the property (i.e. the incinerator land and building) could then be allowed to go into a future tax sale;

2. the subject property provided an alternative location for the storage of used furniture and records in the event that the city-owned 311 Ross Avenue is sold;

3. there has been interest expressed by other parties in the sale of the most easterly part of the subject property.

Funding and Financial Implications

The City will require funding to finance its obligations in this transaction.

The Civic Accommodations Division, whose jurisdiction includes stewardship of the subject property, advises that it has no available funding to finance the City's obligations in this proposed sale. Furthermore, the Division advises that the Council approved Public Works/Water and Waste Facilities Master Plan provided for the subsequent sale of 999 and 1029 Henry Avenue (i.e. the most easterly one-half of the subject property) with the sale proceeds, then estimated at $275,000.00, to be directed towards the funding required to implement the approved Plan. The sale of 999/1029/1033 Henry Avenue to International Paper Industries Ltd., or Nominee, will have an impact of the funding for the Facilities Master Plan.

The Support Services Division advised that there is no available funding in the Economic Development Reserve Fund.

The Department therefore recommends that an additional appropriation be approved to finance the City's obligations in this sale and that the Chief Administrative Officer be delegated the authority to approve the amount of the appropriation.

The proposed terms of sale, provide for the Purchaser to advance the costs to pay for the City's obligations under this Agreement subject to the City reimbursing the Purchaser, with interest, prior to December 31, 2005. Therefore, the budgeting for the additional appropriation can be deferred to a future budget year.

Financial Impact Statement

Date: February 24, 2003

Project Name:

Proposed Sale of 999, 1029 and 1033 Henry Avenue to International Paper Industries Ltd. Or Nominee

First Year of Program 2003

	2003	2004	2005	2006	2007
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	$ 141,625	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery		25,000	25,000	25,000	25,000
Net Cost/(Benefit)	$ 141,625	$ (25,000)	$ (25,000)	$ (25,000)	$ (25,000)
Less: Existing Budget Amounts		(25,000)	(25,000)	(25,000)	(25,000)
Net Budget Adjustment Required	$ 141,625	$ -	$ -	$ -	$ -

Additional Comments:

The 2003 costs include estimated building clean-up costs and a share of an environmental site assessment. Not included are any costs related to remediation of environmental site contamination and relocation costs, which, if and when identified, would become the City's responsibility. As a worst case scenario, these additional costs could amount to several hundred thousand dollars. Also not included as a benefit are the net costs that can be avoided by being able to dispose of the property without demolishing the building. For illustrative purposes, this could amount to a total of $725,000 ($1 million demolition costs less $275,000 proceeds of disposition). Since the $275,000 proceeds have been identified as a funding source for the Water & Waste /Public Works Facilities rationalization, another funding source will have to be identified for that project. The above revenue/recoveries are estimated municipal realty taxes that will materialize after sale.

Gord Courage, Manager
Support Services Division

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

Civic Accommodations Division, Planning, Property and Development Department pertaining to current use and funding.

Water and Waste Division pertaining to recycling contract verification and installations within the Higgins Avenue right-of-way.

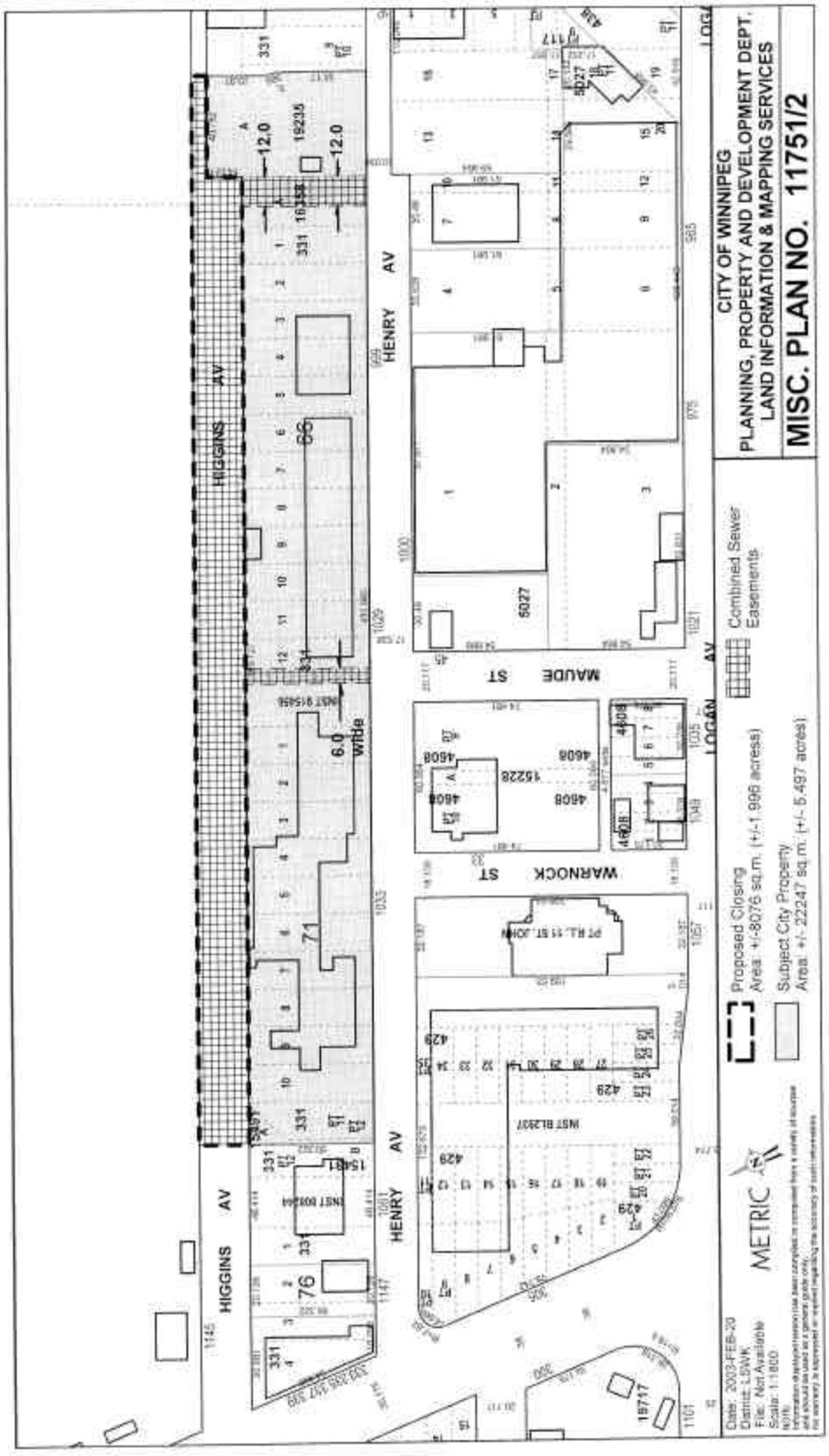
Property Assessment Department pertaining to the assessed value and review process when a demolition permit is issued.

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Real Estate
Prepared by: Gerry Anderson
PPD File #: 8365

Document name: o:\reports directive\real estate\sales\(sp)proposed sale-999, 1029,1033 henry avenue.doc

Appendix "1"


CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 11751/2
Combined Sewer Easements
Proposed Closing
Area +/-8076 sq.m. (+/-1.996 acres)
Subject City Property
Area +/- 22247 sq.m. (+/- 5.497 acres)
METRIC
HIGGINS AV
HENRY AV
MAUDE ST
WARNOCK ST
LOGAN AV
6.0 wide
12.0
12.0

Appendix "2"

File No: 8365

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: -

The subject City Property as shown on Misc. Plan No. 11751/1 and approximately 1.44 acres of the area identified as proposed closing on Misc. Plan No. 11751/1. Such area to be defined at a future date and the price to be adjusted proportionately.

(hereinafter called the "lands")

for the sum of $1.00 cash sufficiency which has been received, 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 $1.00, and represents an amount equal to one hundred (100%) 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.

2. (1) The date of Closing, Possession and adjustments shall be on or before 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 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 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 Lands 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 Lands at the Purchaser's own expense.

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

K

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.

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 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 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 and/or soil testing of the Lands, it 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, and

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

(3) restore the 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/or soil testing; and

(5) provide copies of any such Environmental Site Assessment and/or Report concerning soil testing of the said Lands to the City for its own use, at no cost to the City.

AND 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 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 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 Lands.

It is further understood and agreed that the Purchaser and the City will each be responsible for payment of fifty (50%) percent of the costs of a Phase III ESA (Environmental Site Assessment) which is to be undertaken by the City of Winnipeg.

10 (1) The Purchaser agrees that the sale of the 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 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.

(3) The Purchaser acknowledges that the City may grant the easements before the Transfer of Land issues.

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. Time shall be of the essence of this Offer.

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

14. 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.

15. 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.

16. 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.

17. This Offer to Purchase is subject to the additional conditions in Schedule "A" attached and forming a part of this Offer to Purchase.

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

International Paper Industries Ltd. or nominee

Name (Please Print) Address

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

Industrial/Commercial Offer to Purchase Page 4

IN WITNESS WHEREOF the Purchaser has signed this document in

Winnipeg, Manitoba this 16th day of Jan 2003

Witness Authorized Signature

Emmie Leung, C.E.O.
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., 2003

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"

Additional conditions to which this Offer to Purchase is subject are as follows:

1. All existing outstanding local improvements assessed against the Property are the responsibility of the City of Winnipeg.
2. The City of Winnipeg is to determine if there are any local improvements pending which will be accessed against the Property.
3. All environmental cleanup to Manitoba Provincial Environmental Standards shall be the responsibility of the City of Winnipeg and at their sole cost, including the removal of pigeon droppings, asbestos and all other soil and building contamination identified by the environmental studies presently being conducted on the Property.
4. The City of Winnipeg is to demolish and remove the two smoke stacks from the Property at its cost.
5. The assessment on the Property is to be adjusted to reflect the current value of the Property.
6. There is to be no restriction of uses currently allowed in the M3 zoning of the Property. The Purchaser is to be allowed to use the Property as per M3 zoning.
7. The Purchaser is to identify that portion of Higgins Avenue to be closed on Misc. Plan No. 11751/1. The City of Winnipeg are responsible for all costs related to the closing of that portion of Higgins Avenue as identified on Misc.Plan No. 1175/1, by the Purchaser.
8. International Paper Industries Ltd. is to demolish and remove from the Property all remaining buildings and equipment for which it has no need, at its cost.
9. The date of closing on the City of Winnipeg Property as shown on Misc. Plan No. 11751/1 shall be thirty (30) days after Winnipeg City council approval of this Offer to Purchase or later by mutual agreement.
10. The date of closing for the portion of Higgins Avenue to be closed as shown on Misc. Plan No. 11751/1 shall be mutually agreed to, but not to exceed one hundred and eighty (180) days after Winnipeg City council approval of this Offer to Purchase.
11. This Offer to Purchase is subject to the approval of legal council of the Purchaser with in fifteen (15) days after Winnipeg City council approval of this Offer to Purchase.


MCPHILLIPS STREET
HIGGINS AV
HENRY AV
WARNOCK ST
MAUDE ST
LOGAN AV
PT R.L. 11 ST. JOHN
PT R.L. 33 ST. JOHN
City Property
Subject City Property
Area: 22247 sq.m.+/-
(5.497 ac.+/-)
Combined Sewer Easements
Proposed Closing
Area: 8076 sq.m.+/-(1.996 ac.+/-)
Date: 2002-DEC-05
District: LSWK
File: Not Available
Scale: 1:2200
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. 11751/1

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	Range	Interest in Property

DRAFT

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: _____ 19___ _____
(Signature of Applicant)

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

Appendix "3"

ENVIRONMENTAL SITE AND HAZARDOUS WASTE ASSESSMENT AGREEMENT

THIS AGREEMENT made as of the 10th day of December, 2002.

BETWEEN:

International Paper Industries Ltd.

OF THE FIRST PART,

-and-

The City of Winnipeg

OF THE SECOND PART.

WHEREAS the City of Winnipeg is the owner of the property at 999, 1029 and 1033 Henry Avenue, in the City of Winnipeg, in Manitoba, shown as "Subject City Property" on Misc. Plan No. 11751;

AND WHEREAS the City of Winnipeg has possession and control of the property shown as "Proposed Closing" on Misc. Plan No. 11751;

AND WHEREAS International Paper Industries Ltd. is interested in acquiring the Subject City Property and Proposed Closing as shown on Misc. Plan No. 11751 from the City of Winnipeg;

AND WHEREAS the City of Winnipeg and International Paper Industries Ltd. are both interested in having an Environmental Site and Hazardous Waste Assessment completed on the Subject City Property and Proposed Closing as shown on Misc. Plan No. 11751;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the respective covenants and agreements of the parties contained herein, the sum of one dollar now paid by each party hereto to the other party hereto, and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each of the parties hereto), it is agreed as follows:

1. The City of Winnipeg and International Paper Industries Ltd. hereby agree to equally share the cost to have an Environmental Site and Hazardous Waste Assessment completed on the Subject City Property and Proposed Closing as shown on Misc. Plan No. 11751.

2. It is further agreed by the City of Winnipeg and International Paper Industries Ltd. that the City of Winnipeg is to make the arrangements for the Environmental Site and Hazardous Waste Assessment to be completed and that all monies for the Environmental Site and Hazardous Waste Assessment are to be forthcoming and paid in the agreed-upon share by both the City of Winnipeg and International Paper Industries Ltd. upon completion of the said Assessment.

3. Notwithstanding the foregoing, it is understood and agreed that the City is not under any obligation to sell the Subject City Property and Proposed Closing to International Paper Industries Ltd. nor is International Paper Industries Ltd. under any obligation to purchase the Subject City Property and Proposed Closing from the City.

4. It is further understood and agreed that International Paper Industries Ltd. is entitled to receive a rebate of its paid share of the cost of the Environmental Site and Hazardous Waste Assessment from the City of Winnipeg if City Council does not declare the Subject City Property and Proposed Closing to be surplus to the City's requirements within a 6 month period from the date of the signing of this Agreement.

5. In the event that International Paper Industries Ltd. does not purchase the Subject City Property and Proposed Closing from the City, International Paper Industries Ltd. agrees to forthwith return all copies of the Environmental Site and Hazardous Waste Assessment in its possession to the City upon demand being made therefor by the City and to waive any and all claims or rights that it may have with respect to the Environmental Site and Hazardous Waste Assessment.

IN WITNESS WHEREOF the parties have duly executed this Agreement this 10th **day of** December **2002.**

Witness

G. Anderson

International Paper Industries Ltd.

Dennis Lewis C.E.O

Name and Title

City of Winnipeg

FOR **Director of Planning Property and Development**


MCPHILLIPS STREET
WARNOCK ST
MAUDE ST
HENRY AV
HIGGINS AV
LOCKEN AV
Subject City Property
Area: 22247+/- sq.m.(5.497+/- acres)
Proposed Closing
Area: 8076+/- sq.m.(1.996+/- acres)
Date: 2002-NOV-18
District: LSWK
File: Not Available
Scale: 1:2000
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. 11751