Minute No. 585
Report - Standing Policy Committee on Property and Development - June 26, 2007

Item No. 21 **Encroachment Agreement - Winnipeg Regional Health Authority - New Parkade to the existing Health Sciences Centre Tunnel System (Tecumseh Tunnel) - Emily Street Right-of-Way**
File ED (34)

COUNCIL DECISION:

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

1. That an Encroachment Agreement be approved in favour of Winnipeg Regional Health Authority to construct and maintain an underground tunnel connecting the new parkade to the existing Health Sciences Centre Tunnel System (Tecumseh Tunnel) encroaching within the Emily Street Right-of-Way, shown as 'Encroachment Area' on Misc. Plan No. 13140/1, in accordance with the terms and conditions outlined on Schedule A to the report from the Acting Director of Planning, Property and Development dated June 14, 2007; the Agreement to provide for such other terms and conditions as are deemed necessary by the Acting Director of Planning, Property and Development and the City Solicitor/Manager of Legal Services to protect the City's interests.

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

Report - Standing Policy Committee on Property and Development - June 26, 2007

DECISION MAKING HISTORY:

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 11, 2007, 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 June 26, 2007, the Standing Policy Committee on Property and Development concurred in the administrative recommendation and submitted the matter to the Executive Policy Committee and Council.

RE: **Proposed Encroachment Agreement in Favour of Winnipeg Regional Health Authority to Construct and Maintain an Underground Tunnel Connecting the New Parkade to the Existing Health Sciences Centre Tunnel System (Tecumseh Tunnel) Encroaching within the Emily Street Right-of-Way**
Lord Selkirk-West Kildonan Community
Point Douglas Ward

FOR SUBMISSION TO: Standing Policy Committee on Property and Development

ORIGINAL REPORT SIGNED BY: Director of Planning, Property and Development

REPORT DATE: June 14, 2007

RECOMMENDATION:

1. That Council approve an Encroachment Agreement in favour of Winnipeg Regional Health Authority to construct and maintain an underground tunnel connecting the new parkade to the existing Health Sciences Centre Tunnel System (Tecumseh Tunnel) encroaching within the Emily Street Right-of-Way, shown as 'Encroachment Area' on Misc. Plan No. 13140/1 attached, in accordance with the terms and conditions outlined on attached Schedule A; the Agreement to provide for such other terms and conditions as are deemed necessary by the Director of the Planning, Property and Development Department and by the City Solicitor/Manager of Legal Services to protect the City's interests.

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 Planning, Property and Development Department has negotiated proposed terms and conditions of an Encroachment Agreement in favour of Winnipeg Regional Health Authority for the construction and maintenance of an underground tunnel within the Emily Street Right-of-Way.

- This report seeks approval of the Encroachment Agreement as negotiated.

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

( ) Involves a multi-year contract

Comment(s):

Policy Implications

(x) No
( ) Yes
Comment(s):

Regulatory Implications

(x) None
( ) Eliminates or reduces regulatory impact
( ) Proposes regulatory impact

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):

Report

REASON FOR THE REPORT:

In accordance with the Council Order of July 18, 1979, the Standing Policy Committee on Property and Development shall authorize the leasing or rental of City properties for which the Director of the Planning, Property and Development Department has no authority. In this regard, the Department has negotiated a proposed Encroachment Agreement in favour of Winnipeg Regional Health Authority for the construction and maintenance of an underground tunnel within the Emily Street Right-of-Way shown as 'Encroachment Area' on Misc. Plan No. 13140/1 attached. This Report seeks Council's approval of the Encroachment Agreement.

HISTORY:

Stantec Architecture Ltd., on behalf of the Health Sciences Centre, submitted an encroachment application to the Zoning and Permits Branch of the Planning, Property and Development Department for the proposed construction and maintenance of an underground tunnel, to be used to connect the new parkade to the existing Health Sciences Centre tunnel system within the Emily Street Right-of-Way.

The application was circulated to various City departments and public utilities for consideration and comments. No objections were received for the proposed development and use of the subject Right-of-Way.

DISCUSSION:

Pursuant to Section 4(1)(d) of the City's Encroachment By-law No. 692/74, the Department has concluded its negotiations of an Encroachment Agreement with Winnipeg Regional Health Authority and both parties concur that the proposed terms and conditions are fair and reasonable. As well, the proposed terms and conditions are consistent with other such Encroachment Agreements for similar uses.

Briefly, the terms and conditions of the Encroachment Agreement agreed to by Winnipeg Regional Health Authority are as follows:

Use:	Construction and maintenance of an underground tunnel
Area:	Shown and identified as 'Encroachment Area' on Misc. Plan No. 13140/1
Term:	Annual continuing commencing June 1st, 2007
Rental:	$704.00 per annum, plus applicable GST, computed on the basis of the fees outlined in the City of Winnipeg Encroachment By-law No. 692/74 and amendments thereto, in the event that the By-law is amended, changing the fees charged for encroachments, the rental paid under this agreement shall be adjusted accordingly
Insurance:	Property and Liability insurance requirements have been updated by the Risk Management Branch staff as deemed appropriate to cover the scope, terms and conditions of the agreement.
Cancellation:	180 days written notice

Conditions:

- The Designated Encroachment Officer is prepared to approve the application subject to the applicant entering into an Encroachment Agreement with the City of Winnipeg within six (6) months, or alternatively obtain an extension of time with which to execute an Encroachment Agreement;

- The construction and maintenance of the Encroachment Area will be performed at the sole cost, expense and effort of the tenant, including, obtaining all permits required to develop, occupy and utilize the Encroachment Area for its intended use prior to any development;

- That if there are any existing Hydro/Gas or MTS facilities which require removal and/or relocation as a result of this application, the costs will be at the expense of the developer and/or customer;

- That Stantec Architecture Ltd. must submit detailed engineering plans and profile construction drawings, showing the proposed structure in relation to all existing Water and Waste Department plant, to the Underground Structures Branch of the Public Works Department for review and approval. Failure by Stantec to adhere to this condition will result in the Water and Waste Department revoking this approval;

- A submission to the Underground Structures Branch is required for associated approvals of the structural plans showing the tunnel with cross section details and dimensions, including the roadway and supporting elements;

- As this is newer pavement and has a good rating it would require pre and post construction documentation to assure there is no excessive deterioration during the works, and where excavations are made in the pavement, it may require full or partial panel repairs as determined by the Director of Public Works;

- Any other terms and conditions as are deemed necessary by the Director of the Planning, Property and Development Department and by the City Solicitor/Manager of Legal Services to protect the City's interests;

- Winnipeg Regional Health Authority agrees to enter into an appropriate Encroachment Agreement with the City embodying the above-mentioned terms and conditions and in a form satisfactory to the City Solicitor/Manager of Legal Services

Financial Impact Statement

Date: June 5, 2007

Project Name:

First Year of Program **2007**

Proposed Encroachment Agreement in Favour of Winnipeg Regional Health Authority

	2007	2008	2009	2010	2011
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	411	704	704	704	704
Net Cost/(Benefit)	$ (411)	$ (704)	$ (704)	$ (704)	$ (704)
Less: Existing Budget Amounts	(411)	(704)	(704)	(704)	(704)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Incremental revenues consist of annual encroachment fees of $704. The 2007 amount has been prorated to reflect the June 1, 2007 effective date.

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

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:

Corporate Finance – Risk Management Branch
Public Works Department
Water and Waste Department

External Consultation With:

N/A

THIS REPORT SUBMITTED BY:

Department Planning, Property and Development
Division Real Estate Division
Prepared by: Maxine Clayton
PPD File No. 284

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SCHEDULE A

PROPOSED TERMS AND CONDITIONS FOR ENCROACHMENT AGREEMENT TO PERMIT THE CONSTRUCTION AND MAINTENANCE OF AN UNDERGROUND TUNNEL CONNECTING THE NEW PARKADE TO THE EXISTING HEALTH SCIENCES CENTER TUNNEL SYSTEM (TECUMSEH TUNNEL) ENCROACHING UNDER THE EMILY STREET RIGHT-OF-WAY – WINNIPEG REGIONAL HEALTH AUTHORITY

Use:	To construct and maintain an underground tunnel;
Area:	Shown and identified as 'Encroachment Area' on Misc. Plan No.13140/1, attached;
Term:	Annual Continuing, commencing June 1st, 2007;
Rental:	$704.00 per annum, plus GST, computed on the basis of the fees outlined in the City of Winnipeg Encroachment By-Law No. 692/74 and amendments thereto, in event that the By-law is amended changing the fees charged for encroachments the rental paid under this agreement shall be adjusted accordingly, plus an initial administrative fee of $250.00 plus GST;
Realty Taxes:	Tenant to pay all realty taxes, license fees and business tax which may be charged in respect of the use and occupation of the premises by the tenant and any goods and services tax charged in respect of rent payable under the agreement in respect of the rental of space under the agreement, whether such fees and taxes are charged by any municipal, provincial or federal authority or otherwise.
Insurance:	Comprehensive General Liability Insurance of at least $5,000,000.00, naming City of Winnipeg as additional insured, policy to contain a cross-liability clause, contractual liability, evidence of Products and Completed Operations and provision to provide thirty (30) days notice of cancellation/termination;
Cancellation:	180 days written notice;
Conditions:	That the approval of this application by the Designated Officer – Encroachments is only valid for a period of six (6) months from the date of said approval unless the applicant enters into an Encroachment Agreement with the City of Winnipeg within the stated time frame, or alternatively obtain an extension of time from the Designated Officer – Encroachments; The construction and maintenance of the Encroachment Area will be performed at the sole cost, expense and effort of the tenant, including, obtaining all permits required to develop,

occupy and utilize the Encroachment Area for its intended use prior to any development;

That if there are any existing Hydro/Gas or MTS facilities which require removal and/or relocation as a result of this application, the costs will be at the expense of the developer and/or customer;

That Stantec Architecture Ltd. must submit detailed engineering plan and profile construction drawings, showing the proposed structure in relation to all existing Water and Waste Department plant, to the Underground Structures Branch of the Public Works Department for review and approval. Failure by Stantec to adhere to this condition will result in the Water and Waste Department revoking this approval;

A submission to the Underground Structures Branch is required for associated approvals of the structural plans showing the tunnel with cross section details and dimensions, including the roadway and supporting elements;

As this is a newer pavement and has a good rating it would require pre and post construction documentation to assure there is no excessive deterioration during the works, and where excavations are made in the pavement, it may require full or partial panel repairs as determined by Public Works;

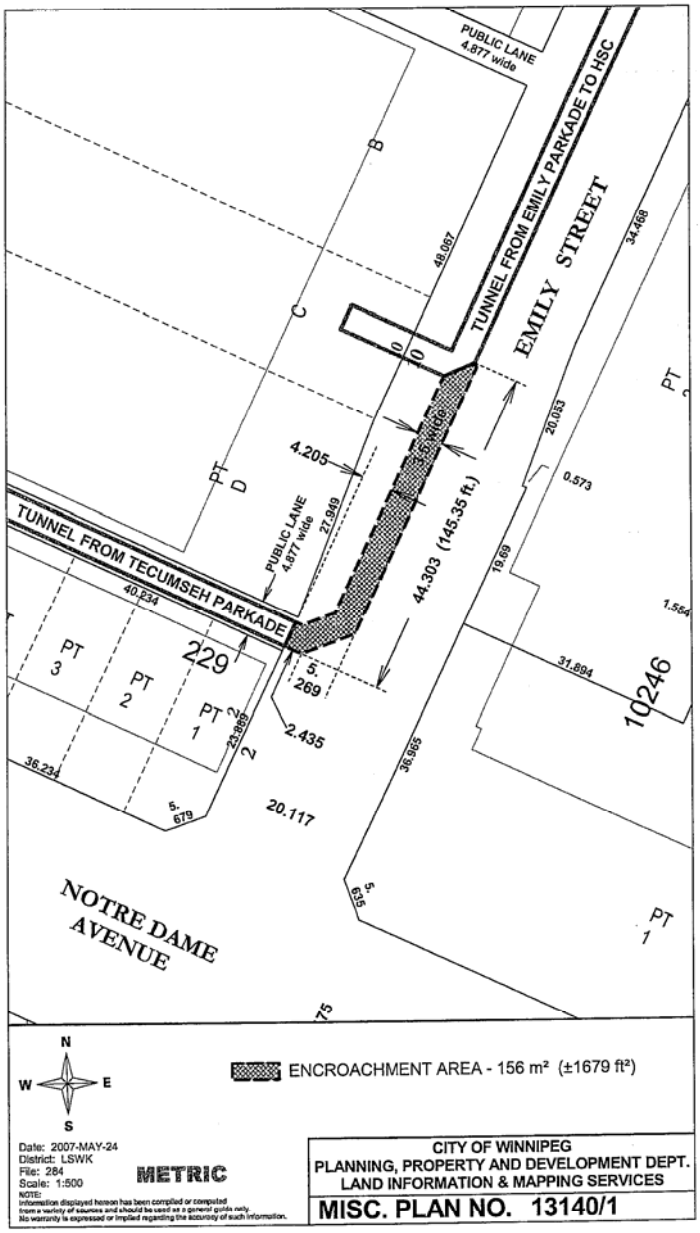
Any other terms and conditions as are deemed necessary by the Director of the Planning, Property and Development Department and by the City Solicitor/Manager of Legal Services to protect the City's interests.

Winnipeg Regional Health Authority agrees to enter into an appropriate Encroachment Agreement with the City embodying the within terms and conditions and in a form satisfactory to the City Solicitor/Manager of Legal Services.

Final terms and conditions of the proposed lease are subject to the final consideration and approval of City Council or its delegated authority.

Winnipeg Regional Health Authority hereby agrees to enter into an Encroachment Agreement with the City of Winnipeg for the use of the City owned lands identified as "Encroachment Area" on Misc. Plan No. 13140/1 attached, in accordance with the proposed terms and conditions as outlined herein on this Schedule 'A'.

D. Erickson. May 30, 2007
Date


PUBLIC LANE
4.877 wide
TUNNEL FROM EMILY PARKADE TO HSC
EMILY STREET
TUNNEL FROM TECUMSEH PARKADE
PUBLIC LANE
4.877 wide
3.5 wide
44.303 (145.35 ft.)
4.205
27.949
48.067
34.468
20.053
0.573
19.69
1.564
31.894
10246
40.234
229
PT 3
PT 2
PT 1
5.269
2.435
23.889
36.234
5.679
20.117
36.965
5.635
NOTRE DAME AVENUE
N
W
E
S
ENCROACHMENT AREA - 156 m² (±1679 ft²)
Date: 2007-MAY-24
District: LSWK
File: 284
Scale: 1:500
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. 13140/1