Minute No. 21
Report – Executive Policy Committee – October 31, 2007

Item No. 5 **Heritage Conservation Tax Credit – Amendment to Legal Agreement - former Oldfield, Kirby & Gardner Buildings, 234 Portage Avenue (Fort Rouge – East Fort Garry Ward)**
File G-3.1.5

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That the January 26, 2005 Council Decision approving a Heritage Conservation Tax Credit of up to a maximum of $100,000.00, to undertake conservation and rehabilitation work on the former Oldfield, Kirby & Gardner Building and to be utilized by the owner over a maximum ten-year period following completion of the project, subject to the owner beginning the work on or before July 1, 2005 and completing the work on or before January 1, 2007, be amended to grant an extension for the completion of work by December 31, 2008.

2. That the Acting Chief Administrative Officer be authorized to finalize and approve the terms and conditions of all agreements required to implement matters as directed by Council.

3. That the Proper Officers of the City do all things necessary to implement the intent of the foregoing.

Report – Executive Policy Committee – October 31, 2007

DECISION MAKING HISTORY:

Moved by His Worship Mayor Katz,

That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 31, 2007, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

RE: REQUEST FOR AN AMENDMENT TO THE HERITAGE CONSERVATION TAX CREDIT LEGAL AGREEMENT FOR THE FORMER OLDFIELD, KIRBY & GARDNER BUILDING, 234 PORTAGE AVENUE

FOR SUBMISSION TO: Executive Policy Committee

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

REPORT DATE: September 20, 2007

RECOMMENDATION:

1. That Council amend Item 1 from Council's adopted report of January 26, 2005, namely that City Council :
   A) approve a Heritage Conservation Tax Credit of up to a maximum of $100,000, to undertake conservation and rehabilitation work on the former Oldfield, Kirby & Gardner Building and to be utilized by the owner over a maximum ten-year period following completion of the project, subject to the owner beginning the work on or before July 1, 2005 and completing the work on or before January 1, 2007,

   by granting an extension for the completion of work by December 31, 2008,

2. That the Chief Administrative Officer be authorized to finalize and approve the terms and conditions of all agreements required to implement matters as directed by Council; and,

3. That the Proper Officers of the City do all things necessary to affect the intent of the foregoing.

Report Summary

Key Issues:

- The owners of the property, The White House on Portage Ltd., have requested an amendment to their Heritage Conservation Tax Credit legal agreement advising that due to shortage of skilled labour, increased costs requiring additional financing and delivery delays, project costs have increased and work has not been able to be completed as planned.
- The Public Service recommends that the Legal Agreement be amended as per the owner's request.

Implications of the Recommendation(s):

General Implications

( ) None

( ) For the organization overall and/or for other departments

( ) For the community and/or organizations external to the City

(X) Involves a multi-year contract

Comment(s):

- Heritage Conservation Tax Credits may be allocated over a maximum ten-year period.

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:
On September 5, 2007, The White House on Portage Ltd., the owners of the property, advised that they were unable to meet the deadline of completion of work as outlined in Clause 12(i) of their legal agreement and requested that the agreement be amended. (Letter attached)

City Council retains sole responsibility for amending conditions for the approval of a Heritage Conservation Tax Credit incentive.

HISTORY:
On January 26, 2005, City Council concurred in the recommendation of Executive Policy Committee and adopted a report which awarded The White House on Portage Ltd., a Heritage Conservation Tax Credit of up to $100,000 to redevelop the property located at 234 Portage Avenue.

Item 1 recommended:

That City Council:

a) approve a Heritage Conservation Tax Credit of up to a maximum of $100,000, to undertake conservation and rehabilitation work on the former Oldfield, Kirby & Gardner Building and to be utilized by the owner over a maximum ten-year period following completion of the project, subject to the owner beginning the work on or before July 1, 2005 and completing the work on or before January 1, 2007.

DISCUSSION:

The Heritage Conservation Tax Credit Program (HCTC)

The HCTC incentive strategy was adopted by City Council in 1998 on a pilot basis for three years with a review during the third year. The purpose of the program was to assist a limited number of projects selected for their ability to:

- increase property assessment values; and
- fulfill functions not likely to be displaced from other parts of the city.

The owners of the property, The White House on Portage Ltd., have been working to rehabilitate this vacant building to provide a completed base building for tenant improvement by individual users. The owner advises that his costs have grown beyond the $1m that was originally budgeted but that he has secured tenants who will be in the building by the end of 2007.

The owner further advises that the project will be completed by the end of the year despite a shortage of skilled labour, increased costs requiring additional financing and delivery delays.

The Public Service recommends that the Legal Agreement be amended as per the owner's request.

Financial Impact Statement Date: September 19, 2007

Project Name:

REQUEST FOR AN AMENDMENT TO THE HERITAGE CONSERVATION TAX CREDIT LEGAL AGREEMENT FOR THE FORMER OLDFIELD, KIRBY & GARDNER BUILDING, 234 PORTAGE AVENUE

COMMENTS:

The recommendation in this report is that Council amend Item 1 from Council's adopted report of January 26, 2005, namely that City Council :
A) approve a Heritage Conservation Tax Credit of up to a maximum of $100,000, to undertake conservation and rehabilitation work on the former Oldfield, Kirby & Gardner Building and to be utilized by the owner over a maximum ten-year period following completion of the project, subject to the owner beginning the work on or before July 1, 2005 and completing the work on or before January 1, 2007 by granting an extension for the completion of work by December 31, 2007,

There are no financial implications associated with this recommendation.

"Original Signed By"
Mike McGinn, CA
Manager of Finance

IN PREPARING THIS REPORT THERE WAS:

Internal Consultation With and Concurrence By:
Legal Services Division

External Consultation With:

N/A

THIS REPORT SUBMITTED BY:

Department: Planning, Property and Development
Division Planning and Land Use/Office of the Director
Prepared by: Giles Bugailiskis
PPD File No.

Document name: O:\Reports Directive\Planning and Land Use\Heritage\2007 Reports\Legal agreement amendment for 234 Portage avenue.doc

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CITY OF WINNIPEG
PLANNING AND LAND USE DIVISION
UNIT 15, 30 FORT STREET
WINNIPEG, MANITOBA
R3C 4X5

ATTENTION : GILES BUGAILISKIS - DESIGNATED OFFICER

DEAR SIR:

RE: **234 PORTAGE AVE. THE FORMER KIRBY AND GARDNER BUILDING HERITAGE CONSERVATION TAX CREDIT 2004**

I AM WRITING TO REQUEST THAT THE LEGAL AGREEMENT BETWEEN US AND THE CITY OF WINNIPEG BE AMENDED TO ALLOW ME TO COMPLETE THE PROJECT AS INTENDED BUT THAT THE COMPLETION DATE WOULD BE 2008.

ALTHOUGH I BELIEVED THAT THE WORK WOULD BE COMPLETED AT THE END OF 2006, THERE HAS BEEN DELAYS DUE TO:

1) THE LACK OF LABORERS IN MANITOBA. AS YOU ARE AWARE, ALBERTA HAS TAKEN A LARGE AMOUNT OF OUR LABORERS DUE TO THEIR FAIRLY RECENT ECONOMIC BOOM, LEAVING US WITH THE REMAINDERS, IN WHICH IT IS VERY APPARENT THAT THEY TOOK THE CREAM OF THE CROP.

2) THE ONES THAT REMAINED IN THIS PROVINCE, OF COURSE, ASK FOR AN INCREASE IN SALARY FROM THE SUBTRADES, LEAVING THE OWNERS OFTEN STUCK WITH AN INCREASE IN PRICE FOR THE PROJECT. IT TAKES TIME FOR REFINANCING DUE TO THIS INCREASE.

3) IT TOOK TOO LONG FOR THE BUILDING PERMIT. AS I ALREADY SAID IN A PREVIOUS LETTER, THAT THE PLANNING AND DEVELOPMENT DEPARTMENT SHOULD HAVE A PANEL JUST FOR HISTORICAL BUILDINGS. FOR THE AMOUNT OF THESE TYPE OF BUILDINGS EXISTING IN OUR CITY, OWNERS NEED HELP WITH EXPERTISE TO HAVE THESE BUILDINGS COINCIDE WITH THE CANADA BUILDING CODES. WE ARE NOW STUCK TO FIGURE IT OUT OUSELVES, WHICH DOES TAKE TIME AND ENERGY.

4) WITH THE AMOUNT OF CONSTRUCTION NOW IN OUR COUNTRY, WHENEVER A COMPANY SAYS THAT THE PRODUCT WILL TAKE 6-8 WEEKS FOR DELIVERY WELL, WE PLAN FOR 12.

5) WHEN THERE IS A DELAY WITH ONE TRADE, WELL, THE OTHER ONES FOLLOW SUIT. EG. IF THE ELECTRICIAN IS SICK, TOO MANY CONTRACTS TO FULLFILL, etc. THE DRYWALL INSTALLER, THE PLASTERER, THE PAINTER HAVE TO WAIT. IF THESE HAVE OTHER OBLIGATIONS, THEY WILL SIMPLY GO TO THEM LEAVING YOU IN LIMBO WHEN THEY WILL COME BACK. THIS HAS HAPPENED FREQUENTLY WITH THIS PROJECT.

THESE DELAYS HAVE SERIOUSLY SET BACK OUR CONSTRUCTIONS SCHEDULE.

IT IS MY INTENT TO FINISH THE PROJECT AS OUTLINED IN THE AGREEMENT SIGNED WITH THE CITY OF WINNIPEG AND TO ENSURE THAT WE CONTRIBUTE TO THE MUCH NEEDED EFFORT TO REVITALIZE THIS PORTION OF PORTAGE AVE.

PLEASE ADVISE IF I NEED TO PROVIDE ANY ADDITIONAL INFORMATION.

YOURS TRULY

MICHEL FILLION
PRESIDENT