Agenda - Executive Policy Committee - September 17, 2003

Report - Standing Policy Committee on Property and Development - September 4, 2003

Item No. 28 Closing and Sale of right-of-way Adjacent to 2583 and 2599 Pembina Highway
File FI-2.4(35)

STANDING COMMITTEE RECOMMENDATION:

On September 4, 2003, the Standing Policy Committee on Property and Development concurred in the administrative recommendation and submits the following to Council:

1. That the subject City property (Parcels A and B) as shown on Misc. Plan No. APFG 7453/6 be declared surplus to the City's requirements, subject to the enactment of the street closing by-law.

2. That the sale of Parcel B of the subject City property, as shown on Misc. Plan No. APFG 7453/6, to Burns Holdings Ltd. be approved at a price of $36,000.00 and in accordance with the terms and conditions of the Offer to Purchase dated June 24, 2003 (attached to the administrative report dated September 5, 2003) and subject to Council enacting the street closing by-law and declaring the subject property to be surplus to the City's requirements.

3. That the Offer to Purchase Parcel A of the subject City property, as shown on Misc. Plan No. APFG 7453/6, from 2401363 Manitoba Ltd. at a price of $23,484.00 be rejected.

4. That the sale of Parcel A of the subject City property, as shown on Misc. Plan No. APFG 7453/6, to 2401363 Manitoba Ltd. be approved at a price of $35,000.00 and in accordance with the terms and conditions of the Offer to Purchase attached to the administrative report dated September 5, 2003, and subject to Council enacting the street closing by-law and declaring the property to be surplus to the City's requirements.

5. That in the event that 2401363 Manitoba Ltd. does not accept the City's approved price of $35,000.00 within ten (10) days from the date of approval, the Administration be authorized to negotiate and finalize a sale of Parcel A of the subject City property to Burns Holdings Ltd. at the price of $35,000.00 in accordance with the same terms and conditions applicable to this parcel and subject to Council enacting the street closing by-law and declaring the property to be surplus to the City's requirements.

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

Agenda - Executive Policy Committee - September 17, 2003

Report - Standing Policy Committee on Property and Development - September 4, 2003

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On September 4, 2003, the Standing Policy Committee on Property and Development concurred in the administrative recommendation and submitted the matter to Executive Policy Committee and Council.

Re: Closing and Sale of Right-of-Way Adjacent to 2583 and 2599 Pembina Highway
Riel Community
St. Norbert Ward

For submission to: **Standing Policy Committee on Property and Development**

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

Report date: September 16, 2003

Recommendation(s):

1. That Council declare the subject City property (Parcels A and B) as shown on Misc. Plan No. APFG 7453/6 to be surplus to the City's requirements, subject to the enactment of the street closing By-Law.

2. That approval be given for the sale of Parcel B of the subject City property, as shown on Misc. Plan No. APFG 7453/6, to Burns Holdings Ltd. at a price of $36,000 in accordance with the terms and conditions of the attached Offer to Purchase dated June 24, 2003 and subject to Council enacting the street closing by-law and declaring the subject property to be surplus to the City's requirements.

3. That an Offer to Purchase Parcel A of the subject City property, as shown on Misc. Plan No. APFG 7453/6, from 2401363 Manitoba Ltd. at a price of $23,484.00 be rejected.

4. That approval be given for a sale of Parcel A of the subject City property, as shown on Misc. Plan No. APFG 7453/6, to 2401363 Manitoba Ltd. at a price of $35,000.00 in accordance with the terms and conditions of the attached Offer to Purchase and subject to Council enacting the street closing by-law and declaring the property to be surplus to the City's requirements.

5. Subject to Recommendation 4. above, and in the event that 2401363 Manitoba Ltd. does not accept the City's approved price of $35,000, within 10 days from the date of approval, that the administration be authorized to negotiate and finalize a sale of Parcel A of the subject City property to Burns Holdings Ltd. at the price of $35,000.00 in accordance with the same terms and conditions applicable to this parcel and subject to Council enacting the street closing by-law and declaring the property to be surplus to the City's requirements.

REPORT SUMMARY

Key Issues:

- The Planning, Property and Development Department is in receipt of an Offer to Purchase from each of the two adjacent property owners for portions of the right-of-way proposed to be closed.

- Burns Holdings Ltd. has offered the City's asking price for the land. The price asked by the City was within the range of value as established by the Planning, Property and Development. Department. The price offered by 2401363 Manitoba Ltd., however, is far below the City's asking price. That Offer to Purchase was accompanied with a letter explaining that the 2401363 Manitoba Ltd. offer was budgeted and based on a price recommended by the City in a letter dated February 1, 1999, to a previous owner of 2583 Pembina Highway (the Palomino Plains Motel).

- At the end of July the Planning, Property and Development Department requested Mr. Peter Ginakes (2401363 Manitoba Ltd.) to increase his Offer to a price consistent with the City's asking price, the Department has received no further communication in this regard thus far.

- On February 9, 1999 the Riel Community Committee recommended that the Fairfield Avenue right-of-way shown as the subject city property on Misc. Plan No. 7453 be declared surplus to the City's needs and be sold at fair market value after the proposed street closing has been approved by Council.

- The Planning, Property and Development Department is in the process of preparing the Plan of Subdivision to be submitted to Council for enactment of the closing by-law.

Implications of the Recommendation(s):

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(s):

-

Policy implications:

X	**No**
	Yes

Comment(s):

-

Environmental implications:

X	**No**
	Yes

Comment(s):

- The proposed terms and conditions of sale will enable the purchasers to conduct an environmental site assessment and are so designed as to protect the City's interests in this regard.

Human resources implications:

X	**No**
	Yes

Comment(s):

-

Financial implications:

X	**Within approved current and/or capital budget**
	Current and/or capital budget adjustment required

Comment(s):

-

REASON FOR THE REPORT:

The Planning, Property and Development Department is in receipt of Offers to Purchase from the owners of properties at 2583 and 2599 Pembina Highway, each of whom wish to purchase a portion of the adjacent right-of-way.

HISTORY:

On February 9, 1999 the Riel Community Committee recommended that the Fairfield Avenue right-of-way shown as the subject city property on Misc. Plan No. 7453 be declared surplus to the City's needs and be sold at fair market value after the proposed street closing has been approved by Council.

Longboat Properties, which company at one time was interested in purchasing the adjacent 2599 Pembina Highway plus the entire subject City property, had submitted the closing application. Longboat Properties subsequently withdrew its Offer to Purchase the right-of-way if closed, and did not proceed with its acquisition of the adjacent property. The Planning, Property and Development Department is in the process of preparing the Plan of Subdivision to be submitted to Council for enactment of the street closing By-law.

Particulars of the subject City property shown on Misc. Plan No. APFG 7453/6 are as follows:

Location:	West side of Pembina Highway located between 2583 and 2599 Pembina Highway
Legal Description:	Fairfield Street right-of-way
Lot Sizes:	Parcel A – 7,828 sq. ft. Parcel B – 8,036 sq. ft.
Zoning:	C-2 Commercial District (once closed by By-law)
Easements:	There is a 10 ft. wide Manitoba Hydro underground easement along the northerly, southerly and westerly boundaries of the subject property.

Details of the Offers to Purchase are as follows:

1. Offeror – Burns Holdings Ltd. (Tim Burns)

Site Description:	Parcel B, Misc. Plan No. APFG 7453/6
Size:	8,036 sq. ft.
Price Offered:	$36,000.00 ($4.48 psf)
Deposit:	$ 5,400.00
Price Asked:	$36,000.00 ($4.48 psf)
Terms & Conditions:	Standard City of Winnipeg terms and conditions with a requirement for the title to be consolidated with title to the purchaser's land

2. Offeror – 2401363 Manitoba Ltd. (Peter Ginakes, Robert Harris)

Site Description:	Parcel A, Misc. Plan No. APFG 7453/6
Size:	7,828 sq. ft.
Price Offered:	$23,484.00 ($3.00 psf)
Deposit:	$ 3,522.60
Price Asked:	$35,000.00 ($4.48 psf)
Terms & Conditions:	Standard City of Winnipeg terms and conditions with a requirement for the title to be consolidated with the title to the purchaser's land.

DISCUSSION:

Burns Holdings Ltd. has offered the City's asking price for the lands. The price asked by the City is within the range of market value as established by the Planning, Property and Development Department.

The price offered by 2401363 Manitoba Ltd. is far below the City's asking price. The Offer to Purchase was accompanied with a letter explaining that the 2401363 Manitoba Ltd. proposed price was budgeted for on the basis of a price proposed by the City in a letter dated February 1, 1999, to the previous owners of 2583 Pembina Highway (the Palomino Plains Motel). The City has revised its price over the past four years.

At the end of July the Planning, Property and Development Department requested Mr. Peter Ginakes (2401363 Manitoba Ltd.) to amend his Offer to Purchase to a price consistent with the City's asking price, i.e. $35,000, the Department has received no further communication in this regard thus far. Therefore, the Department recommends that a sale be approved at the City's $35,000 asking price; and, in the event that 2401363 Manitoba Ltd. does not accept this price within 10 days from the date of approval, that the administration be authorized to negotiate and finalize a sale of Parcel A of the subject City property to Burns Holdings Ltd. at the price of $35,000.00 in accordance with the same terms and conditions applicable to this parcel and subject to Council enacting the street closing by-law and declaring the property to be surplus to the City's requirements.

Financial Impact Statement

Date: August 27, 2003

Project Name:

Sale of Closed Right-of-Way Adjacent to 2583 and 2599 Pembina Highway

First Year of Program 2004

	2004	2005	2006	2007	2008
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
External	-	-	-	-	-
Grants (Identify)	-	-	-	-	-
Reserves, Equity, Surplus, Other	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	37,640	1,640	1,640	1,640	1,640
Net Cost/(Benefit)	$ (37,640)	$ (1,640)	$ (1,640)	$ (1,640)	$ (1,640)
Less: Existing Budget Amounts	(37,640)	(1,640)	(1,640)	(1,640)	(1,640)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments:

In the current year of the program, proceeds of the sale of $37,640.00 includes year 2004 realty taxes based upon the closing of the transaction occuring in early January 2004 and represents a net benefit to the City. Recoveries of $1,640.00 in 2005 through 2008 represents realty taxes the City will receive and assumes no increases in the assessed value of the subject property nor any change to the municipal mill rate. If the sale of parcel B is finalized to either 2401363 Manitoba Ltd. or Burns Holdings Ltd. the additional revenues will be approximately $36,640.00, reflecting the $1,000 difference in list price for this parcel as described within this report.

"Original signed by"
Gord Courage, Manager
Support Services Division

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

N/A

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Real Estate
Prepared by: Gerry Anderson
PPD File #: 5099/56

Document name: o:\reports directive\real estate\sales\(ga)2583-99pembina.doc

File No: 5099/56

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: -

Parcel "A" as shown on Misc. Plan No. APFG 7453

(hereinafter called the "lands")

for the sum of $35,000.00 cash, 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 $5,250.00, and represents an amount equal to fifteen (15%) 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.

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 of the Lands, it shall

(1) ensure that all work done in connection with such Environmental Site Assessment 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

(5) provide copies of any such Environmental Site Assessment 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, 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.

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. It is further understood and agreed between the parties that:

(a) The Purchaser agrees to be fully responsible for all activities and associated costs to create a Plan of Subdivision and the legal closing of streets and lanes if necessary including:

(i) the cost of preparation and registration of the subdivision, easement and closing plans;

(ii) any and all costs associated with the legal and physical closing of the open right-of-way lying within the Subject Land; and

(b) The Purchaser will be responsible for all costs of developing the Subject Land including the servicing of the Land;

(c) The Purchaser will be acquiring the Subject Land in an "as-is, where-is" condition and has satisfied itself as to soil conditions zoning, access and environmental concerns;

(d) The Purchaser will be responsible for any and all costs associated with applications related to zoning, variances and conditional uses including application and processing costs the payment of any dedication fees owing;

(e) The Purchaser and the City shall each pay their own legal and other consultant's fees with respect to this sale.

13.. It is understood and agreed that title to the subject property is to be consolidated with the title to the adjacent lands lots 10/13 block 2 plan 1991.

14. Time shall be of the essence of this Offer.

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

16. 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.

17. 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.

18. 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.

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

_____

Name (Please Print) Address

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

IN WITNESS WHEREOF the Purchaser has signed this document in

_____, _____, this _____ day of _____2002

_____ _____

Witness Authorized Signature

_____

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., 2002

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

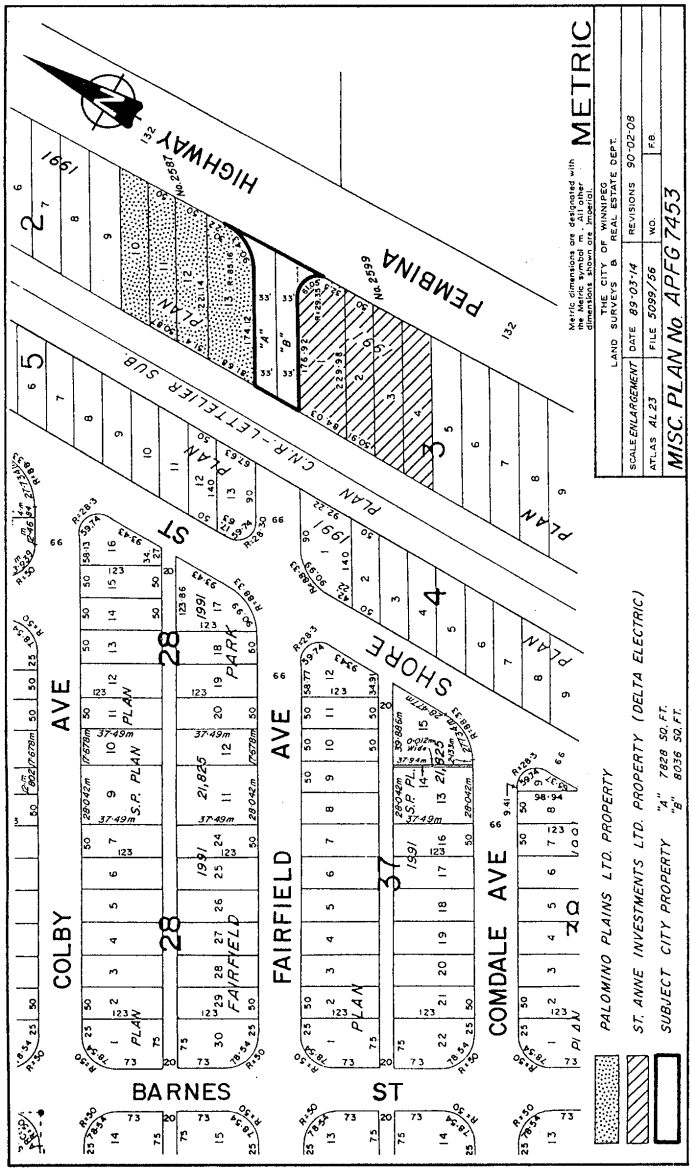

METRIC
Metric dimensions are designated with the Metric symbol m. All other dimensions shown are Imperial.
THE CITY OF WINNIPEG
LAND SURVEYS & REAL ESTATE DEPT.
SCALE ENLARGEMENT
DATE 89-03-14
REVISIONS 90-02-08
ATLAS AL 23
FILE 5099/56
WO.
F.B.
MISC. PLAN No. APFG 7453
PEMBINA HIGHWAY
COLBY AVE
FAIRFIELD AVE
COMDALE AVE
BARNES ST
SHORE ST
C.N.R.-LETTELIER SUB.
PALOMINO PLAINS LTD. PROPERTY
ST. ANNE INVESTMENTS LTD. PROPERTY (DELTA ELECTRIC)
SUBJECT CITY PROPERTY "A" 7828 SQ. FT. "B" 8036 SQ. FT.

EXHIBIT "A"

Real Owner Application

To the City Assessor

(Name of Municipality) Roll No. _____

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)

File No: 5099/56

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: -

Parcel "B" as shown on Misc. Plan No. APFG 7453

(hereinafter called the "lands")

for the sum of $36,000.00 cash, 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 $5,400.00, and represents an amount equal to fifteen (15%) 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.

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 of the Lands, it shall

(1) ensure that all work done in connection with such Environmental Site Assessment 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

(5) provide copies of any such Environmental Site Assessment 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, 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.

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. It is further understood and agreed between the parties that:

(a) The Purchaser agrees to be fully responsible for all activities and associated costs to create a Plan of Subdivision and the legal closing of streets and lanes if necessary including:

(i) the cost of preparation and registration of the subdivision, easement and closing plans;

(ii) any and all costs associated with the legal and physical closing of the open right-of-way lying within the Subject Land; and

(b) The Purchaser will be responsible for all costs of developing the Subject Land including the servicing of the Land;

(c) The Purchaser will be acquiring the Subject Land in an "as-is, where-is" condition and has satisfied itself as to soil conditions zoning, access and environmental concerns;

(d) The Purchaser will be responsible for any and all costs associated with applications related to zoning, variances and conditional uses including application and processing costs the payment of any dedication fees owing;

(e) The Purchaser and the City shall each pay their own legal and other consultant's fees with respect to this sale.

13.. It is understood and agreed that title to the subject property is to be consolidated with the title to the adjacent lands lots 1/4 block 3 plan 1991.

14. Time shall be of the essence of this Offer.

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

16. 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.

17. 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.

18. 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.

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

BURNS HOLDINGS LTD 406 45. ST. E
Name (Please Print) Address
SASKATOON SASK. S7K0W2

Purchaser's Registration No. (G.S.T.) 133020834 RT0001

IN WITNESS WHEREOF the Purchaser has signed this document in

SASKATOON, SASK., this 24th day of JUNE 2003

Witness Authorized Signature

TIM BURNS PRESIDENT
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

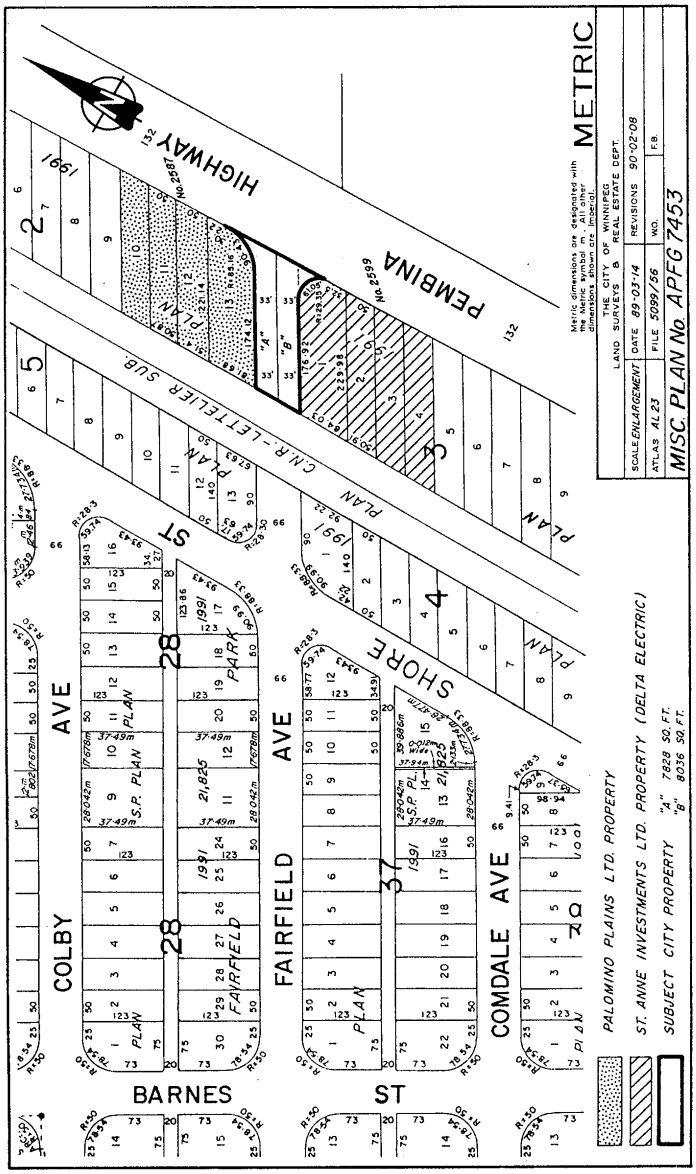

METRIC
THE CITY OF WINNIPEG
LAND SURVEYS & REAL ESTATE DEPT.
SCALE ENLARGEMENT
DATE 89-03-14
REVISIONS 90-02-08
ATLAS AL23
FILE 5099/66
W.O.
F.B.
MISC. PLAN No. APFG 7453
HIGHWAY 32
PEMBINA
C.N.R. - LETTELIER SUB. PLAN
SHORE PLAN
COLBY AVE
FAIRFIELD AVE
COMDALE AVE
BARNES ST
PARK
S.P. PLAN
PALOMINO PLAINS LTD. PROPERTY
ST. ANNE INVESTMENTS LTD. PROPERTY (DELTA ELECTRIC)
SUBJECT CITY PROPERTY
"A" 7828 SQ. FT.
"B" 8036 SQ. FT.

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:

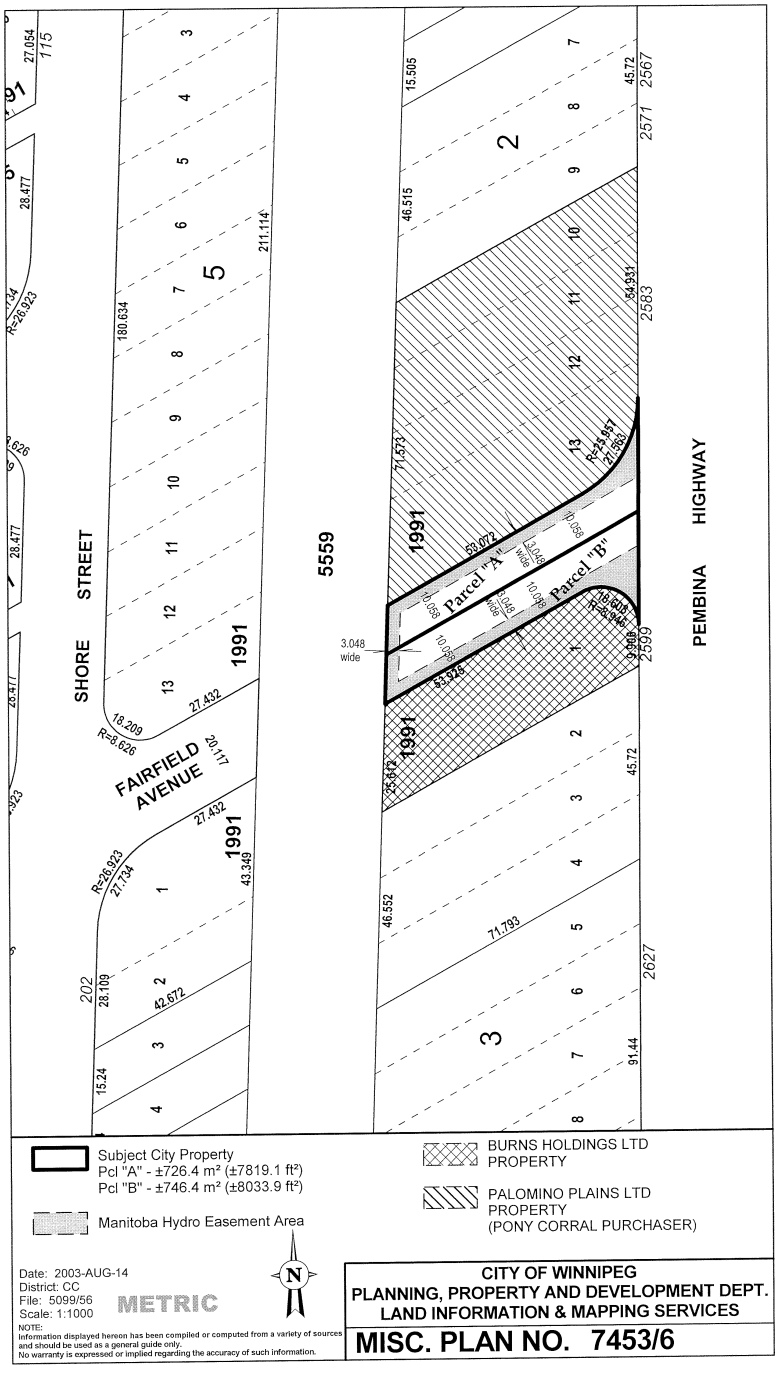
Dwellings _____

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)


SHORE STREET
FAIRFIELD AVENUE
PEMBINA HIGHWAY
Parcel "A"
Parcel "B"
5559
1991
3.048 wide
Subject City Property
Pcl "A" - ±726.4 m² (±7819.1 ft²)
Pcl "B" - ±746.4 m² (±8033.9 ft²)
Manitoba Hydro Easement Area
BURNS HOLDINGS LTD PROPERTY
PALOMINO PLAINS LTD PROPERTY
(PONY CORRAL PURCHASER)
Date: 2003-AUG-14
District: CC
File: 5099/56
Scale: 1:1000
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. 7453/6