Minutes – Executive Policy Committee – December 9, 2009

Minute No. 59
Report - Standing Policy Committee on Property and Development – December 3, 2009

Item No. 1 Amendment to Servicing Agreement AG 7/2001 – south side of Inkster Boulevard, east of Brookside Boulevard (Point Douglas Ward) File DASZ 7/2001

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee, as amended, and submits the following to Council:

1. That Clauses 1. and 6. b) of Schedule "C" of Servicing Agreement AG 7/01 be deleted to eliminate the following charges for services totaling $738,704.18 at 2009 rates as outlined in the submission by the Land Development Administrator, Planning, Property and Development Department dated November 10, 2009 and listed below:

   A. Services in Brookside Boulevard and Inkster Boulevard

      The Developer shall pay its share of the cost of the following services in Brookside Boulevard and Inkster Boulevard abutting the Planned Area:

      i. a 4.0m in width by 200mm in thickness portland cement concrete lane of pavement and related works,
      ii. a 1.5m in width by 100mm in thickness portland cement concrete sidewalk,
      iii. ornamental street lighting, and
      iv. landscaping in the boulevard

      Based on 2009 rates for the above described services, the Developer's share is calculated as follows:

      i. Parcel A 1.02 acres x $48,321.23/acre Plus 5% GST = $51,752.04
      ii. Parcels B and C 10.65 acres x $48,321.23/acre Plus 5% GST = $540,352.14

      2009 RATE: $592,104.18

   B. Traffic Improvements on Brookside Boulevard

Report - Standing Policy Committee on Property and Development – December 3, 2009

B. Traffic Improvements on Brookside Boulevard

i. The Developer, shall pay to the City, in cash, on demand 50% of the cost associated with the future installation, when warranted, of traffic control signals and all related works, including but not necessarily limited to pedestrian and vehicular actuation, audible pedestrian signals and interconnection to adjacent traffic control signals at the intersection of Brookside Boulevard and Lucas Avenue all as determined by the Director of Public Works.

The Developer shall prior to the issuance of building permits for Parcel C post a Letter of credit in the amount of $146,600.00 (2009 estimate) to guarantee payment on demand.

2009 RATE: 146,600.00

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

Report - Standing Policy Committee on Property and Development – December 3, 2009

DECISION MAKING HISTORY:

Moved by Councillor Steeves,

That the recommendations of the Standing Policy Committee on Property and Development and the Lord Selkirk-West Kildonan Community Committee, as amended, be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On December 3, 2009, the Standing Policy Committee on Property and Development concurred in the recommendation of the Lord Selkirk-West Kildonan Community Committee with the following amendments, namely:

- Delete Recommendation 1. in its entirety and replace with the following:

    1. That Clauses 1. and 6. b) of Schedule "C" of Servicing Agreement AG 7/01 be deleted to eliminate the following charges for services totaling $738,704.18 at 2009 rates as outlined in the submission by the Land Development Administrator, Planning, Property and Development Department dated November 10, 2009 and listed below:

- Delete Recommendation 1. B, in its entirety and renumber the remaining recommendations accordingly;

- Delete Recommendation 1. C .i. (new Recommendation 1. B. i.) in its entirety renumber the remaining recommendations accordingly;

- Delete Recommendation 1.D. and 1. E in their entirety,

and forwarded the matter to the Executive Policy Committee and Council.

Report - Standing Policy Committee on Property and Development – December 3, 2009

DECISION MAKING HISTORY: (continued)

COMMUNITY COMMITTEE RECOMMENDATION:

On November 10, 2009 the Lord Selkirk-West Kildonan Community Committee did not concur in the recommendation of the Winnipeg Public Service and the following be recommended for approval, namely:

1. That Clauses 1, 2, 6, 8 & 10. of Schedule "C" of Servicing Agreement AG 7/01 be amended to eliminate the following charges for services totaling $1,019,495.00 at 2009 rates as outlined in pages 2 and 3 of the submission by the Land Development Administrator, Planning, Property and Development Department dated November 10, 2009 and listed below:

   A. Services in Brookside Boulevard and Inkster Boulevard

      The Developer shall pay its share of the cost of the following services in Brookside Boulevard and Inkster Boulevard abutting the Planned Area:

      i. a 4.0m in width by 200mm in thickness portland cement concrete lane of pavement and related works,
      ii. a 1.5m in width by 100mm in thickness portland cement concrete sidewalk,
      iii. ornamental street lighting, and
      iv. landscaping in the boulevard

      Based on 2009 rates for the above described services, the Developer's share is calculated as follows:

      i. Parcel A — 1.02 acres x $48,321.23/acre Plus 5% GST = $51,752.04
      ii. Parcels B and C — 10.65 acres x $48,321.23/acre Plus 5% GST = $540,352.14

Report - Standing Policy Committee on Property and Development – December 3, 2009

DECISION MAKING HISTORY: (continued)

COMMUNITY COMMITTEE RECOMMENDATION: (continued)

The amount for Parcel A shall be paid upon execution of this amendment, and the amount for Parcels B and C shall be paid prior to the issuance of building permits for Parcels B and C or, the Developer shall post a letter of credit in an amount satisfactory to the Director of Public Works prior to the issuance of building permits for Parcels B and C and payment shall be made on demand based on the actual cost of the completed works, as determined by the Director of Public Works.

2009 RATE: $592,104.18

B. Land Drainage Trunk Charge

The Developer shall prior to the issuance of a building permit on Parcel C, pay its share of the cost of the regional land drainage trunk system attributable to Parcel C which based on the 2009 rate therefor is calculated as follows:

i. 15.63 acres x $14,741.00/acre =	$230,401.83
ii. Local benefit of trunk sewer in Lucas Avenue 475.2' x $40.00/ft. =	$19,008.00
iii. G.S.T. (5%) on i) and ii) above	

2009 RATE: 261,880.32

C. Traffic Improvements on Brookside Boulevard

i. The Developer, shall at no expense to the City, construct in portland cement concrete pavement a 3.5m in width by 80.0m in length southbound, left turn storage lane, median opening alterations and upstream transition, as generally illustrated on Private Approach Drawing A-8924A attached as Schedule "F" of this Agreement, and all related works as determined by and to the satisfaction of the Director of Public Works.

Report - Standing Policy Committee on Property and Development – December 3, 2009

DECISION MAKING HISTORY: (continued)

COMMUNITY COMMITTEE RECOMMENDATION: (continued)

ii. The Developer, shall pay to the City, in cash, on demand 50% of the cost associated with the future installation, when warranted, of traffic control signals and all related works, including but not necessarily limited to pedestrian and vehicular actuation, audible pedestrian signals and interconnection to adjacent traffic control signals at the intersection of

Brookside Boulevard and Lucas Avenue all as determined by the Director of Public Works.

The Developer shall prior to the issuance of building permits for Parcel C post a Letter of credit in the amount of $146,600.00 (2009 estimate) to guarantee payment on demand.

2009 RATE: 146,600.00

D. Administration

The Developer shall pay the sum of $5,000.00 plus 5% G.S.T. to defray the City's administration and related costs associated with the preparation and implementation of the servicing agreement as follows:

i. for Parcel A $2,500.00 plus 5% G.S.T. ($2625.00) upon execution of this amendment, and
ii. for Parcels B and C $2,500.00 plus 5% G.S.T. ($2625.00) prior to the issuance of a building permit for either Parcels B or C.

2009 RATE: 5,250.00

E. Open Space Dedication

The Developer shall, prior to the issuance of a building permit on Parcel C, pay the sum of $13,010.00 plus 5% G.S.T. which amount is 10% of the increase in value of Parcel C due to rezoning the land from an "A1" Agricultural District to a "C3-1" Highway Commercial District.

2009 RATE: 13,660.50

Report - Standing Policy Committee on Property and Development – December 3, 2009

DECISION MAKING HISTORY: (continued)

COMMUNITY COMMITTEE RECOMMENDATION: (continued)

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

and forwarded to the Standing Policy Committee on Property and Development.

Kim Raban, Land Development Administrator, Planning, Property and Development Department, submitted a communication dated November 10, 2009 with respect to development agreement parameters adopted by Council on July 17, 2002 and Servicing Agreement AG 7/01 relevant clauses.

ADMINISTRATIVE REPORT

ISSUE: Developer request to amend Servicing Agreement AG 7/01.

Critical Path: Lord Selkirk – West Kildonan Community Committee – Standing Policy Committee on Property and Development – Executive Policy Committee – Council.

AUTHORIZATION

Author	Department Head	CFO	CAO
K. Raban	n/a		

RECOMMENDATIONS

1. That the Developer's request, seeking a reduction in the amount the City proposes to charge for services under Servicing Agreement AG 7/01, be denied.
2. That Clauses 1, 2, 6, 8 & 10. of Schedule "C" of Servicing Agreement AG 7/01 be amended as described in the attached report Appendix "A."
3. That the Proper Officers of the City be authorized to do all things necessary to effect the intent of the foregoing.

IMPLICATIONS OF THE RECOMMENDATIONS

Recommendation 1 upholds the City's Development Agreement Parameters as adopted by Council on July 17, 2002 and maintains the principles of fairness in administering Development Agreements.

Recommendation 2 updates the charges in Servicing Agreement AG 7/01 to 2009 rates for clarity, provides an opportunity for the Developer to pay the certain charges based on actual costs rather than the current estimated costs, and secures the requirements in advance of their payment by requiring letters of credit to be posted.

HISTORY

On December 12, 2001 the City entered into Servicing Agreement AG 7/01 with CHARLES STEELE, LEAH STEELE, TAMARA STEELE, LIORA STEELE, ILLANA STEELE.

On September 27, 2009 Shindico requested an amendment to Servicing Agreement AG 7/01 on behalf of the current owners 5036241 MANITOBA LTD (50% Shindico Group of Companies / 50% Steele).

FINANCIAL IMPACT

Financial Impact Statement signed by Departmental Controller.

Project Name: **First Year of Program**

	0	1	2	3	4
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	-	-	-	-	-
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -
Additional Comments:					

original signed by
Department Controller

CONSULTATION

n/a

SUBMITTED BY

Department: Planning, Property and Development
Division: Development And Inspections
Prepared by: Kim Raban, P.Eng.
Land Development Administrator
Date: November 2, 2009
File No. AG 7/01

Filename: V:\7-ACG Reports & others\2001\Developer Request to amend AG 7_2001.doc

Attachments;

Appendix “A” Report of the Winnipeg Public Service
Appendix “B” Original Schedule “C” of Servicing Agreement AG 7/01
Appendix “C” Letter from Shindico dated September 27, 2009

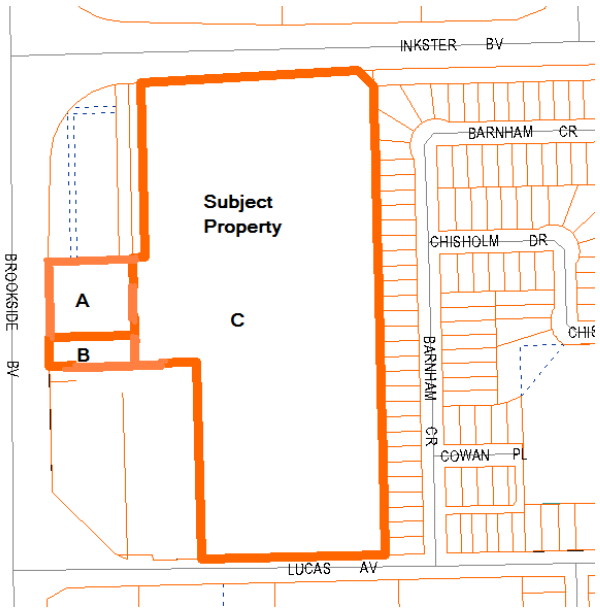
APPENDIX "A"

Report of the Winnipeg Public Service

DATE: November 2, 2009
FILE: AG 7/01
COMMUNITY: Lord Selkirk-West Kildonan

SUBJECT: Developer request to amend Servicing Agreement AG 7/01.

LOCATION: South east corner of Brookside Boulevard and Inkster Boulevard



INTRODUCTION:

The Developer has requested an amendment to Servicing Agreement AG 7/01 specifically seeking a reduction in the amount that the City proposes to charge for services in Schedule "C". While no specific dollar amount reduction is requested, the Developer does identify that the servicing costs to be paid to the City have increased from a total of $492,380.91 in 2001 to $824,589.48 in 2009.

DISCUSSION:

Servicing Agreement AG 7/01 contains the following standard Clause that provides the basis for increasing rates in support of inflation and increased construction costs:

17. Payments

Unless otherwise provided in this Agreement:

a) Where under this Agreement the Developer is required to make a payment to the City based upon a standard City rate if that rate is changed prior to payment by the Developer the payment shall be recalculated and payable at the new rate.

b) All Payments stipulated in this Agreement are subject to 7% Goods and Services Tax.

The Developer is not challenging the terms and conditions, or payment methods of Servicing Agreement AG 7/01, but instead has provided the following reasons for his request. WPS comments follow each item.

1. We have virtually no frontage on Brookside and limited access to Inkster from a narrow section of our lands that can have an approach because of a restriction relative to the residential properties east of our land and the proximity to Brookside west of our property.

   (WPS comment) The subject property consists of Parcels A, B and C with a total of 273.7 feet of frontage on Brookside Boulevard and 562.4 feet of frontage on Inkster Boulevard. In our 2009 calculation the actual frontage on Inkster Boulevard has been reduced by 38.4 feet over the original calculation because of a City widening and angular cutback of the right of way on the adjacent land. However, this is offset by the additional acreage cost added in as a result of Zoning Agreement Amendment ZAA 5/09 adopted by Council on October 28, 2009 which adds back 1.72 acres of former buffer lands as developable frontage on Inkster Boulevard. The net effect of this is a cost savings of $202 to the Developer.

2. Both Brookside and Inkster are major roadways that will play an integral part in the proposed Centreport development and as such, should be part of that development and not be a burden on the local land owners.

   (WPS comment) The upgrades to Inkster Boulevard east of Brookside Boulevard within the City limits are being funded entirely by the City's Capital Budget. Recoveries from Servicing Agreement AG 7/01 along with the adjacent other developments were considered in developing the budget. Any reduction in these recovery amounts will result in an over-expenditure of the taxpayer component of the Capital Budget for this work.

   As information the adjacent Garden Grove neighbourhood immediately to the east, is subject to paying its share of the cost of services in Inkster Boulevard in an amount of $342,986 under AG 45/87 and $172,422 under AG 60/86 and the Inksbrook Park Development on the north side of Inkster (across the street) is obliged to pay its share of the cost of services in Inkster Boulevard in an amount

of $1,195,000 under AG 56/85. We have met with both these developers and it has been agreed that the most fair and accurate method of payment is to base it on the actual construction cost as certified when the work is completed in 2011 or 2012. Recommendation 2 of this report is intended to extend the same opportunity to this Developer.

3. The property has been advertised for commercial development for eight years to no avail. As a result the ownership has entered into an agreement with the Roman Catholic Parish of St. Peter providing for the Church to purchase 9.2 acres on which they propose to build a new church. Its demand on city services will be much less than a commercial development would be.

   (WPS comment) The fact that this land is zoned Commercial indicates potential for high traffic use on the adjacent roadways. It is rather subjective to say that a church will put less traffic demand on services than a Commercial development. That depends entirely on the nature of the business. There is also potential that the currently intended church use may change in the future.

It is therefore recommended that Clauses 1, 2, 6, 8 & 10 of Schedule “C” of Servicing Agreement AG 7/01 be amended as follows:

Amend Clause 1. By deleting everything after line d) landscaping in the boulevard, and replacing it such that the new Clause 1. reads as follows;

1. Services in Brookside Boulevard and Inkster Boulevard

   The Developer shall pay its share of the cost of the following services in Brookside Boulevard and Inkster Boulevard abutting the Planned Area:

   a) a 4.0m in width by 200mm in thickness portland cement concrete lane of pavement and related works,
   b) a 1.5m in width by 100mm in thickness portland cement concrete sidewalk,
   c) ornamental street lighting, and
   d) landscaping in the boulevard

   Based on 2009 rates for the above described services, the Developer's share is

calculated as follows:

i) Parcel A 1.02 acres x $48,321.23/acre Plus 5% GST = $51,752.04

ii) Parcels B and C 10.65 acres x $48,321.23/acre Plus 5% GST = $540,352.14

The amount for Parcel A shall be paid upon execution of this amendment, and the amount for Parcels B and C shall be paid prior to the issuance of building permits for Parcels B and C or, the Developer shall post a letter of credit in an amount satisfactory to the Director of Public Works prior to the issuance of building permits for Parcels B and C and payment shall be made on demand based on the actual cost of the completed works, as determined by the Director of Public Works.

Amend Clause 2. By replacing the words 2004 rate with the words 2009 rate and replacing items i), ii) and iii) such that the new Clause 2. reads as follows;

2. Land Drainage Trunk Charge

The Developer shall prior to the issuance of a building permit on Parcel C, pay its share of the cost of the regional land drainage trunk system attributable to Parcel C which based on the 2009 rate therefor is calculated as follows:

i) 15.63 acres x $14,741.00/acre =	$230,401.83
ii) Local benefit of trunk sewer in Lucas Avenue 475.2' x $40.00/ft. =	$19,008.00
iii) G.S.T. (5%) on i) and ii) above	12,470.49

$261,880.32

Amend Clause 6. By replacing the word $109,000 with the words 146,600.00 (2009 estimate) such that the new Clause 6. reads as follows;

6. Traffic Improvements on Brookside Boulevard

a) The Developer shall, at no expense to the City, construct in portland cement concrete pavement a 3.5m in width by 80.0m in length southbound, left turn storage lane, median opening alterations and upstream transition, as generally illustrated on Private Approach Drawing A-8924A attached as Schedule "F" of this Agreement, and all related works as determined by and to the satisfaction of the Director of Public Works.

b) The Developer shall pay to the City, in cash, on demand 50% of the cost associated with the future installation, when warranted, of traffic control signals and all related works, including but not necessarily limited to pedestrian and vehicular actuation, audible pedestrian signals and interconnection to adjacent traffic control signals at the intersection of Brookside Boulevard and Lucas Avenue all as determined by the Director of Public Works.

The Developer shall prior to the issuance of building permits for Parcel C post a Letter of Credit in the amount of $146,600.00 (2009 estimate) to guarantee payment on demand.

Amend Clause 8. By replacing the word 7% with the word 5% and replacing items i) and ii) such that the new Clause 8. reads as follows;

8. Administration

The Developer shall pay the sum of $5,000.00 plus 5% G.S.T. to defray the City's administration and related costs associated with the preparation and implementation of the servicing agreement as follows:

i) for Parcel A $2,500.00 plus 5% G.S.T. ($2625.00) upon execution of this amendment, and
ii) for Parcels B and C $2,500.00 plus 5% G.S.T. ($2625.00) prior to the issuance of a building permit for either Parcels B or C.

Amend Clause 10. By replacing the word 7% with the word 5% as follows;

10. Open Space Dedication

The Developer shall, prior to the issuance of a building permit on Parcel C, pay the sum of $13,010.00 plus 5% G.S.T. which amount is 10% of the increase in value of Parcel C due to rezoning the land from an "A1" Agricultural District to a "C3-1" Highway Commercial District.

THIS REPORT SUBMITTED BY:

Land Development Branch
File No. AG 7/01
November 2, 2009

“original signed by K.T. Raban”
K.T. Raban, P. Eng.
Land Development Administrator

Appendix "B"

1. Services in Brookside Boulevard and Inkster Boulevard

The Developer shall pay its share of the cost of the following services in Brookside Boulevard and Inkster Boulevard abutting the Planned Area:

a) a 4.0m in width by 200mm in thickness portland cement concrete lane of pavement and related works,
b) a 1.5m in width by 100mm in thickness portland cement concrete sidewalk,
c) ornamental street lighting, and
d) landscaping in the boulevard

Based on 2004 rates for the above described services, the Developer's share is calculated as follows:

i) Parcel A 1.02 acres x $29,973.45/acre = $30,572.92**
ii) Parcels B and C* 8.93 acres x $29,973.45/acre = $267,662.91**

*All that portion of Parcel C adjacent to Parcel A Plan 38408 and the most easterly 100' of Parcel C are not included.
**Includes 7% G.S.T.

The above amounts shall be paid prior to the issuance of building permits on Parcel A and Parcels B and C. (It is assumed that Parcels B and C will remain under one (1) ownership).

2. Land Drainage Trunk Charge

The Developer shall prior to the issuance of a building permit on Parcel C, pay its share of the cost of the regional land drainage trunk system attributable to

Parcel C which based on the 2004 rate therefor is calculated as follows:

i) 15.63 acres x $10,796.00/acre	$168,741.48
ii) Local benefit of trunk sewer in Lucas Avenue 475.2' x $18.00/ft. =	$8,553.60
iii) G.S.T. (7%) on i) and ii) above	12,410.66
	$189,705.74

3. Wastewater Sewer

The Developer shall, at no expense to the City, construct a wastewater sewer in Lucas Avenue to serve the Planned Area, if required, to the satisfaction of the Director of Water and Waste.

4. Future Services in Lucas Avenue

It is hereby acknowledged that the City has approved the construction of the watermain, ornamental street lighting, concrete sidewalk and concrete pavement including boulevard sodding in Lucas Avenue abutting the Planned Area as Local Improvements and that the Developer will pay its share of the cost of those improvements by way of annual special levies therefor.

5. Land drainage

No drainage from the Planned Area shall be directed to the land drainage facilities in Barnham Crescent.

6. Traffic Improvements on Brookside Boulevard

a) The Developer shall, at no expense to the City, construct in portland cement

Append

concrete pavement a 3.5m in width by 80.0m in length southbound, left turn storage lane, median opening alterations and upstream transition, as generally illustrated on Private Approach Drawing A-8924A attached as Schedule "F" of this Agreement, and all related works as determined by and to the satisfaction of the Director of Public Works.

b) The Developer shall pay to the City, in cash, on demand 50% of the cost associated with the future installation, when warranted, of traffic control signals and all related works, including but not necessarily limited to pedestrian and vehicular actuation, audible pedestrian signals and interconnection to adjacent traffic control signals at the intersection of Brookside Boulevard and Lucas Avenue all as determined by the Director of Public Works.

The Developer shall prior to the issuance of building permits for Parcel C post a Letter of Credit in the amount of $109,000.00 to guarantee payment on demand.

7. Engineering Fees

The Developer shall pay the full cost of engineering services provided by or on behalf of the City in connection with the installation and construction of the left-turn storage lane in Brookside Boulevard and the wastewater sewer in Lucas Avenue pursuant to this Agreement.

8. Administration

The Developer shall pay the sum of $5,000.00 plus 7% G.S.T. to defray the City's administration and related costs associated with the preparation and implementation of the servicing agreement as follows:

Appendix “B” (Cont’d)

i) $2,500.00 plus 7% G.S.T. prior to the release of the approved subdivision mylars for registration in the Land Titles Office, and

ii) $2,500.00 plus 7% G.S.T. prior to the issuance of a building permit for Parcel C as shown on Schedule "A" of this agreement.

9. Survey Monuments

Following completion of all major construction works, the Director of Planning, Property and Development will request the Developer to have the location of the survey monuments within the Planned Area verified by a Manitoba Land Surveyor at the Developer's cost and in cases where the survey monuments have been disturbed, moved, covered or mutilated in any way, or destroyed, the Developer shall cause the monuments to be replaced at his expense by a Manitoba Land Surveyor. In all cases the Manitoba Land Surveyor shall provide the Director of Planning, Property and Development with a certificate that all survey monuments within the Planned Area have been verified and/or replaced.

10. Open Space Dedication

The Developer shall, prior to the issuance of a building permit on Parcel C, pay the sum of $13,010.00 plus 7% G.S.T. which amount is 10% of the increase in value of Parcel C due to rezoning the land from an "A1" Agricultural District to a "C3-1" Highway Commercial District.

Appendix "C"

Shindico
Succeeding By Helping Others Succeed

September 27, 2009

Kim Raban
City of Winnipeg
Land Development & Inspections Division
65 Garry Street
Winnipeg, Manitoba
R3C 4K4

AG7/01 Schedule C Special Clauses

We are writing this letter to request an amendment to Schedule C of AG7/01. Specifically, we are seeking a reduction in the amount that the city proposes to charge for services pursuant to Schedule C.

When the agreement was first prepared in 2001, it was anticipated that the property would be developed for commercial use. At that time, the land was rezoned from an agricultural zoning to C3-1 and then subsequently to C3 with the passing of By-law 200/06. A portion of the lands was sold to Tim Horton's and the balance has remained undeveloped since.

The servicing costs to be paid to the city have increased from a total of $492,380.91 in 2001 to $824,589.48, exclusive of work on Lucas that has been added to the tax bill as local improvement levies.

We are requesting a reduction in those charges attributable to Brookside and Inkster Boulevards for the following reasons:

1. We have virtually no frontage on Brookside and limited access to Inkster from a narrow section of our lands that can have an approach because of a restriction relative to the residential properties east of our land and the proximity to Brookside west of our property.
2. Both Brookside and Inkster are major roadways that will play an integral part in the proposed Centreport development and as such, should be part of that development and not be a burden on the local land owners.
3. The property has been advertised for commercial development for eight years to no avail. As a result the ownership has entered into an agreement with the Roman Catholic Parish of St. Peter providing for the Church to purchase 9.2 acres on which they propose to build a new church. Its demand on city services will be much less than a commercial development would be.

200 – 1355 Taylor Avenue, Winnipeg, MB Canada R3M 3Y9 • Tel: (204) 474-2000 • Fax: (204) 284-7115 • www.shindico.com

Appendix "C" (Cont'd)

We are advised that we are to write you as the first step in this appeal process. We would appreciate your guidance in the future steps required and ask that you not hesitate to contact us with any questions or comments you may have.

Yours truly,

SHINDICO REALTY INC.
On behalf of 5036241 Manitoba Ltd.



R.G. (Bob) Downs CA
Development Manager

H:\Properties\Winnipeg\093 - Inkster Blvd & Brookside Blvd\Leasing\Miscellaneous\Appeal ltr to City re Servicing costs 2009 Sep 27.doc

CITY OF WINNIPEG

DEVELOPMENT AGREEMENT PARAMETERS

ADOPTED BY CITY COUNCIL:

JULY 17, 2002

(1) INTRODUCTION

a) These Development Agreement Parameters express the general policy of the City. They are guidelines for the City's Administration and Developers in formulating development conditions for consideration by City Council and its relevant Committees. Each development will be governed by its respective development agreement, not by these guidelines although experience indicates the Development Agreement Parameters will be followed with few exceptions.

The purposes of the Development Agreement Parameters are to ensure that all parties pay their equitable share of the costs of development, that development agreement obligations are consistent for all developments and that development occurs in accordance with current City of Winnipeg construction specifications.

Servicing Agreement AG 7/01 Relevant Clauses

c) The development agreement may require that the Developer pay the TSR for services that the City and/or a third party has previously constructed, or that are to be constructed in the future, and which directly benefit the proposed subdivision. The costs shall be determined by the City and shall be specified in the development agreement at the time that the agreement is to be executed by the Developer, or earlier. A security may be posted in lieu of immediate payment for future services that are to be constructed by the City and/or a third party. If a security is posted in lieu of payment both the payment due and security will be adjusted annually to reflect current dollar values.

d) Excepting where area charges are in effect, where a development borders on an arterial road, the Developer shall pay the cost of constructing one lane of concrete pavement 4 metres in width together with a share of the land drainage, sidewalks, landscaping, street lighting, and intersection improvements and modifications as determined by the City which requirements and geometrics thereof shall be defined at the time the development agreement is executed.

g) Area charges may be imposed in lieu of frontage charges where the costs of required improvements are to be shared by more than one Developer. The area charges shall be in accordance with an established formula and the monies so collected are to be used solely for the specific improvements in the area.

Servicing Agreement AG 7/01 Schedule "C" Items	2004 Rate	2009 Rate	Change
1. Services in Brookside Boulevard and Inkster Boulevard The Developer shall pay its share of the cost of the following services in Brookside Boulevard and Inkster Boulevard abutting the Planned Area: a) a 4.0m in width by 200mm in thickness portland cement concrete lane of pavement and related works, b) a 1.5m in width by 100mm in thickness portland cement concrete sidewalk, c) ornamental street lighting, and d) landscaping in the boulevard Based on 2009 rates for the above described services, the Developer's share is calculated as follows: i) Parcel A 1.02 acres x $48,321.23/acre Plus 5% GST = ii) Parcels B and C 10.65 acres x $48,321.23/acre Plus 5% GST = $540,352.14 The amount for Parcel A shall be paid upon execution of this amendment, and the amount for Parcels B and C shall be paid prior to the issuance of building permits for Parcels B and C or, the Developer shall post a letter of credit in an amount satisfactory to the Director of Public Works prior to the issuance of building permits for Parcels B and C and payment shall be made on demand based on the actual cost of the completed works, as determined by the Director of Public Works.	$298,235.83	$592,104.18	$293,868.35
2. Land Drainage Trunk Charge The Developer shall prior to the issuance of a building permit on Parcel C, pay its share of the cost of	$189,705.74	$261,880.32	$72,174.58

	the regional land drainage trunk system attributable to Parcel C which based on the 2009 rate therefor is calculated as follows: i) 15.63 acres x $14,741.00/acre = ii) Local benefit of trunk sewer in Lucas Avenue 475.2' x $40.00/ft. = $19,008.00 iii) G.S.T. (5%) on i) and ii) above			

6. Traffic Improvements on Brookside Boulevard a) The Developer shall, at no expense to the City, construct in portland cement concrete pavement a 3.5m in width by 80.0m in length southbound, left turn storage lane, median opening alterations and upstream transition, as generally illustrated on Private Approach Drawing A-8924A attached as Schedule "F" of this Agreement, and all related works as determined by and to the satisfaction of the Director of Public Works. b) The Developer shall pay to the City, in cash, on demand 50% of the cost associated with the future installation, when warranted, of traffic control signals and all related works, including but not necessarily limited to pedestrian and vehicular actuation, audible pedestrian signals and interconnection to adjacent traffic control signals at the intersection of Brookside Boulevard and Lucas Avenue all as determined by the Director of Public Works. The Developer shall prior to the issuance of building permits for Parcel C post a Letter of Credit in the amount of $146,600.00 (2009 estimate) to guarantee payment on demand.	$109,000.00	$146,600.00	$37,600.00
8. Administration The Developer shall pay the sum of $5,000.00 plus 5% G.S.T. to defray the City's administration and related costs associated with the preparation and implementation of the servicing agreement as follows: i) for Parcel A $2,500.00 plus 5% G.S.T. ($2625.00) upon execution of this amendment, and ii) for Parcels B and C $2,500.00 plus 5% G.S.T. ($2625.00) prior to the issuance of a building	$5,350.00	$5,250.00	($100.00)

permit for either Parcels B or C.			
10. Open Space Dedication The Developer shall, prior to the issuance of a building permit on Parcel C, pay the sum of $13,010.00 plus 5% G.S.T. which amount is 10% of the increase in value of Parcel C due to rezoning the land from an “A1” Agricultural District to a “C3-1” Highway Commercial District.	$13,920.70	$13,660.50	($260.20)
Total	**$616,212.27**	**$1,019,495.00**	**$403,282.73**