Minute No. 683
Report - Standing Policy Committee on Property and Development - September 30, 2003

Item No. 15 **Sale of City-owned Land at the northeast corner of King Edward Street and Gallagher Avenue to KR Auto Ltd.- Adjoining 2031 Logan Avenue**
File FI-2.4(31)

COUNCIL DECISION:

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

1. That the portion of the City-owned property shown outlined and identified as "Proposed Sale" on Misc. Plan No. 6164/5 be declared surplus to the City's requirements.

2. That the sale of the subject City-owned property, as shown outlined and identified as "Proposed Sale" on Misc. Plan No. 6154/5, to KR Auto Ltd. (Krzysztof Rygiel) be approved at a price of $7,500.00 and in accordance with the terms and conditions of the Offer to Purchase dated June 9, 2003.

3. 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 - September 30, 2003

DECISION MAKING HISTORY:

Moved by Councillor Vandal,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 15, 2003, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 30, 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: **Proposed Sale of City-owned Land at the Southeast Corner of King Edward Street and Gallagher Avenue to KR Auto Ltd.- Adjoining 2031 Logan Avenue**
Assiniboia Community
St. James – Brooklands Ward

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

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

Report date: September 18, 2003

Recommendation(s):

That subject to Council declaring that portion of the City-owned property shown outlined and identified as "Proposed Sale" on Misc. Plan No. 6164/5, attached, surplus to the City's requirements:

1. That the proposed sale of that portion of the City-owned property shown outlined and identified as "Proposed Sale" on Misc. Plan No. 6164/5, attached, in favour of KR Auto Ltd. (Krzysztof Rygiel), for the purchase price of $7,500.00 be approved in accordance with the terms and conditions of the attached form of Offer to Purchase dated June 9, 2003.

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

REPORT SUMMARY

Key Issues:

- The lands located at the northeast corner of Logan Avenue and King Edward Street were acquired by the City in 1979 from Gulf Canada for the widening of Route 90 (CN Oakpoint and CP Mainline underpass) and a portion of Logan Avenue.
- In 1995, the City sold a portion of the said lands that were deemed surplus to the widening project to KR Auto Ltd., which are shown hatched on Misc. Plan No. 6164/5, attached.
- In the fall of 2002, the proprietor of KR Auto Ltd., Krzysztof Rygiel (Kris) advised the Department of his intention to expand his business operation and his interest to acquire the City-owned land directly north of his property.
- A canvas of all City Departments has concluded that are no objections to sale of the subject City-owned property.

- At its meeting held on November 12, 2002 the Assiniboia Community Committee recommended that the subject City-owned property be deemed surplus to the City's needs and made available for sale to KR Auto Ltd.
- The Planning, Property and Development Department is recommending the sale of that portion of the City-owned property shown outlined and identified as "Proposed Sale" on Misc. Plan No. 6164/5 in favour of KR Auto Ltd. for the purchase price of $7,500.00 be approved in accordance with the terms and conditions of the attached form of Offer to Purchase dated June 9, 2003.

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):

-

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:

In accordance with the Council Order of July 18, 1979, once Council has declared land surplus to the City's requirements the Standing Policy Committee on Property and Development shall finalize all sales, including terms and conditions, for which the Director of the Planning, Property and Development Department has no authority. In this regard, the Planning, Property and Development Department, Real Estate Division, has successfully negotiated the terms and conditions of sale of that portion of the City-owned property shown outlined and identified as "Proposed Sale" on Misc. Plan No. 6164/5, attached, subject to Council declaring same as surplus to the City's requirements. This report seeks Council's approval to declare the subject land as surplus to the City's needs and to the proposed sale as recommended.

HISTORY:

The lands located at the northeast corner of Logan Avenue and King Edward Street were acquired by the City in 1979 from Gulf Canada for the widening of Route 90 (CN Oakpoint and CP Mainline underpass) and a portion of Logan Avenue. In 1995, the City sold a portion of the said lands that were deemed surplus to the widening project to KR Auto Ltd., which are shown hatched on Misc. Plan No. 6164/5, attached.

In the fall of 2002, the proprietor of KR Auto Ltd., Krzysztof Rygiel (Kris) advised the Department of his intention to expand his business operation and his interest to acquire the City-owned land directly north of his property shown outlined and identified as "Proposed Sale" on the said Misc. Plan. If purchased, the additional land would be fenced together with his current property holding and used for the storage of equipment, in conjunction with his adjoining business operations.

Details of the subject property are as follows:

Location:	Northeast corner of Logan Avenue and King Edward Street
Legal Description:	Part Lot 2, Plan 35252
Certificate of Title:	1533141
Roll Number:	07-092042500
Total Assessment (2003):	Not apportioned
Realty Taxes (2003):	$390.00 ±
Zoning:	"M1" – Industrial District
Servicing:	All typical services are available
Site Size:	287.2 m^2 (3,091.4 ft^2)

DISCUSSION:
A canvas of all City Departments has concluded that are no objections to sale of the subject City-owned property. The Water and Waste Department has indicated, however, that should the subject land be sold to the adjoining owner, an easement agreement in favour of the City would be required for the continued maintenance of a 250mm catch basin lead passing through the property, which serves the applicant's property. The Public Works Department has indicated that the two metre strip of land fronting King Edward Street must be retained by the City for top of slope rounding and protection. Furthermore, the Public Works Department has advised that should the property be sold, it will require future access to the site for maintenance purposes on the underpass embankment in the event of slope failures. K.R Auto has been made aware of these City requirements and is agreeable with same.

At its meeting held on November 12, 2002 the Assiniboia Community Committee recommended that the subject City-owned property identified as "Proposed Sale" on Misc. Plan No. 6164/5, attached, be deemed surplus to the City's needs and made available for sale to KR Auto Ltd.

In this regard, the Planning, Property and Development Department prepared the City's standard form of Offer to Purchase and provided same to Mr. Rygiel. In June of this year, the Department received the executed Offer, details of which are as follows:

Purchaser:	KR Auto Ltd.
Offered price:	$7,500.00
Deposit amount:	$1,125.00 (Personal Cheque) – received
Special Conditions:	Purchaser agrees to enter into easement agreements in favour of the City for the continued maintenance of the 250mm catch basin lead and for access to the entire site for maintenance purposes of the underpass embankment.

The Planning, Property and Development Department has reviewed the Offer and recommends that the sale of that portion of the City-owned property shown outlined and identified as "Proposed Sale" on Misc. Plan No. 6164/5 in favour of KR Auto Ltd. for the purchase price of $7,500.00 be approved in accordance with the terms and conditions of the attached form of Offer to Purchase dated June 9, 2003. The proposed purchase price is supported by an internal appraisal report, which was conducted by the Department.

The subject property is best sold to this applicant. Notwithstanding that the attached Misc. Plan illustrates that Gallagher Avenue intersects with King Edward Street, there is no realistic expectation that this property can be sold to others as these properties lie at the top of the easterly embankment to King Edward Street Grade Separation. As there is no possibility for access to King Edward Street, the only means of access to the subject city property is through the public lane lying to the east of King Edward Street and intersecting at Logan Avenue. The easements which will be retained will limit the developability of the subject city property.

For Committee's information, Mr. Rygiel has also advised the Department that in the future he may be interested in acquiring the remaining City-owned lands to the north including Gallagher Avenue, which is legally opened but not physically developed. As such, the Department is currently examining as to whether those lands (including the public street) could be deemed surplus to the City and offered for sale.

The net sale proceeds will be credited to the Land Operating Reserve Account.

Financial Impact Statement

Date: September 18, 2003

Project Name:

Sale of a portion of Lot 2, Plan 35252 adjoining 2031 Logan Avenue - KR Auto Ltd.

First Year of Program 2003

	2003	2004	2005	2006	2007
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
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	7,500	167	167	167	167
Net Cost/(Benefit)	$ (7,500)	$ (167)	$ (167)	$ (167)	$ (167)
Less: Existing Budget Amounts	(7,500)	(167)	(167)	(167)	(167)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments:

Proceeds of the sale of $7,500 in the 2003 program year does not include any prorated municipal realty taxes as it is assumed that the transaction would not close until the end of the year. Recoveries of $167 in years 2004 through 2007 represents municipal realty taxes the City will receeive and assumes no increase in the assessed value of the property nor any change to the Municipal Mill Rate.

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

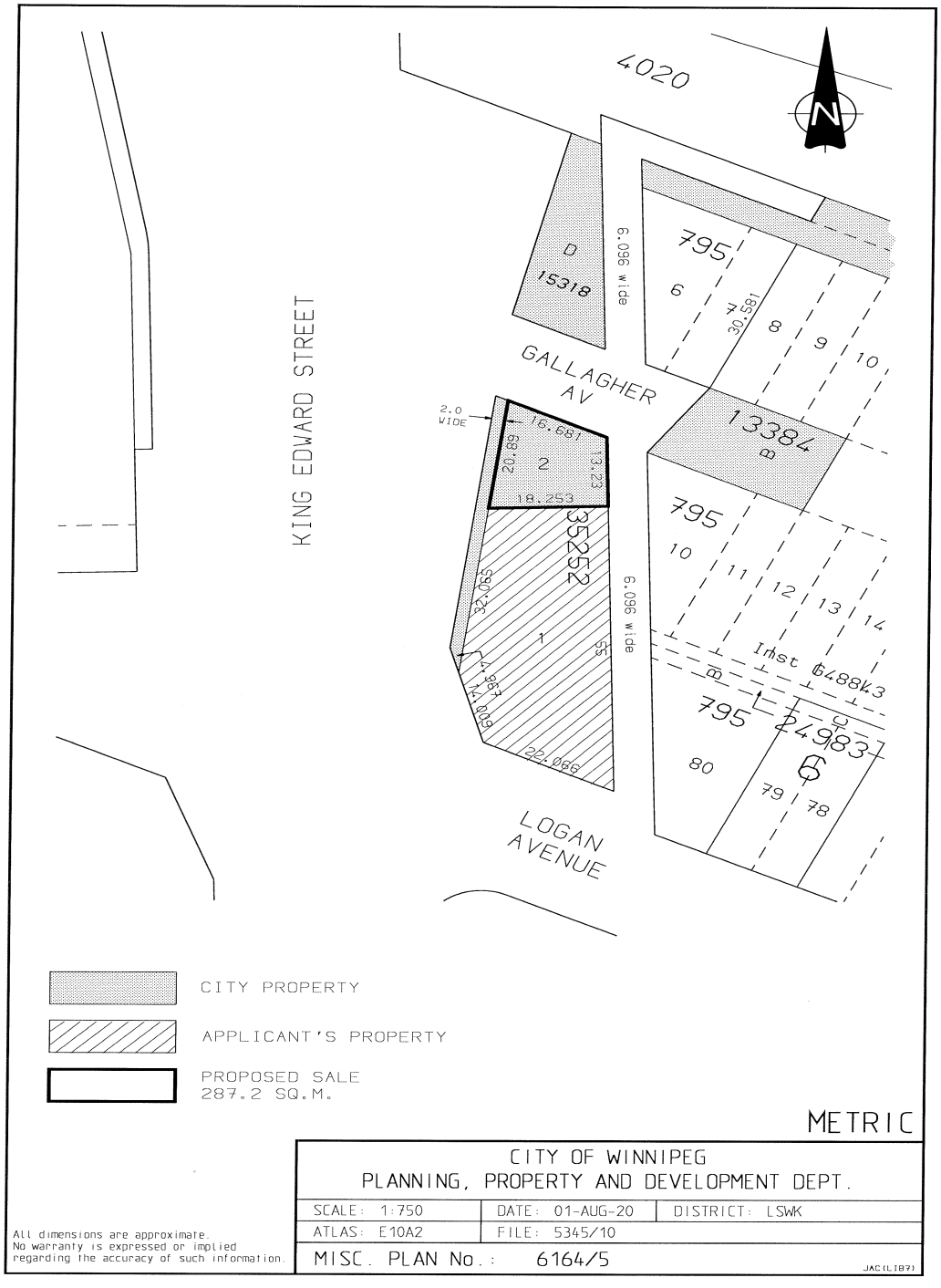
IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

No consultation was required in the preparation of this report.

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Real Estate Division
Prepared by: John S. Zabudney
PPD File #: 5345/10

Document name: o:\reports directive\real estate\sales\(jz)kr auto ltd.doc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LOGAN AVENUE
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2.0 WIDE
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55
14.967
14.009
22.066
CITY PROPERTY
APPLICANT'S PROPERTY
PROPOSED SALE
287.2 SQ.M.
METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
SCALE: 1:750
DATE: 01-AUG-20
DISTRICT: LSWK
ATLAS: E10A2
FILE: 5345/10
MISC. PLAN No.: 6164/5
All dimensions are approximate.
No warranty is expressed or implied
regarding the accuracy of such information.
JAC(LIB7)

File No: 5345/10 (II)

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: -

Part Lot 2, Plan 35252 WLTO identified as "Proposed Sale" on Misc. Plan No. 6164/5, attached hereto

(hereinafter called the "lands")

for the sum of $7,500.00 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 $1,125.00, and represents an amount equal to fifteen (15%) 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), herein after called the "Date of Approval". 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 one hundred and twenty (120) days following the Date of Approval or earlier as mutually agreed to.

(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 or the date the balance of monies is paid to the City, whichever is the earlier.

(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. Furthermore, the Purchaser acknowledges and understands that its proposed use and development of the lands may require applications for re-zoning, variances or conditional uses, amendments to Plan Winnipeg, which applications and resulting land dedication charges (if any) are to be at the sole cost and responsibility of the Purchaser.

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 approval of the sale by the City, the Purchaser agrees to make application to the City Assessor (in form set out in Exhibit "A" attached) to have the Purchaser's name added to the Assessment Roll of the City as the Real Owner in respect of the lands.

9. The Purchaser agrees that in the event the Purchaser, at its sole cost, conducts or causes to be conducted an Environmental Site Assessment and/or soil testing of the lands, it shall:

(1) ensure that all work done in connection with such Environmental Site Assessment and/or soil testing is completed no later than ninety (90) days from the Date of Approval, and

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

(3) restore the lands to the same condition as prior to its entering in or upon same in pursuance of this Clause 9; and

(4) indemnify and save harmless the City from and against all damages and claims arising out of or in any way attributable to the conduct of any such Environmental Site Assessment and/or soil testing; and

(5) provide copies of any such Environmental Site Assessment and/or Report concerning soil testing of the said lands to the City for its own use, at no cost to the City no later than ninety (90) days from the Date of Approval.

AND in the event it is determined as a result of said Environmental Site Assessment and/or soil testing, that contamination levels exceed Provincial Environmental Standards for the intended use of the lands and documentation to that effect is produced to the City within ninety (90) days following the Date of Approval, but in any event, prior to closing, 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 ninety (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 acknowledges that the City is not providing any warranty as to the environmental condition of the lands.

(2) The Purchaser agrees that it will rely solely upon its own investigations in determining the degree of contamination, if any, existing on and within the lands and the extent of contamination, if any.

(3) The Purchaser shall indemnify and save harmless the City from and against all claims, costs and damages arising from or in any way connected with the existence of contaminants of any kind in or on the lands.

(4) It is understood and agreed that the terms, conditions and covenants contained in this Clause 10 shall not merge but shall survive closing.

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. (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 further covenants and agrees that it will concurrent with its execution of this Offer, enter into Easement Agreements with the City in the form similar to those set out in Exhibit "B" and Exhibit "C" attached hereto.

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

13. In consideration of the sale of the lands by the City to the Purchaser, the Purchaser covenants and agrees as follows:

(1) The Purchaser shall at the Purchaser's sole cost, effort and expense, do all things as are necessary, including but not limited to causing to be prepared and registered at the Winnipeg Land Titles Office a Plan of Subdivision which will create one lot comprising of all of the lands to be conveyed to the Purchaser together with one lot for the residual City-owned lands and any documentation as may be required.

(2) The Purchaser to pay the applicable Land Titles Office registration fees and Land Transfer Tax in respect thereto.

14. No commission is payable by the City on the sale of the lands.

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

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

17. 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.

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 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.

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

KR AUTO BODY LTD 2031 LOGAN AV

Name (Please Print) Address

Purchaser's Registration No. (G.S.T.) 811591178 RT

IN WITNESS WHEREOF the Purchaser has signed this document in

_____, this 09 day of June, 2003.

_____ _____

Witness Authorized Signature

_____

Name and Title of Authorized Signature (Please print)

_____ _____

Witness Authorized Signature

_____

Name and Title of Authorized Signature (Please print)

THE CITY OF WINNIPEG

Per: _____
DIRECTOR of Planning, Property and Development

Approved as to details:

_____
Planning, Property and Development

Approved as to form:

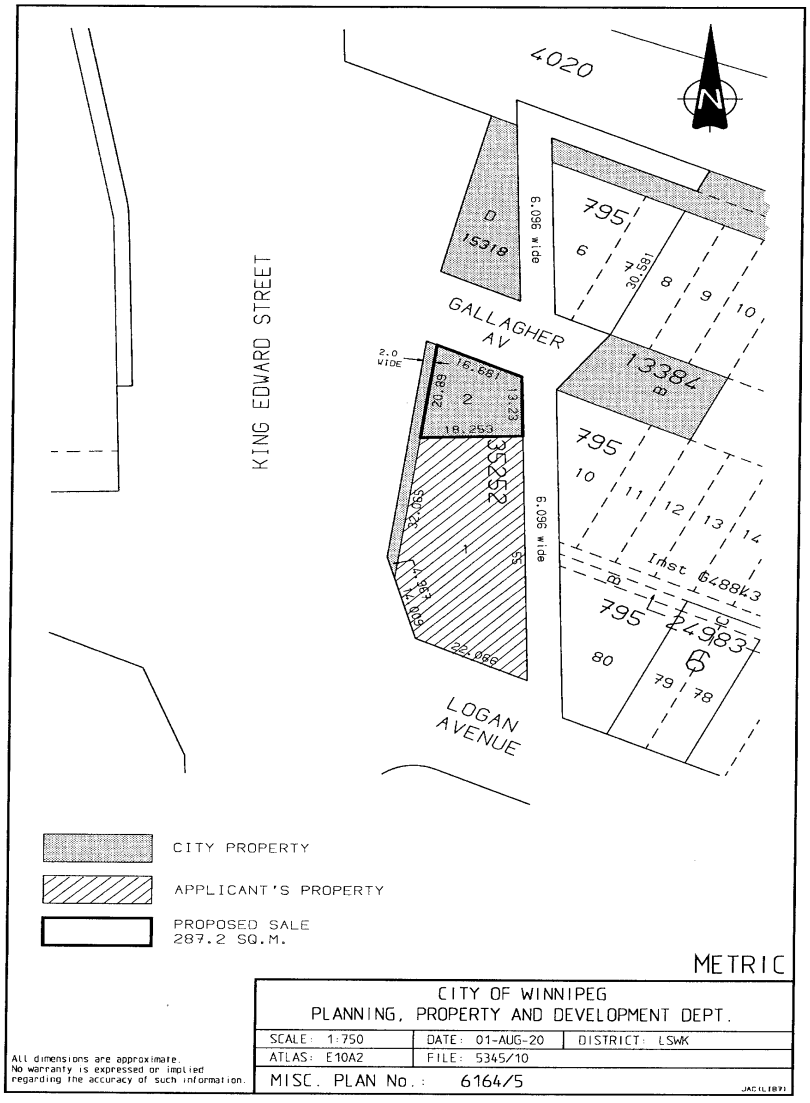
_____
for City Solicitor/Manager of Legal Services

Approved as to details:

_____
Public Works Department

Approved as to details:

_____
Water and Waste Department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CITY PROPERTY
APPLICANT'S PROPERTY
PROPOSED SALE
287.2 SQ.M.
METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
SCALE: 1:750
DATE: 01-AUG-20
DISTRICT: LSWK
ATLAS: E10A2
FILE: 5345/10
MISC. PLAN No.: 6164/5
All dimensions are approximate.
No warranty is expressed or implied
regarding the accuracy of such information.

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	Plan or Range	Interest in Property

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: _____ 20 ___ _____
(Signature of Applicant)

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

EXHIBIT "B"

Land Drainage Sewer File No.

EASEMENT AGREEMENT

THIS AGREEMENT made in duplicate this day of A. D. 2002

BETWEEN:

K R AUTO LTD.,

(hereinafter called the "Owner"),

OF THE FIRST PART,

- and -

THE CITY OF WINNIPEG,

(hereinafter called the *"City"*),

OF THE SECOND PART.

IN CONSIDERATION of the sums of ONE DOLLAR ($1.00) paid by each party to the other (the receipt and sufficiency of which is hereby acknowledged) and the covenants and agreements hereinafter contained, the Owner and the City covenant and agree as follows:

1. The Owner hereby grants and conveys to the City in perpetuity the right and easement to enter upon and use that portion of the Owner's land hereinafter described as the "Easement Area" and the right to do all things necessary thereon to construct, maintain, repair or replace a land drainage sewer line(s) and appurtenances thereto in the Easement Area and for every such purpose grants and conveys to the City the right of access to the Easement Area over and across the Owner's land (hereinafter described as "the Land") at all times by its servants and employees or other persons acting with its authorization.

2. The City agrees and undertakes to leave the Easement Area and the Land in good condition after any work done in connection with such construction, maintenance, repair or replacement, and to indemnify the Owner against any suits, actions, claims or demands arising out of such work.

3. The City hereby covenants and agrees to be responsible for damage to the Easement Area and the Land and any buildings thereon, and/or injury to the persons of the Owner and any other person being on the said Land and Easement with the consent, express or implied, of the Owner, arising out of the negligence of the City's servants or employees or other persons acting with the City's authorization including but not limited to independent contractors hired by the City in the construction, maintenance, repair and/or replacement of the work.

4.(a) Subject to permission, if any, printed on Schedule "A" for projection of roof eaves, the Owner covenants and agrees that the Owner will not erect or permit the erection of any building or other structure, other than paving or fencing, in, over or upon the Easement Area or any part thereof without the prior written permission of the Director of the Water and Waste Department.

(b) Under the City's Sewer By-law interference with any part of the City's sewer or land drainage system is prohibited and the Owner shall not do so in any manner, including the covering of any catch basin, alteration or attempted alteration of its level, removal of any catch basin top or any obstruction of water flow.

5. Paving or fencing may be constructed on the Easement Area provided there is a minimum of six inches clearance between the ground and the bottom of the fencing (except for supporting posts spaced not closer together than one foot) to allow

unrestricted flow of water.

6. The Owner covenants and agrees with the City that the easement and rights hereby granted shall run with the Land and shall enure to the benefit of the City, its successors and assigns and shall be binding upon the Owner and the Owner's successors in title of the Land or any part thereof.

7. The Land affected by this agreement is described as:

"INSERT LEGAL DESCRIPTION"

and includes the Easement Area illustrated on the drawing attached as Schedule "A" to this agreement described as:

"INSERT LEGAL DESCRIPTION"

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and year first above written.

SIGNED, SEALED and DELIVERED)
)
)
in the presence of)
)
_____)
signature of witness)
)
_____)
name of witness)

K R AUTO LTD.

"Authorized Signatory"

_____

THE CITY OF WINNIPEG

"Authorized Signatory"

_____
for Director of the Planning, Property and Development Department

Certified as to Details:

_____
for Director of Water and Waste

Certified as to Legal Description:

_____
for Planning, Property and Development Department

Certified as to Form:

_____
for City Solicitor/Manager of Legal Services

EXHIBIT "C"

Access File No. R File No. _____

EASEMENT AGREEMENT

THIS AGREEMENT made in duplicate this day of , A. D., 2002,

BETWEEN:

K R AUTO LTD.,
duly registered to carry on business in Manitoba,
(herein called the ***"Grantor"***),

OF THE FIRST PART,

- and –

THE CITY OF WINNIPEG,
(herein called the ***"City"***),

OF THE SECOND PART.

WHEREAS by virtue of a Purchase and Sale Agreement made in writing the day of , A.D., 200__, the Grantor is or is entitled to be the registered owner of lands shown illustrated and identified as ***"GRANTOR'S LAND"*** on Misc. Plan No. _____ hereto attached (herein called ***"the Grantor's Land"***), which land lies adjacent to City owned land shown illustrated and identified as ***"EMBANKMENT LAND"*** on said Misc. Plan;

AND WHEREAS the City has requested permission from the Grantor and the Grantor has agreed to permit the City to enter in, on, over and/or upon the Grantor's Land for the purposes of ingress to and egress from the Embankment Land for any such work as may, at the sole discretion of the City, acting reasonably, be required in order to maintain and/or repair the Embankment Land in a good and safe condition at all times, upon the terms and conditions herein contained;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT IN CONSIDERATION of the sum of ONE DOLLAR ($1.00) paid by each party to the other *(the receipt and sufficiency of which is hereby acknowledged)* and the covenants and agreements herein contained, the Grantor and the City covenant and agree as follows:

1. The Grantor hereby grants and conveys to the City in perpetuity the right and easement to enter upon and use the Grantor's Land and the right to do all things necessary thereon to maintain, construct, repair and/or replace the Embankment Land including without limitation, all improvements and/or appurtenances thereto,

(herein jointly and severally called ***"the Embankment Land"***) and for every such purpose grants and conveys to the City the right of access to the Embankment Lands over and across the Grantor's Land at all times by its servants and employees or other persons acting with its authorization.

2. The City agrees and undertakes to leave the Grantor's Land in as good a condition after any work done in connection with such construction, maintenance, repair or replacement as prior to the commencement of any such work, and to indemnify the Grantor against any suits, actions, claims or demands arising out of such work.

3. The City hereby covenants and agrees to be responsible for damage to the Grantor's Land and any buildings thereon, and/or injury to the persons of the Grantor and any other person being on the Grantor's Land with the consent, express or implied, of the Grantor, arising out of the negligence of the City's servants or employees or other persons acting with the City's authorization including but not limited to independent contractors hired by the City in the construction, maintenance, repair and/or replacement of the Embankment Land.

4. The Grantor covenants and agrees that the Grantor will not erect or permit the erection of any building or other immoveable structure, in, over or upon the Grantor's Land or any part thereof without the prior written permission of the City's Director of Public Works.

5. The Grantor covenants and agrees that it will maintain, to the satisfaction of the City's Director of Public Works, acting reasonably, grade elevations of the Grantor's Land so as to ensure that drainage of surface water flows away from the Embankment Lands.

6. The Grantor covenants and agrees with the City that the easement and rights hereby granted shall run with the Grantor's Land and shall enure to the benefit of the City, its successors and assigns and shall be binding upon the Grantor and the Grantor's successors in title of the Grantor's Land or any part thereof.

7. The Land affected by this agreement is described as:

(legal description)

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and year first above written.

K R AUTO LTD.

Per: _____
Name:
Title: *(affix corporate seal)*

_____
Witness:
Name: _____
(please print)
Address: _____

_____

Per: _____
Name:
Title:

THE CITY OF WINNIPEG

Per: _____
for DIRECTOR of Planning, Property and Development

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Approved:

_____
for Director of Public Works

Approved:

_____
Planning, Property and Development Department

Certified as to form:

_____
for City Solicitor