Agenda - Council – March 23, 2011

Report - Standing Policy Committee on Property and Development – March 10, 2011

Item No. 6 Request to amend Development Agreements AG 14/88, AG 1/95 and AG 36/04 (Addendum to AG 1/95) – Warde Avenue (St. Boniface Ward) Files DASZ 14/88, DASZ 1/95, DASZ 36/2004

STANDING COMMITTEE RECOMMENDATION:

On March 16, 2011, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Riel Community Committee and submits the following to Council:

1. That the following amendments to Development Agreements AG 14/88, AG 1/95 and AG 36/04 be approved, subject to Council approving funding in the amount of $500,000.00 in the 2011 Capital Budget for the City's share of the proposed works:

   A. That Clause 5. d) of Section I of Schedule "C" of Development Agreement AG 14/88 and Clause 5. a) of Schedule "C" of Development Agreement AG 1/95 be deleted in their entirety and a new clause be inserted as follows:

   "The Developer shall finance and construct in Warde Avenue between Boulevard de la Seigneurie and Lagimodiere Boulevard an 8.0m in width by 200mm in thickness portland cement concrete pavement, and all related works including, but not necessarily limited to street lighting, boulevard landscaping, land drainage works and portland cement concrete sidewalk on the north side, all as determined by and to the satisfaction of the Director of Public Works."

   B. That Clause 5. e) of Section I of Schedule "C" of Development Agreement AG 14/88 and Clause 6. a) of Schedule "C" of Development Agreement AG 1/95 be deleted in their entirety and a new clause be inserted as follows:

   "The Developer shall finance and construct through lanes, auxiliary lanes, median opening, channelization and transitions and all related works on Lagimodiere Boulevard at and in the vicinity of the Warde Avenue intersection and on Warde Avenue near Lagimodiere Boulevard, all as determined by and to the satisfaction of the Director of Public Works."

   C. That Clause 5. f) of Section I of Schedule "C" of Development Agreement AG 14/88 and Clause 6 b) of Schedule "C" of Development Agreement AG 1/95 be deleted in their entirety and a new clause be inserted as follows;

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"The Developer shall finance the costs associated with the installation of traffic control signals and all related works including, but not necessarily limited to pedestrian and vehicular actuation, interconnection to adjacent traffic control signals and advance warning flashers at the intersection of Warde Avenue and Lagimodiere Boulevard as determined by the Director of Public Works."

D. That Clause 6 c) of Schedule "C" of Development Agreement AG 1/95 be deleted in its entirety.

E. That Clause 6 d) of Schedule "C" of Development Agreement AG 1/95 be deleted in its entirety and a new clause be inserted as follows;

"The Developer shall finance and construct the extension of Melnick Road to Warde Avenue in asphaltic concrete pavement and the extension of Kotelko Road to the new intersection of Warde Avenue and Lagimodiere Boulevard as a granular roadway, along the east and west sides of Lagimodiere Boulevard, south of the former John Bruce Road, and all related works, all as determined by and to the satisfaction of the Director of Public Works."

F. That Clauses 7 a) and 7 b) of Schedule "C" of Development Agreement AG 1/95 be deleted in their entirety.

G. That Clause 8. a) of Development Agreement AG 36/04, be deleted in its entirety and a new Clause 8. a) being inserted as follows;

"The Developer shall grant or obtain easements for the City on land required to accommodate the extension of Melnick Road to Warde Avenue on the west side of Lagimodiere Boulevard and to accommodate the extension of Kotelko Road to the new intersection of Warde Avenue and Lagimodiere Boulevard on the east side of Lagimodiere Boulevard as determined by the Director of Public Works."

H. That a new clause be inserted into the amending letter agreement(s) under AG 14/88, AG 1/95 and AG 36/04 as follows;

"The City shall endeavour to recover, subject to Council Approval under subsequent Development Agreement(s), a proportionate share of the cost of the works, as outlined above, from the owner(s) of other benefiting lands according to the current Development Agreement Parameters, all as determined by the Director of Public Works."

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I. That a new clause be inserted into the amending letter agreement(s) under AG 14/88, AG 1/95 and AG 36/04 as follows;

"The cost of the City's share of the cost of the works, as outlined above, is estimated to exceed $500,000. Amounts up to and including $500,000 shall be payable by the City within one (1) year of the date of substantial completion of the works with interest added after that date according to the current Development Agreement Parameters and subject to approval of capital funding for that payment by City Council. The City shall repay the Developer any amounts beyond $500,000 from subsequent capital budgets according to the current Development Agreement Parameters, subject to Council approval."

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 – March 10, 2011

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 16, 2011, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and the Riel Community Committee and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On March 10, 2011, the Standing Policy Committee on Property and Development concurred in the recommendation of the Riel Community Committee and submitted the matter to the Executive Policy Committee and Council.

COMMUNITY COMMITTEE RECOMMENDATION:

On February 14, 2011, the Riel Community Committee concurred in the recommendation of the Winnipeg Public Service, with the following amendments, namely:

- Amend Recommendation 8 by inserting the words "according to the current Development Parameters" after the words "benefiting lands" in the second paragraph thereof.

- Amend Recommendation 9 by deleting the second paragraph in its entirety and replacing with the following, namely:

  "The cost of the City's share of the cost of the works, as outlined above, is estimated to exceed $500,000. Amounts up to and including $500,000 shall be payable by the City within one (1) year of the date of substantial completion of the works with interest added after that date according to the current Development Agreement Parameters and subject to approval of capital funding for that payment by City Council. The City shall repay the Developer any amounts beyond $500,000 from subsequent capital budgets according to the current Development Agreement Parameters, subject to Council approval"

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

ADMINISTRATIVE REPORT

Title: **REQUEST TO AMEND DEVELOPMENT AGREEMENTS AG 14/88, AG 1/95 and AG 36/04 (Addendum to AG 1/95)**

Critical Path: **Riel Community Committee → Standing Policy Committee on Property and Development → Executive Policy Committee → Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
Kim Raban Land Development Administrator	Deepak Joshi, Director	N/A	N/A

RECOMMENDATIONS

The Winnipeg Public Service recommends that the following Development Agreement Amendments to AG 14/88, AG 1/95 and AG 36/04 be approved subject to Council approving funding in the amount of $500,000 in the 2011 Capital Budget for the City's share of the proposed works.

1. That Clause 5. d) of Section I of Schedule "C" of Development Agreement AG 14/88 and Clause 5. a) of Schedule "C" of Development Agreement AG 1/95 be deleted in their entirety and a new clause be inserted as follows;

   "The Developer shall finance and construct in Warde Avenue between Boulevard de la Seigneurie and Lagimodiere Boulevard an 8.0m in width by 200mm in thickness portland cement concrete pavement, and all related works including, but not necessarily limited to street lighting, boulevard landscaping, land drainage works and portland cement concrete sidewalk on the north side, all as determined by and to the satisfaction of the Director of Public Works."

2. That Clause 5. e) of Section I of Schedule "C" of Development Agreement AG 14/88 and Clause 6 a) of Schedule "C" of Development Agreement AG 1/95 be deleted in their entirety and a new clause be inserted as follows;

   " The Developer shall finance and construct through lanes, auxiliary lanes, median opening, channelization and transitions and all related works on Lagimodiere Boulevard

at and in the vicinity of the Warde Avenue intersection and on Warde Avenue near Lagimodiere Boulevard, all as determined by and to the satisfaction of the Director of Public Works."

3. That Clause 5. f) of Section I of Schedule "C" of Development Agreement AG 14/88 and Clause 6 b) of Schedule "C" of Development Agreement AG 1/95 be deleted in their entirety and a new clause be inserted as follows;

   " The Developer shall finance the costs associated with the installation of traffic control signals and all related works including, but not necessarily limited to pedestrian and vehicular actuation, interconnection to adjacent traffic control signals and advance warning flashers at the intersection of Warde Avenue and Lagimodiere Boulevard as determined by the Director of Public Works."

4. That Clause 6 c) of Schedule "C" of Development Agreement AG 1/95 be deleted in its entirety.

5. That Clause 6 d) of Schedule "C" of Development Agreement AG 1/95 be deleted in its entirety and a new clause be inserted as follows;

   "The Developer shall finance and construct the extension of Melnick Road to Warde Avenue in asphaltic concrete pavement and the extension of Kotelko Road to the new intersection of Warde Avenue and Lagimodiere Boulevard as a granular roadway, along the east and west sides of Lagimodiere Boulevard, south of the former John Bruce Road, and all related works, all as determined by and to the satisfaction of the Director of Public Works."

6. That Clauses 7 a) and 7 b) of Schedule "C" of Development Agreement AG 1/95 be deleted in their entirety.

7. That Clause 8. a) of Development Agreement AG 36/04, be deleted in its entirety and a new Clause 8. a) being inserted as follows;

   "The Developer shall grant or obtain easements for the City on land required to accommodate the extension of Melnick Road to Warde Avenue on the west side of Lagimodiere Boulevard and to accommodate the extension of Kotelko Road to the new intersection of Warde Avenue and Lagimodiere Boulevard on the east side of Lagimodiere Boulevard as determined by the Director of Public Works."

8. That a new clause be inserted into the amending letter agreement(s) under AG 14/88, AG 1/95 and AG 36/04 as follows;

   "The City shall endeavour to recover, subject to Council Approval under subsequent Development Agreement(s), a proportionate share of the cost of the works, as outlined above, from the owner(s) of other benefiting lands, all as determined by the Director of Public Works."

9. That a new clause be inserted into the amending letter agreement(s) under AG 14/88, AG 1/95 and AG 36/04 as follows;

"The City's share of the cost of the works, as outlined above, shall be limited to $500,000 and payable by the City within one (1) year of the date of Substantial Completion of the works with interest added after that date according to the current Development Agreement Parameters and subject to approval of capital funding for that payment by City Council. "

10. 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

Council approval is required to amend the subject clauses under the affected Development Agreements.

IMPLICATIONS OF THE RECOMMENDATIONS

Funding for this project is included as a Developer payback under Lagimodiere Boulevard & Warde Avenue Intersection in the Preliminary 2011 Capital Budget ($0.5 million). If the recommendations of the Winnipeg Public Service are concurred in, an amendment to Development Agreements for AG 14/88, AG 1/95 and AG 36/04 (Addendum to AG 1/95) may be undertaken as necessary.

HISTORY

See Appendix "A", Report to the Riel Community Committee, attached for additional information and background. Appendix "B" – shows an image of the subject area for reference. Further Appendix "C" – illustrates the scope of the proposed works.

FINANCIAL IMPACT

There is no financial impact associated with this recommendation.

CONSULTATION

In preparing this Report there was consultation with:

Public Works Department

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Development and Inspections
Prepared by:	Rob Deighton, Land Development Branch
Date:	February 7, 2011
File No.	AG 14/88, AG 1/95 and AG 36/04 (Addendum to AG 1/95)

Appendix “A” – Administrative report to the Riel Community Committee
Appendix “B” – Image of Subject Area
Appendix “C” – Illustration of Proposed Works

Filename: V:\11-ACG Reports & others\2011\AG 1-95 -- AG 14-88 --AG 36-04 Development Agreement Amendments - Novamet - Warde Avenue Extension - RIS -RD Rpt - revised.doc

APPENDIX "A" – Administrative Report to the Riel Community Committee

RE: REQUEST TO AMEND DEVELOPMENT AGREEMENTS AG 1/95, AG 14/88 and AG 36/04 (Addendum to AG 1/95) – NOVAMET DEVELOPMENT CORPORATION

FOR SUBMISSION TO THE RIEL COMMUNITY COMMITTEE

"original signed by R.Deighton"

R.R. Deighton, P. Eng.
Land Development Coordinator

February 7, 2011

RE: REQUEST TO AMEND DEVELOPMENT AGREEMENTS AG 1/95, AG 14/88 and AG 36/04 (Addendum to AG 1/95) – NOVAMET DEVELOPMENT CORPORATION

On April 17, 1989 the Developer, Novamet Development Corporation (Novamet) entered into Development Agreement AG 14/88 with the City establishing development conditions to serve the Planned Area for the southeast area of their Island Lakes subdivision.

On September 27, 1995 the Developer, Novamet entered into Development Agreement AG 1/95 with the City establishing development conditions to serve the Planned Area for additional lands in the southeast area of their Island Lakes subdivision.

On December 15, 2004, Council approved Development Agreement AG 36/04 pursuant to the Developer's request to amend Development Agreement AG 1/95 for additional lands located adjacent the Planned Area.

Under Development Agreements AG 14/88, AG 1/95 and AG 36/04 Novamet Development Corporation have various obligations related to Warde Avenue between Boulevard de la Seigneurie and Lagimodiere Boulevard, its intersection with Boulevard de la Seigneurie and its intersection with Lagimodiere Boulevard.

Novamet has approached the administration with a proposal to trade a variety of these obligations with the intent of completing an 8.0m two lane roadway within Warde Avenue from Boulevard de la Seigneurie to Lagimodiere Boulevard including necessary intersection works and the installation of traffic control signals at the Lagimodiere Boulevard intersection to provide an additional access point to the Island Lakes subdivision. Also included in the work would be the extension and realignment of Melnick Road, on the west side of Lagimodiere Boulevard to connect to the new Warde Avenue and the extension and realignment of Kotelko Road on the east side of Lagimodiere Boulevard to tie in to the new intersection of Warde Avenue and Lagimodiere Boulevard, this would permit the removal of the existing intersection of Melnick Road/Kotelko Road at Lagimodiere Boulevard and the closure of the median at this location.

Novamet has the following existing obligations under their respective agreements related to this proposal:

<u>AG 14/88;</u>

1) Clause 5. d) of Section I of Schedule "C" of Development Agreement AG 14/88 obligated the Developer for works in Warde Avenue, between the former John

Bruce Road and Lagimodiere Boulevard.

2) Clause 5. e) of Section I of Schedule "C" of Development Agreement AG 14/88 obligated the Developer for 25% of the cost of works on Lagimodiere Boulevard at and in the vicinity of its intersection with Warde Avenue.

3) Clause 5. f) of Section I of Schedule "C" of Development Agreement AG 14/88 obligated the Developer for 25% of the cost of the installation of traffic control signals at the intersection of Lagimodiere Boulevard and Warde Avenue.

AG 1/95;

4) Clause 5. a) of Schedule "C" of Development Agreement AG 1/95 obligated the Developer for works in Warde Avenue, between the former John Bruce Road and the south limit of the Planned Area..

5) Clause 6. a) of Schedule "C" of Development Agreement AG 1/95 obligated the Developer for 5% of the cost of works on Lagimodiere Boulevard at and in the vicinity of its intersection with Warde Avenue.

6) Clause 6. b) of Schedule "C" of Development Agreement AG 1/95 obligated the Developer for 5% of the cost of the installation of traffic control signals at the intersection of Lagimodiere Boulevard and Warde Avenue.

7) Clause 6. c) of Schedule "C" of Development Agreement AG 1/95 obligated the Developer for 5% of the cost of installing advance street name signs on Lagimodiere Boulevard north and south of its intersection with Warde Avenue.

8) Clause 6. d) of Schedule "C" of Development Agreement AG 1/95 obligated the Developer for works required to extend and realign Melnick Road and Kotelko Road on the west and east sides of Lagimodiere Boulevard in the vicinity of its intersection with Warde Avenue.

9) Clause 7. a) of Section I of Schedule "C" of Development Agreement AG 1/95 obligated the Developer for the full cost of the installation of traffic control signals at the intersection of Boulevard de la Seigneurie and Warde Avenue.

10) Clause 7. b) of Section I of Schedule "C" of Development Agreement AG 1/95 obligated the Developer for full cost of works on at and in the vicinity of the intersection of Boulevard de la Seigneurie with Warde Avenue.

AG 36/04 – Addendum to AG 1/95;

11) Clause 8. a) of Development Agreement AG 36/04, Addendum to AG 1/95 obligated the Developer for an easement to accommodate the extension and realignment of Melnick Road on the west side of Lagimodiere Boulevard.

Under this proposal, Novamet would complete all the works, and the City would be responsible for the cost of works over and above the estimated Developer obligations.

The Public Works Department and Novamet have been working cooperatively to finalize terms and have agreed to the following amendments to Development Agreements AG 14/88, AG 1/95 and AG 36/04 (Addendum to AG 1/95). Funding in the amount of $500,000 is included in the preliminary 2011 Capital Budget for the City's share of the proposed works.

The Winnipeg Public Service therefore recommends that the following Development Agreement Amendments to AG 14/88, AG 1/95 and AG 36/04 be approved subject to Council approving funding in the amount of $500,000 in the 2011 Capital Budget for the City's share of the proposed works.

1. That Clause 5. d) of Section I of Schedule "C" of Development Agreement AG 14/88 and Clause 5. a) of Schedule "C" of Development Agreement AG 1/95 be deleted in their entirety and a new clause be inserted as follows;

   "The Developer shall finance and construct in Warde Avenue between Boulevard de la Seigneurie and Lagimodiere Boulevard an 8.0m in width by 200mm in thickness portland cement concrete pavement, and all related works including, but not necessarily limited to street lighting, boulevard landscaping, land drainage works and portland cement concrete sidewalk on the north side, all as determined by and to the satisfaction of the Director of Public Works."

2. That Clause 5. e) of Section I of Schedule "C" of Development Agreement AG 14/88 and Clause 6 a) of Schedule "C" of Development Agreement AG 1/95 be deleted in their entirety and a new clause be inserted as follows;

   " The Developer shall finance and construct through lanes, auxiliary lanes, median opening, channelization and transitions and all related works on Lagimodiere Boulevard at and in the vicinity of the Warde Avenue intersection and on Warde Avenue near Lagimodiere Boulevard, all as determined by and to the satisfaction of the Director of Public Works."

3. That Clause 5. f) of Section I of Schedule "C" of Development Agreement AG 14/88 and Clause 6 b) of Schedule "C" of Development Agreement AG 1/95 be deleted in their entirety and a new clause be inserted as follows;

   " The Developer shall finance the costs associated with the installation of traffic control signals and all related works including, but not necessarily limited to pedestrian and vehicular actuation, interconnection to adjacent traffic control signals and advance warning flashers at the intersection of Warde Avenue and Lagimodiere Boulevard as determined by the Director of Public Works."

4. That Clause 6 c) of Schedule "C" of Development Agreement AG 1/95 be deleted in its entirety.

5. That Clause 6 d) of Schedule "C" of Development Agreement AG 1/95 be deleted in its entirety and a new clause be inserted as follows;

   "The Developer shall finance and construct the extension of Melnick Road to Warde Avenue in asphaltic concrete pavement and the extension of Kotelko Road to the new intersection of Warde Avenue and Lagimodiere Boulevard as a granular roadway, along the east and west sides of Lagimodiere Boulevard, south of the former John Bruce Road, and all related works, all as determined by and to the satisfaction of the Director of Public Works."

6. That Clauses 7 a) and 7 b) of Schedule "C" of Development Agreement AG 1/95 be deleted in their entirety.

7. That Clause 8. a) of Development Agreement AG 36/04, be deleted in its entirety and a new Clause 8. a) being inserted as follows;

   "The Developer shall grant or obtain easements for the City on land required to accommodate the extension of Melnick Road to Warde Avenue on the west side of Lagimodiere Boulevard and to accommodate the extension of Kotelko Road to the new intersection of Warde Avenue and Lagimodiere Boulevard on the east side of Lagimodiere Boulevard as determined by the Director of Public Works."

8. That a new clause be inserted into the amending letter agreement(s) under AG 14/88, AG 1/95 and AG 36/04 as follows;

   "The City shall endeavour to recover, subject to Council Approval under subsequent Development Agreement(s), a proportionate share of the cost of the works, as outlined above, from the owner(s) of other benefiting lands, all as determined by the Director of Public Works."

9. That a new clause be inserted into the amending letter agreement(s) under AG 14/88, AG 1/95 and AG 36/04 as follows;

   "The City's share of the cost of the works, as outlined above, shall be limited to $500,000 and payable by the City within one (1) year of the date of Substantial Completion of the works with interest added after that date according to the current Development Agreement Parameters and subject to approval of capital funding for that payment by City Council. "

THIS REPORT SUBMITTED BY:

Land Development Branch
File No. AG 14/88, AG 1/95, and AG 36/04
February 7, 2011

"original signed by R.Deighton"

R.R. Deighton, P. Eng.,
Land Development Branch

"original signed by R.Hartmann"

R. J. Hartmann, P. Eng.
Public Works Department, Transportation Division

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APPENDIX “B” – Image of Subject Area



APPENDIX "C" – Illustration of Proposed Works

