Minute No. 89
Report – Standing Policy Committee on Property and Development – November 25, 2014

Item No. 19 **License Agreement to Allow for the Use of City-Owned Park Lands Adjacent to 146 Magnus Street for the Purpose of Installing and Maintaining Two Light Standards and Surveillance Cameras (Mynarski Ward)**

COUNCIL DECISION:

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

1. That the terms and conditions attached as Schedule "A" for a license agreement in favour of Manitoba Housing and Renewal Corporation (hereinafter referred to as the "Licensee") for the purpose of the installation and servicing of two light standards and surveillance cameras identified as "Proposed License" on Misc. Plan 14588/3 be approved (hereinafter referred to as the "Lands").

2. That the City enter into a license agreement and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing.

3. That the authority be delegated to the Director of Planning, Property and Development to negotiate and approve the final terms and conditions of the license agreement and such other agreements as determined necessary by the City Solicitor/Director of Legal Services, in accordance with the terms and conditions set forth in Schedule "A" and such other terms and conditions deemed necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

4. 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 – November 25, 2014

DECISION MAKING HISTORY:

Moved by Councillor Orlikow,

That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On December 3, 2014, the Executive Policy Committee concurred in the recommendations of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On November 25, 2014, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: **Proposed License Agreement to Allow for the Use of City-Owned Park Lands Adjacent to 146 Magnus Street for the Purpose of Installing and Maintaining Two Light Standards and Surveillance Cameras**

Critical Path: **Standing Policy Committee on Property and Development, Executive Policy Committee, Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Erickson	B. Thorgrimson	M. Ruta	D. Joshi A/CAO

RECOMMENDATIONS

1. That the proposed terms and conditions attached as Schedule "A" for a license agreement in favour of Manitoba Housing and Renewal Corporation (hereinafter referred to as the "Licensee") for the purpose of the installation and servicing of two light standards and surveillance cameras identified as "Proposed License" on Misc. Plan 14588/3 be approved (hereinafter referred to as the "Lands").

2. That the City enter into a license agreement and such other agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing.

3. That the authority be delegated to the Director of Planning, Property and Development to negotiate and approve the final terms and conditions of the license agreement and such other agreements as determined necessary by the City Solicitor/Director of Legal Services, in accordance with the terms and conditions set forth in Schedule "A" and such other terms and conditions deemed necessary by the City Solicitor/Director of Legal Services to protect the interests of the City.

4. 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

In accordance with the Council Order of July 18, 1979, the Standing Policy Committee on Property and Development shall authorize the leasing or rental of City property for which the Director of Planning, Property and Development has no authority. In this regard, the Planning,

Property and Development Department have negotiated the proposed terms and conditions for a license agreement in favour of Manitoba Housing and Renewal Corporation identified as "Proposed License" on Misc. Plan No. 14588/3 as attached. This report seeks the approval of the license agreement as negotiated.

IMPLICATIONS OF THE RECOMMENDATIONS

The Department has determined that there are no general, policy, regulatory, environmental or human resource implications to entering into a license agreement shown on the attached Miscellaneous Plans No. 14588/3.

The proposed license agreement is on an annually continuing basis with a 365 day cancellation clause.

HISTORY

The Licensee renovated the former Sharon Home Seniors Centre at 146 Magnus Avenue to open a seventy (70) bed addictions treatment centre named River Point Centre.

The City required the Licensee to install lighting and surveillance cameras on the Lands in the area identified as "Proposed License" on misc. plan 14588/3, the purpose of which being to dissuade the assembly of people in the park at nighttime.

Legal Services advised the Property Management Branch that a license agreement, not an easement, would be required to provide the Licensee access to the Lands on an ongoing basis.

The application was circulated to applicable City departments and public utilities for consideration and comments. All comments and concerns have been incorporated into the signed terms and conditions.

The Risk Management Division of Corporate Finance reviewed the insurance requirements for this proposed license and their comments have been incorporated into the terms and conditions.

This report seeks approval of the license agreement as negotiated.

FINANCIAL IMPACT

Financial Impact Statement

Date: October 26, 2014

Project Name:

First Year of Program **2015**

Proposed License Agreement to Allow for the Use of City-Owned Park Lands Adjacent to 146 Magnus Street for the Purpose of Installing and Maintaining Two Light Standards and Surveillance Cameras

	2015	2016	2017	2018	2019
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	1,406	1,156	1,156	1,156	1,156
Net Cost/(Benefit)	$ (1,406)	$ (1,156)	$ (1,156)	$ (1,156)	$ (1,156)
Less: Existing Budget Amounts	(1,406)	(1,156)	(1,156)	(1,156)	(1,156)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Revenues in 2015 consist of the annual rental amount of $1,156 plus a $250 one-time admin fee. Revenues from 2016 onward consist of the annual rental amount ony.

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

CONSULTATION

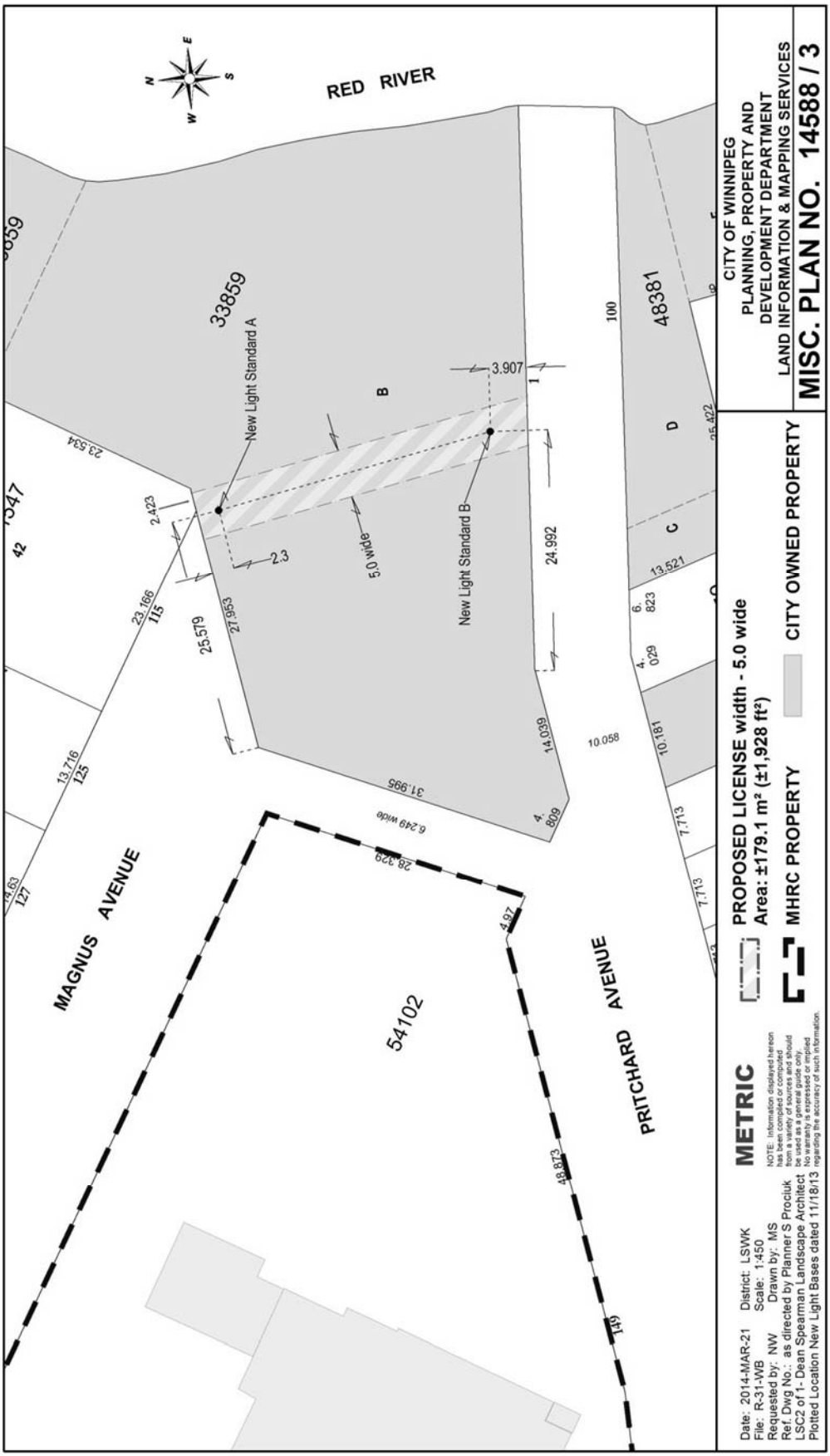
In preparing this report there was consultation with:

Legal Services Department as to legal issues
Risk Management, Corporate Finance

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Municipal Accommodations
Prepared by:	Nolan Winters
Date:	November 4, 2014
File No.:	MA2014-200
RE File No.:	B-31 WB

O:\Reports Directive\Municipal Accommodations\Leases\2014\MA2014-200 Proposed License Agreement to Allow for Use of City-Owned Park Lands Adjacent to 146 Magnus - Installing & Maintaining Two Light Standards & Surveillance Cameras.docx


RED RIVER
MAGNUS AVENUE
PRITCHARD AVENUE
33859
48381
54102
New Light Standard A
New Light Standard B
5.0 wide
3.907
24.992
100
CITY OF WINNIPEG
PLANNING, PROPERTY AND
DEVELOPMENT DEPARTMENT
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 14588 / 3
PROPOSED LICENSE width - 5.0 wide
Area: ±179.1 m² (±1,928 ft²)
MHRC PROPERTY
CITY OWNED PROPERTY
METRIC
Date: 2014-MAR-21 District: LSWK
File: R-31-WB Scale: 1:450
Requested by: NW Drawn by: MS
Ref. Dwg No.: as directed by Planner S Prociuk
LSC2 of 1- Dean Spearman Landscape Architect
Plotted Location New Light Bases dated 11/18/13

SCHEDULE A

Proposed Terms and Conditions for a License Agreement between the City and Manitoba Housing and Renewal Corporation

(Shown as "Proposed License" on attached Misc. Plan No. 14588/3) (hereinafter referred to as "Subject Area")

Licensee: Manitoba Housing and Renewal Corporation (hereinafter referred to as the "Licensee");

Use: Installation, monitoring and servicing of two light standards and surveillance cameras within the area shown as "Proposed License" on Misc. Plan No. 14588/3 (hereinafter referred to as 'Subject Area) and not to be used for any other purpose without the written permission of the Director of Planning, Property and Development (hereinafter referred to as the "Director").

Term: Annually continuing, commencing the first day of the month following approval from the City's Standing Committees and Council or delegated authority;

Rental: $1,156.25 per annum plus GST subject to a rental rate review at the end of every 5 years.

Admin Fee: One time administration fee of $250.00 plus applicable GST.

Realty Taxes: Licensee is responsible for all realty taxes, municipal taxes, school taxes, local improvements, license fees, business tax, etc. of which may be charged in respect of the use and occupation of the subject property.

Indemnification: Manitoba Housing and Renewal Corporation shall, at its sole cost and expense, indemnify and keep indemnified the City from and against all claims, actions or proceedings for loss, injury, damages or compensation by any person, firm or corporation, whether to real or personal property, wheresoever situated, or by any member, employee, agent, licensee, invitee, tenant or third party, whether claiming through or under the Licensee or otherwise caused by reason of or in any way attributable to the Licensee's use of the Subject Area or the construction, maintenance, existence or use of any works constructed thereon, or in any way connected therewith or otherwise by reason of the exercise by the Licensee of the use hereby granted or the performance of or failure to perform its obligations hereunder, or by reason of:

(1) any breach, violation, non-observance or non-performance of any covenant, condition, or agreement in this Licence Agreement contained, and on the part of the Licensee to be kept, observed or performed;

(2) any loss or damage to property, whether belonging to the Licensee or otherwise, and any injury to person or persons, including death resulting at any time therefrom, arising out of or in connection with the Licensee's use or occupation of the Subject Area and/or by or through

anything done or omitted to be done by the Licensee or any assignee, sub-lessee, contractor, agent, servant or employee of the Licensee; and

(3) any repairs, improvements, installations or alterations which the Licensee may make or cause to be made upon or to the Subject Area, including without limitation, claims for liens in respect of wages, work, services or materials, liability for damage to property and liability for injury to person or persons;

and such indemnities shall survive the expiry or sooner determination of the term hereof.

Insurance: The Licensee shall provide and maintain the following insurance coverage at all times during the duration of the contract:

Commercial general liability insurance, in the amount of at least two million dollars ($2,000,000.00) inclusive, with The City of Winnipeg added as an additional insured; such liability policy to also contain a cross-liability clause, contractual liability, and personal injury;

If required, Automobile liability insurance for owned and non-owned automobiles used for or in connection with the license agreement in the amount of at least two million dollars ($2,000,000.00), to remain in place at all times during the term of the contract; such insurance may be met through the commercial general liability cover where applicable;

All policies shall be taken out with insurers licensed to and carrying on business in the Province of Manitoba;

Deductibles shall be borne by the Licensee;

The Licensee shall not cancel, or cause any such policy or policies to lapse without a minimum fifteen (15) days prior written notice to the City;

The Contractor shall file with the City an annual Certificate of Insurance in a form satisfactory to the City Solicitor;

The City shall have the right to alter the limits and/or coverage's as reasonably required from time to time during the continuance of this Contract and for any subsequent renewals thereof, provided that the City shall give the Licensee reasonable notice and shall request reasonable change.

Cancellation: Three hundred and sixty five (365) days written notice by either party, or

Should the Licensee be in default of the terms and conditions of the license agreement, the City shall provide the Licensee with 15 days notice to remedy the default along with a description of the nature of the default. Should the licensee not remedy the default to the satisfaction of the City, the City at its sole discretion may terminate the license agreement immediately upon the expiration of the 15 days.

Conditions: The Licensee shall provide not less than thirty (30) days notice to the City of its intention to construct, erect, install, repair, replace, or remove any wire or cable located within the Subject Area; The City reserves the right to conduct site inspections both prior to the commencement of and following the completion of any such work;

The Licensee acknowledges and agrees that this License does not grant the Licensee exclusive use of the Subject Area and that the Subject Area will be used by the public from time to time;

The Licensee shall be responsible, at its sole cost, effort and expense:

- to ensure a safe and convenient ingress and egress to and from the privately held properties located adjacent to the Subject Area. The Licensee will ensure that ingress/egress is maintained at all times during the undertaking of the work by the Licensee pursuant to this Agreement;
- for all damage incurred in the performance of any and all work undertaken, pursuant to this Agreement;
- to promptly repair and/or restore to as good a condition as it was prior to the commencement of such work;
- upon completion of any work, to leave the Subject Area and the said land in as good a condition as they were prior to the commencement of such work, and to indemnify the City against any suits, action, claims or demands arising out of such work.

The Licensee will be responsible for damage to the Subject Area, the said land and/or injury to the persons of the City and any other person being on the said land with consent, express or implied, of the City, arising out of the negligence of the Licensee's servants or employees or other persons acting with authorization including but not limited to independent contractors hired by the Licensee, in the construction, erection, installation, operation, maintenance, inspection, repair, replacement, removal and/or addition on City land.

The Licensee must determine the location of any underground utilities, pipes or other objects and make good any damage done to them resulting from the undertaking of any work in pursuance of this Agreement.

The Licensee is responsible for the collection of images related to the operation of the surveillance cameras, their proper use, as well as disclosure and destruction as to the standards of the Freedom of Information and Protection of Privacy Act;

Licensee hereby acknowledges and agrees that the City has made no representation, warranties or guarantees of any nature or kind whatsoever as to the quality, condition or suitability of the Subject Area for any use or purpose, nor as to any environmental conditions which may exist. The Licensee uses the Subject Area on an "as is" basis;

Licensee hereby further covenants and agrees with City that at all times during the currency of this License Agreement it shall, at its sole cost, effort and expense:

- comply with all laws, by-laws and regulations of any federal, provincial or municipal authority and shall obtain all necessary permits pertaining to the Licensee's use and occupancy, including but not limited to the construction, installation, maintenance and operation of the light standards and cameras;
- obtain all licences or other approvals from the Canadian Radio-Television and Telecommunications Commission or such other regulatory bodies as may be necessary in respect of its use and occupancy, including but not limited to the operation of the transmission facilities;

Not to assign or sub-license or part with possession of all or any part of the Subject Area without the Licensee first obtaining the prior written consent of the Director. In such event, the City in its sole discretion may cancel this agreement and enter into a new agreement.

Licensee shall enter into a formal agreement with the City embodying the foregoing terms and conditions and such other terms and conditions as the City Solicitor/Director of Legal Services deems necessary and in form satisfactory to the City Solicitor/Director of Legal Services. Any and all additional terms that may be required by the Director.

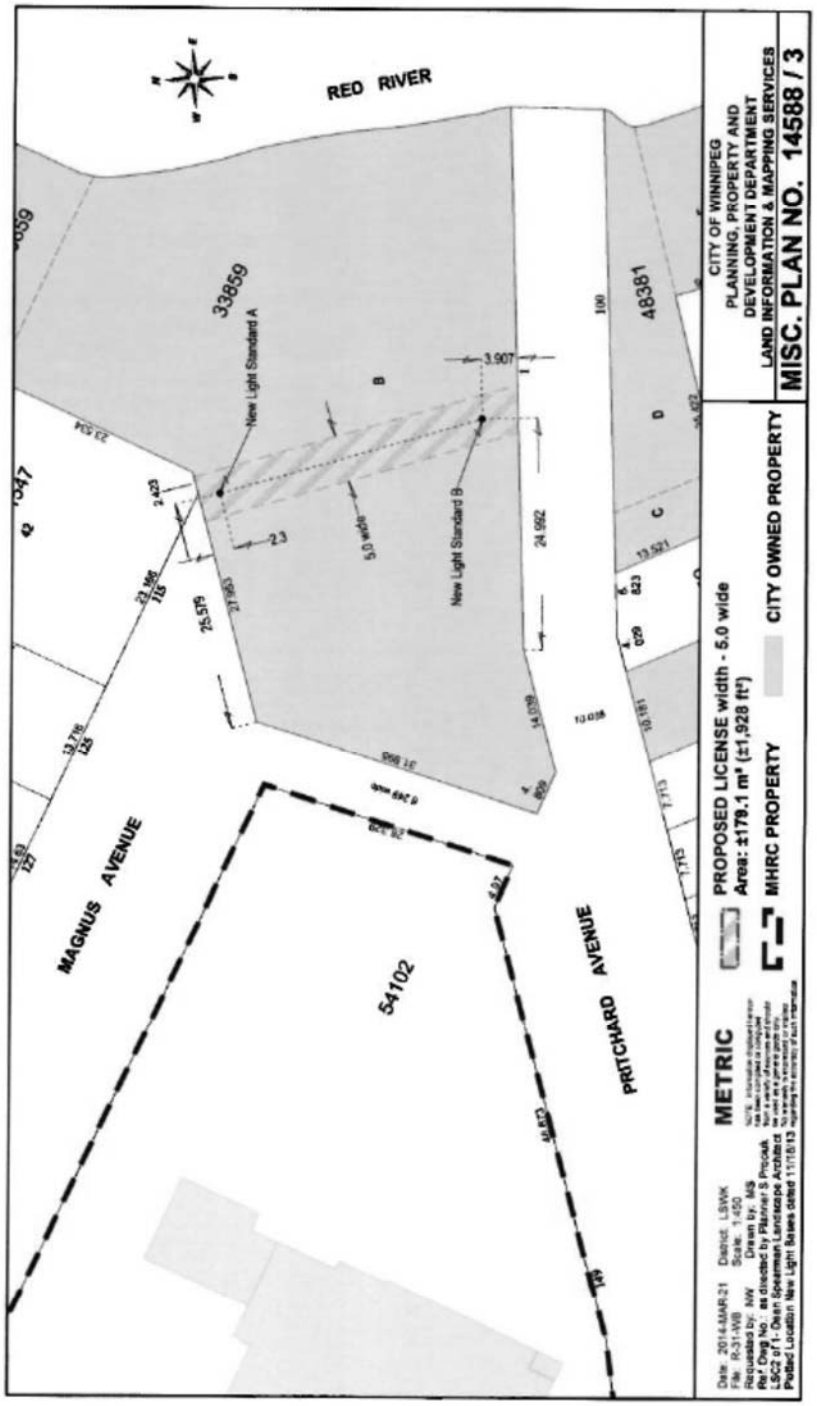
The proposed terms and conditions of the proposed License Agreement are subject to the final approval of the City's Standing Committees and Council and to the City Solicitor as to form and content.

MANITOBA HOUSING AND RENEWAL CORPORATION HEREBY ACKNOWLEDGES AND AGREES WITH THE ABOVE TERMS AND CONDITIONS.

MANITOBA HOUSING AND RENEWAL CORPORATION

SIGNATURE	SEPT. 15.2014 **DATE**
David Besant Director, Capital Planning **NAME(Please print)**	**TITLE**

V:\Nolan Winters\31 B- WB Agnes St\T&C's LICENSE MHRC Pritchard Park.doc


RED RIVER
33859
New Light Standard A
New Light Standard B
5.0 wide
3.907
24.992
48381
MAGNUS AVENUE
PRITCHARD AVENUE
54102
CITY OF WINNIPEG
PLANNING, PROPERTY AND
DEVELOPMENT DEPARTMENT
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 14588 / 3
PROPOSED LICENSE width - 5.0 wide
Area: ±179.1 m² (±1,928 ft²)
MHRC PROPERTY
CITY OWNED PROPERTY
METRIC