



OFFICE OF THE
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Order F16-31

CITY OF GRAND FORKS

Elizabeth Barker
Senior Adjudicator

June 27, 2016

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Summary: The applicant requested access to information in a contract between the City of Grand Forks and Neptune Technology Group (Canada) Ltd. regarding a residential water metering system. The City refused to give the applicant access to the requested information on the basis that disclosure could reasonably be expected to harm Neptune's business interests under s. 21(1). The adjudicator found that s. 21 did not apply to the information in dispute and ordered the City to disclose it to the applicant.

Statutes Considered: *Freedom of Information and Protection of Privacy Act*, s. 21(1)(a)(ii), 21(1)(b), 21(1)(c)(i), (ii) and (iii).

Authorities Considered: B.C.: Order 26-1994, 1994 CanLII 1432 (BC IPC); Order 01-20, 2001 CanLII 21574 (BC IPC); Order 01-39, 2011 CanLII 21593 (BC IPC); Order 03-02, 2003 CanLII 49166 (BC IPC); Order 03-15, 2003 CanLII 49182 (BC IPC); Order 03-33, 2003 CanLII 49167 (BC IPC); Order 04-06, 2004 CanLII 34260 (BC IPC); Order 09-22, 2009 CanLII 63564 (BC IPC); Order F12-13, 2012 BCIPC 18 (CanLII); Order F13-17, 2013 BCIPC 22; Order F13-20, 2013 BCIPC No. 27; Order F14-21, 2014 BCIPC 24; Order F14-04, 2014 BCIPC 4.

Cases Considered: *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)* 2014 SCC 31; *Merck Frosst Canada v. Canada (Health)*, 2012 SCC 3; *British Columbia (Minister of Citizens' Services) v. British Columbia (Information and Privacy Commissioner)*, 2012 BCSC 185.

INTRODUCTION

[1] This inquiry concerns the applicant's request under the *Freedom of Information and Protection of Privacy Act* ("FIPPA") for access to "all contracts and legal documents" between the City of Grand Forks ("City") and Neptune Technology Group (Canada) Ltd. ("Neptune"). The City identified one responsive record: a contract between the City and Neptune for the supply and installation of a residential water metering system.

[2] The City consulted with Neptune under s. 23 of FIPPA. After considering Neptune's representations concerning disclosure, the City gave the applicant full access to the contract and schedules A and C to the contract. However, it denied her access to schedule B to the contract on the basis that its disclosure could reasonably be expected to harm Neptune's business interests under s. 21 of FIPPA.

[3] The applicant requested that the Office of the Information and Privacy Commissioner ("OIPC") review the City's decision to refuse her access to schedule B to the contract. Investigation and mediation were not successful in resolving the dispute between the parties, and the applicant requested that the matter proceed to inquiry. The City, Neptune and the applicant provided submissions for this inquiry.

ISSUE

[4] The issue in this case is whether the City is required to refuse to disclose to the applicant information under s. 21(1) of FIPPA. Section 57(1) of FIPPA places the burden on the City to prove that the applicant has no right of access to the information withheld under s. 21.

DISCUSSION

[5] **Background** – In 2014 the City issued a request for proposals ("RFP") for the supply and installation of residential water meters and meter interface units. The City received two proposals in response to the RFP, and Neptune was the successful proponent. The City subsequently entered into a contract with Neptune.

[6] **Information at issue** - During the course of the inquiry Neptune disclosed a severed version of schedule B to the applicant. The applicant subsequently clarified that the only withheld information she still wants is pricing information. She said that she would be "satisfied with the full pricing schedule that is included in Schedule B."¹

¹ Applicant's November 24, 2015 and February 9, 2016 emails.

[7] The applicant identified the two pages which contain the information she wants.² The first page is a chart titled “City of Grand Forks Universal Water Metering Program Schedule of Quantities and Prices”, specifying the required services and products, along with the unit and total prices for each. The only parts of the page being withheld are the unit prices and the total prices. The descriptions of the products/services, the estimated quantity of units and the grand total price have already been disclosed to the applicant. The second page is titled “Schedule of Prices – Additional Details”, and the information being withheld is unit prices (for maintenance) and some explanatory detail regarding the unit prices and materials listed on the first page.

[8] Therefore, I conclude that the only information remaining in dispute in this case is on the above mentioned pages in schedule B. I will not consider the City’s severing decision with regards to the balance of schedule B.³

[9] **Harm to Third-Party Business Interests**—Section 21(1) of FIPPA requires public bodies to withhold information the disclosure of which would harm the business interests of a third party. The relevant portions of s. 21 are as follows:

- 21(1) The head of a public body must refuse to disclose to an applicant information
 - (a) that would reveal
 - ...
 - (ii) commercial, financial, labour relations, scientific or technical information of or about a third party,
 - (b) that is supplied, implicitly or explicitly, in confidence, and
 - (c) the disclosure of which could reasonably be expected to
 - (i) harm significantly the competitive position or interfere significantly with the negotiating position of the third party,
 - (ii) result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied,
 - (iii) result in undue financial loss or gain to any person or organization, ...

² In her May 4, 2016 email to the OIPC Registrar the applicant confirms it is the information on the two severed pages that accompanied Neptune’s March 11, 2016 reply submission.

³ Schedule B is broken into two parts: Neptune’s technical proposal (61 pages) and its pricing proposal (two pages). It is the severing of the latter two pages that is at issue in this case.

[10] The principles to be considered in applying s. 21(1) are well established and I will follow them in this case.⁴ In order to properly withhold information under s. 21(1), a public body must establish the following three elements:

- The information is a trade secret of a third party, or the commercial, financial, labour relations, scientific or technical information of or about a third party;
- The information was supplied to the public body in confidence; and
- Disclosure of the information could reasonably be expected to cause significant harm to the third party's competitive position or the other types of harm as set out in s. 21(1)(c).

Commercial, financial, technical information – s. 21(1)(a)(ii)

[11] The City says that the information in schedule B is clearly Neptune's financial and commercial information because it is about Neptune's equipment, mobile system technology, quantities and unit prices.⁵ Neptune submits that the information in dispute would reveal commercial, financial and technical information of or about Neptune.⁶ The applicant makes no submission on this point.

[12] The withheld information is about the products and services that Neptune will provide to the City and the costs associated with providing them. It is information that relates to the buying and selling of goods and services and it includes the prices payable under the contract. I find, therefore, that all of it is commercial or financial information of or about Neptune.

[13] In my view, one of the excerpts withheld on the second page is also "technical information" of or about Neptune under s. 21(1)(a)(ii). The excerpt is about "an alternate approach" to the requirement in the RFP for "heat tape installation".⁷ Although FIPPA does not define the term "technical information", previous orders have defined it in the context of s. 21(1) as information belonging to an organized field of knowledge in the general categories of applied science or mechanical arts.⁸ It usually involves information prepared by a professional with the relevant expertise and describes the construction, operation and maintenance of a structure, process, equipment or entity. The information in the excerpt withheld on the second page is about an installation technique proposed

⁴ See for example, Order 03-02, 2003 CanLII 49166 (BC IPC); Order 03-15, 2003 CanLII 49182 (BC IPC).

⁵ City's initial submissions, at para 22.

⁶ Neptune's initial submissions, para. 5.

⁷ The information in quotes has already been disclosed to the applicant.

⁸ For example: Order F12-13, 2012 BCIPC 18 at para. 11.

by Neptune, an expert in the area of water meter installation, so I find that it is “technical information” under s. 21(1)(a)(ii).

[14] In conclusion, I find that s. 21(1)(a)(ii) applies to all of the information in dispute on pages one and two.

Supplied in confidence – s. 21(1)(b)

[15] For s. 21(1)(b) to apply, the information must have been supplied, either implicitly or explicitly, in confidence. This is a two-part analysis. The first step is to determine whether the information was supplied to a public body. The second step is to determine whether the information was supplied “in confidence”.

Supplied

[16] The information in dispute is on the last two pages of schedule B to the City and Neptune’s contract. The contract specifically states that schedule B is part of the contract:

23.12 The following Schedules form part of this Agreement:

- Schedule A – RFP Documents
- Schedule B – Contractor’s Proposal Document and Quote
- Schedule C – Insurance Requirements

[17] While the information in dispute was initially supplied by Neptune in its proposal, it is also part of the contractual agreement, and it is in that context that I am considering it here.

[18] The information in dispute is on the pages titled: “City of Grand Forks Universal Water Metering Program Schedule of Quantities and Prices” and “Schedule of Prices – Additional Details”. These two pages are the only place in the contract that show the price the City is to pay for the material, work and services Neptune will provide. In my view, the information in dispute falls within the definition of “Contract Price” in the City and Neptune’s contract. The relevant definitions in the contract say:

1.1 (e) “Contractor’s Quote” means the Contractor’s price quotation, a copy of which is attached hereto as Schedule B.

(f) “Contract Price” means the sum of the products of each unit price stated in the Contractor’s Quote (excluding any amount specified for GST), multiplied by the appropriate actual quantity of each unit price item that is incorporated in or made necessary by the Work, plus lump sums, if any, stated in the Contractor’s Quote.

[19] Previous BC orders have stated that information contained in an agreement negotiated between a public body and a third party will not normally qualify as information that has been “supplied” to the public body.⁹ They have also said that the fact that a term from a proposal is incorporated unchanged in a contract does not mean that the contract term is “supplied” information as opposed to “negotiated” information. For instance, former Commissioner Loukidelis said in Order 03-15:

It would hardly be surprising that terms in a contract arrived at resemble, or are even the same as, terms in the contractor’s proposal. It might well be more unusual for the contract arrived to be completely out of step with the terms of the contractor’s proposal. A successful proponent on an RFP may have some or all of the terms of its proposal incorporated into a contract. As has been said in past orders, there is no inconsistency in concluding that those terms have been “negotiated” since their presence in the contract signifies that the other party agreed to them.¹⁰

[20] There are two circumstances, however, where information in an agreement may be supplied, rather than negotiated information. Delegate Iyer explained those two circumstances as follows in Order 01-39:

Information that might otherwise be considered negotiated nonetheless may be supplied in at least two circumstances. First, the information will be found to be supplied if it is relatively “immutable” or not susceptible of change. For example, if a third party has certain fixed costs (such as overhead or labour costs already set out in a collective agreement) that determine a floor for a financial term in the contract, the information setting out the overhead cost may be found to be “supplied” within the meaning of s. 21(1)(b)...

...The intention of s. 21(1)(b) is to protect information of the third party that is not susceptible of change in the negotiation process, not information that was susceptible of change but, fortuitously, was not changed...

The second situation in which otherwise negotiated information may be found to be supplied is where its disclosure would allow a reasonably informed observer to draw accurate inferences about underlying confidential information that was “supplied” by the third party, that is, about information not expressly contained in the contract...[the public body] must point to specific evidence showing what accurate inferences could be drawn from which contractual terms about what underlying confidentially supplied information. Moreover, as discussed below, where information originally supplied in a bid proposal is simply accepted by the other party and incorporated into a contract, the mere fact that disclosure of the contract will

⁹ Order 04-06, 2004 CanLII 34260 (BC IPC) at para. 45-46. See also Order 01-20, 2001 CanLII 21574 (BC IPC) at para. 81.

¹⁰ Order 03-15, 2003 CanLII 49182 (BC IPC), at para. 66. See also Order 01-20, 2001 CanLII 21574 (BC IPC) at para. 81.

allow readers to learn the terms of the original bid will not shield the contract from disclosure.¹¹

[21] In their respective submissions, the City and Neptune both say that schedule B is Neptune's "proposal", which it supplied in confidence to the City in response to the City's RFP.¹² The City and Neptune cite several orders where it was found that information in an RFP proposal is supplied information.¹³ However, neither party addresses the fact that the information in dispute in this case is part of their negotiated contractual agreement. They also provide no evidence or argument explaining how information in their contract is "supplied" information under s. 21(1)(b) as opposed to "negotiated" information.

[22] The applicant makes no submissions on whether the information in dispute is supplied information.

Analysis and findings - supplied

[23] In this case, the information in dispute appears in schedule B, which is a part of the City's and Neptune's contract. It is information about the contract pricing, specifically unit prices and quantities and additional details about the prices. Pricing information in a contract is normally determined after discussion or negotiation and mutual agreement, and there is no evidence or submissions to suggest that this was not the case here.

[24] Moreover, evidence of what took place during the RFP process, before the contract was signed, supports the conclusion that negotiation would have taken place regarding the information at issue. For example, the language in the RFP clearly indicates that the City anticipated there would be negotiation with the successful proponent.¹⁴ In addition, the City's Chief Administrative Officer says, "The City's then Manager of Engineering recommended to me, based on Urban Systems' evaluation of the proposals, that the City enter into contract negotiations with Neptune for the Project."¹⁵

¹¹ Order 01-39, 2011 CanLII 21593 (BC IPC), at paras. 45, 46 & 50. Upheld on judicial review in *CPR v. The Information and Privacy Commissioner et al (In The Matter of the Judicial Review Procedure Act)*, 2002 BCSC 603. See also Order 26-1994, 1994 CanLII 1432 (BC IPC).

¹² City's initial submissions, para 24 and Neptune's submissions, para. 7-8. I recognize that the City and Neptune's submissions were written before the information in dispute was narrowed to just the final two pages of schedule B.

¹³ Order F14-21, 2014 BCIPC 24; Order F14-04, 2014 BCIPC 4; Order F13-17, 2013 BCIPC 22; Order 09-22, 2009 CanLII 63564 (BC IPC); Order 03-33, 2003 CanLII 49167 (BC IPC); Order F14-21, 2014 BCIPC 24.

¹⁴ Chief Administrative Officer's affidavit, exhibit A (RFP: 1.9 Evaluation, 2.0 Schedule of Prices, Appendix A: Request for Proposals Scoring Guide 2.0 Final Rating and Ranking).

¹⁵ Chief Administrative Officer's affidavit, para. 8. The City retained Urban Systems as consultant to assist with the RFP process.

[25] I have also considered whether s. 21(1)(b) might apply to this contract price information because its disclosure would allow a reasonably informed observer to draw accurate inferences about underlying confidentially supplied information that is not expressly contained in the contract. It is not apparent that this would be the case, and neither the City nor Neptune suggested that it would.

[26] Therefore, I am satisfied that in the context of Neptune and the City's contract - with one exception on the second page that I will discuss in the next paragraph - the information in dispute is negotiated information, not "supplied" information under s. 21(1)(b).

[27] The exception is one sentence on the second page¹⁶ that I find contains supplied information under s. 21(1)(b). It is a factual statement about a past, concluded event, so it is immutable information which could not have been subject to negotiation. From this point forward, I will refer to this information as the "immutable information."

[28] In summary I find that, with one exception, the information in dispute is negotiated information, not information that was "supplied" by Neptune or anyone else. Therefore, s. 21(1)(b) does not apply to it and it cannot be withheld under s. 21 of FIPPA. However, I find that the immutable information on the second page was "supplied" within the meaning of s. 21(1)(b) of FIPPA.

In Confidence

[29] The next step in the s. 21 analysis is to determine whether the immutable information was supplied implicitly or explicitly in confidence. This test for "in confidence" is objective and the question is one of fact. Evidence of the third party's subjective intentions with respect to confidentiality alone is not sufficient.¹⁷

[30] Both the City and Neptune submit that the information in Neptune's proposal was supplied to the City in confidence. The applicant makes no submissions on this point.

[31] Specifically, the City says the following about its usual practices regarding proposals received in response to an RFP:

The City submits that the Record was supplied in confidence, implicitly or explicitly, as required by s. 21(1)(b) of the *Act*. It is the City's policy to receive commercially sensitive information set out in proposals in confidence and not to release this information from the proposals, given the potential for harm to the proponents if such information were released to their competitors. The City opens the proposals received in response to a RFP in public but has a

¹⁶ The third sentence in bullet #5 on the second page.

¹⁷ Order F13-20, 2013 BCIPC No. 27, at para. 22.

policy to only announce the total tendered price of the proposals received and not the details of the proposals.¹⁸

[32] Neptune says the following regarding confidentiality:

Neptune has consistently treated its proposals as confidential. The RFP response in question was clearly submitted under a claim of confidentiality. In this regard, a standalone cover page preceded the proposal itself, explicitly noting that the proposal is considered to be commercially sensitive and that Neptune requested that it not be disclosed.¹⁹

[33] I could not find the cover page Neptune referred to in any of the inquiry materials submitted. However, there is evidence regarding confidentiality in schedule B and in the RFP. For instance, a footer runs across the bottom of the page on which the immutable information is located that says: “CONFIDENTIAL – Copyright 2014 Neptune Technology Group Inc. All rights reserved.” Schedule B also specifically states in its executive summary: “This proposal is considered commercially sensitive and Neptune Technology Group requests that it not be disclosed...”²⁰ Further, the RFP says as follows:

The City is subject to the Freedom of Information and Protection of Privacy Act. That Act creates a right of access to records in the custody or under control of the City, subject to the specific exceptions in that right set out in the Act. The City will receive all Proposals submitted in response to the RFP in confidence. Because of the right of access to information created by that Act, the City does not guarantee that information contained in any Proposals will remain confidential if a request for access in respect of any Proposal is made under the Act.

Proponents are required to keep their Proposals confidential and must not disclose their Proposals or information contained in them, to anyone else without the prior written consent of the City.²¹

[34] Based on the above evidence, I find that the immutable information on the second page was supplied explicitly in confidence when Neptune delivered its proposal to the City. Therefore, I find that s. 21(1)(b) applies to the immutable information.

Reasonable Expectation of Harm – s. 21(1)(c)

[35] It is only necessary for me to consider whether disclosure of information that was supplied in confidence (*i.e.*, the immutable information) could reasonably be expected to result in harm under s. 21(1)(c).

¹⁸ City’s initial submissions at para 23.

¹⁹ Neptune’s initial submission, para. 7.

²⁰ City’s Chief Administrative Officer’s affidavit, exhibit B, p. 4.

²¹ City’s Chief Administrative Officer’s affidavit, exhibit A, p. 8.

[36] While the City does not need to show on a balance of probabilities that the harm will occur if the information is disclosed, it must nonetheless do more than show that such harm is merely possible. The Supreme Court of Canada in *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)*²² said the following about the standard of proof for exceptions that use the language “reasonably be expected to harm” and the type of evidence required to meet that standard:

This Court in *Merck Frosst* adopted the “reasonable expectation of probable harm” formulation and it should be used wherever the “could reasonably be expected to” language is used in access to information statutes. As the Court in *Merck Frosst* emphasized, the statute tries to mark out a middle ground between that which is probable and that which is merely possible. An institution must provide evidence “well beyond” or “considerably above” a mere possibility of harm in order to reach that middle ground... This inquiry of course is contextual and how much evidence and the quality of evidence needed to meet this standard will ultimately depend on the nature of the issue and “inherent probabilities or improbabilities or the seriousness of the allegations or consequences”: *Merck Frosst*, at para. 94, citing *F.H. v. McDougall*, 2008 SCC 53 (CanLII), [2008] 3 S.C.R. 41, at para. 40.

[37] Further, in *British Columbia (Minister of Citizens’ Services) v. British Columbia (Information and Privacy Commissioner)*,²³ Bracken, J. confirmed that it is the release of the information itself that must give rise to a reasonable expectation of harm and that the burden rests with the public body to establish that the disclosure of the information in question could result in the identified harm.

Parties’ submissions on harm

[38] The City submits that disclosure of the information in dispute would result in harm to Neptune’s competitive position and undue financial loss or gain in accordance with ss. 21(1)(c)(i) and (iii) of FIPPA. Specifically, the City says that the information in dispute could be used by Neptune’s competitors to underbid Neptune in future water metering projects, resulting in undue financial loss to Neptune.²⁴

[39] For its part, Neptune submits that ss. 21(1)(c)(i), (ii) and (iii) all apply.²⁵ It says that its unit pricing is of “great competitive sensitivity, as public disclosure of

²² *Ontario (Community Safety and Correctional Services) v. Ontario (Information and Privacy Commissioner)* 2014 SCC 31 at para. 54. Reference is to *Merck Frosst Canada v. Canada (Health)*, 2012 SCC 3.

²³ 2012 BCSC 875 at para. 43.

²⁴ City’s Chief Administrative Officer’s affidavit, para. 13.

²⁵ Neptune’s reply submissions, para. 10.

this level of pricing would provide competitors with the ability to tailor their own future bids to meet or undercut this pricing.”²⁶ Neptune is also concerned with disclosure of its proposal template and submits that disclosure of the “style of presentation and the content, including the details of its public education and outreach methodologies, would have a material negative impact on the company, as it would allow competitors to structure their own future bids to more closely meet the content and form of Neptune’s bids. This would likely result in more lost bids for Neptune, and an unfair and unwarranted competitive advantage to its competitors.”²⁷

[40] The applicant provides no submissions related to the issue of harm.

Analysis and findings - harm

[41] The City and Neptune’s submissions about how disclosure of the information in dispute could reasonably be expected to result in the harms under ss. 21(1)(c)(i),(ii) and (iii) were clearly written to address the information that was in dispute at the outset of the inquiry, namely all of schedule B. Their submissions, in large part, are not applicable to the immutable information, which contains no pricing information and reveals nothing about Neptune’s education and outreach methodologies or its RFP template.²⁸

[42] Sections 21(1)(c)(i) and (iii) - The City and Neptune argue that disclosure of the withheld information could reasonably be expected to significantly harm Neptune’s competitive position, interfere significantly with its negotiating position, and result in undue financial loss or gain. They explain that the business of providing water metering service to municipalities is extremely competitive and that disclosure of the withheld information will allow Neptune’s competitors to undercut its prices in future competitive bidding processes. However, they provide no evidence or explanation about upcoming competitive bidding situations or current negotiations where Neptune’s interests are at risk of being harmed. Further, Neptune’s and the City’s submissions do not pertain to, or indicate how, the matters revealed by the immutable information would interest Neptune’s competitors. I cannot see how the immutable information would be of any interest or use to Neptune’s competitors, given that it reveals none of the types of information that Neptune says its competitors would take advantage of (*i.e.*, price, education and outreach methodologies and proposal format). In addition, Neptune and the City do not explain, or provide evidence that indicates, how disclosure of the specific information I am considering here could cause a financial loss or gain, let alone an “undue” loss or gain.

²⁶ Neptune’s reply submissions, para. 7.

²⁷ Neptune’s Director’s affidavit, para. 16.

²⁸ Neptune has already disclosed the majority of the first and second pages, so any proposal format is already obvious. Further, there is nothing even remotely unique or proprietary about the format of either page (the first is clearly the City’s RFP pricing template).

[43] Therefore, I am not satisfied that disclosure of the immutable information could reasonably be expected to significantly harm Neptune's competitive position or interfere significantly with its negotiating position under s. 21(1)(c)(i) or result in undue financial loss or gain under s. 21(1)(c)(iii).

[44] Section 21(1)(c)(ii) – Neptune also submits that disclosure could reasonably be expected to result in similar information no longer being supplied to the public body when it is in the public interest that similar information continue to be supplied.²⁹ It says that “it is in the interests of municipalities to receive fulsome and comprehensive RFP proposals, which allow the public body to perform due diligence before committing public funds to a contract.”³⁰ However, it did not provide evidence or submissions that explain how disclosure of information of the type that I am considering here (*i.e.*, the immutable information) could reasonably be expected to result in similar information no longer being supplied to the City. Absent any explanation or evidence on this point, I am not satisfied that disclosing the immutable information could reasonably be expected to result in harm under s. 21(1)(c)(ii).

[45] Finally, Neptune argues that disclosing any information that identifies municipalities, with which it has previously done business, would disclose those municipalities' commercial information without their consent. This argument is relevant with regards to the immutable information. However, even if disclosure took place without consent, in my view it is not evident how this would result in any of the harms in s. 21(1)(c) and Neptune does not explain.

[46] In conclusion, I am not satisfied that disclosure of the information in dispute that was supplied in confidence under s. 21(1)(b) – namely the immutable information - could reasonably be expected to result in harm under ss. 21(1)(c)(i),(ii) or (iii).

[47] **Summary** - I find that s. 21(1)(a)(ii) applies to all of the information in dispute on the two pages at issue (*i.e.*, “City of Grand Forks Universal Water Metering Program Schedule of Quantities and Prices” and “Schedule of Prices – Additional Details”) because it is commercial, financial and technical information of or about Neptune. However, I find that most of this information was not “supplied in confidence” under s. 21(1)(b). Therefore, s. 21 does not apply to that information and the City cannot refuse the applicant access to it under that exception.

[48] However, I find that a small amount of information - the immutable information - was supplied in confidence. Although I find that the immutable information was supplied in confidence, the City has not established that

²⁹ The City did not submit that harm under s. 21(1)(c)(ii) applies in this case.

³⁰ Neptune's initial submissions, para. 23.

disclosing it could reasonably be expected to result in harm under ss. 21(1)(c)(i),(ii) or (iii). Therefore, the City cannot refuse the applicant access to it under s. 21.

CONCLUSION

[49] For the reasons above, I make the following order under s. 58(2)(a) of FIPPA:

1. The City is not authorized under s. 21 of FIPPA to refuse to give the applicant access to the information in dispute on the two pages entitled the “City of Grand Forks Universal Water Metering Program Schedule of Quantities and Prices” and the “Schedule of Prices – Additional Details”). The City is required to give the applicant access by August 10, 2016.
2. The City must concurrently copy the OIPC Registrar of Inquiries on its cover letter to the applicant, together with a copy of the records.

June 27, 2016

ORIGINAL SIGNED BY

Elizabeth Barker, Senior, Adjudicator

OIPC File: F14-58891