Agenda - Council - November 25, 2009

Report - Standing Policy Committee on Property and Development - November 3, 2009

Item No. 7 Encroachment Agreement - West End Winnipeg Business Improvement Zone
(Daniel McIntyre Ward)
eFile ED (32)

STANDING COMMITTEE RECOMMENDATION:

On November 18, 2009, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submits the following to Council:

1. That the Encroachment Agreement in favour of the West End Winnipeg Business Improvement Zone be approved in accordance with the terms and conditions outlined in Schedule A to the report of the Winnipeg Public Service dated October 21, 2009.

2. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing, including the execution of any documents related thereto.

Report - Standing Policy Committee on Property and Development - November 3, 2009

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 18, 2009, 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 November 3, 2009, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

ISSUE: **To Seek Committee Approval for the Proposed Encroachment Agreement to Establish and Maintain an Entrance Feature, consisting of a series of poles with banners, for the West End Biz International Village, Located within Saigon Park, the Median of Ellice Avenue and the University of Winnipeg – West End Winnipeg Business Improvement Zone**

Critical Path: **Standing Policy Committee on Property and Development, EPC, Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
R. Klassen	D. Joshi	N/A	P. Sheegl Deputy CAO

RECOMMENDATIONS

1. That the proposed Encroachment Agreement in favour of the West End Winnipeg Business Improvement Zone be approved in accordance with the proposed terms and conditions as attached (Schedule A).

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

IMPLICATIONS OF THE RECOMMENDATIONS

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 Planning, Property and Development Department has no authority. In this regard, the Planning, Property and Development Department has negotiated proposed terms and conditions of an Encroachment Agreement, in favor of the West End Winnipeg Business Improvement Zone., to establish and maintain an entrance feature, consisting of a series of poles with banners, for the West End Biz International Village located within Saigon Park, the median of Ellice Avenue and the University of Winnipeg.

- The Department has determined that there is no general, policy, regulatory, environmental, human resource or financial implications to the Encroachment

Agreement of this land as outlined in the attached Miscellaneous Plan No. 13661.

- West End Winnipeg Business Improvement Zone wishes to enter into an Encroachment Agreement for the establishment and maintenance of an entrance feature for the West End Biz International Village, consisting of a series of poles with banners, within Saigon Park, the median of Ellice Avenue and the University of Winnipeg.

HISTORY

- McGowan Russell, on behalf of the West End Winnipeg Business Improvement Zone, submitted an encroachment application to the City's Zoning and Permits Branch to establish an entrance feature, consisting of a series of poles with banners, for the West End Biz International Village, to be located within Saigon Park, on the median of Ellice Avenue immediately north of the University of Winnipeg.

- The application was circulated to various City departments and public utilities for consideration and comments. No objections were received for the establishment and ongoing maintenance of an entrance feature for the West End Biz International Village.

- The Planning, Property and Development Department has negotiated proposed terms and conditions of an Encroachment Agreement in favour of West End Winnipeg Business Improvement Zone to establish and maintain an entrance within Saigon Park.

- The Public Works Department has no objection to the proposed encroachment, subject to the conditions as noted on Schedule 'A'.

- The Corporate Finance Department, Risk Management Branch, reviewed the insurance requirements for this proposed encroachment and their comments have been incorporated into the proposed terms and conditions.

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

FINANCIAL IMPACT

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	430	720	720	720	720
Net Cost/(Benefit)	$ (430)	$ (720)	$ (720)	$ (720)	$ (720)
Less: Existing Budget Amounts	(430)	(720)	(720)	(720)	(720)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Incremental revenue in 2009 consists of the one-time admin fee of $250 + the $720 annual rental amount prorated for the October 1 commencement date. Revenues from 2010 onward represent the rental amount for the full year.

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

CONSULTATION

In preparing this Report there was consultation with:

Corporate Finance Department
Public Works Department
Corporate Support Services, Legal Services Division

SUBMITTED BY

Department	Planning, Property and Development
Division	Real Estate
Prepared by	M. Clayton
Date:	October 21, 2009
File No.	

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SCHEDULE A

PROPOSED TERMS AND CONDITIONS FOR ENCROACHMENT AGREEMENT TO ESTABLISH AN ENTRANCE FEATURE FOR THE WEST END BIZ INTERNATIONAL VILLAGE, CONSISTING OF A SERIES OF POLES WITH BANNERS, TO BE LOCATED WITHIN SAIGON PARK, THE MEDIAN OF ELLICE AVENUE AND THE UNIVERSITY OF WINNIPEG

Use:	Establishment and Maintenance of an entrance feature for the West End Biz International Village, consisting of a series of poles with banners within Saigon Park, the median of Ellice Avenue and the University of Winnipeg
Area:	Shown and identified as 'Encroachment Area' on Misc. Plan No.13661attached.
Term:	Annual Continuing, commencing October 1, 2009.
Rental:	$720.00 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.
Insurance:	The Contractor shall provide and maintain the following insurance coverage: (a) Commercial general liability insurance, in the amount of at least two million dollars ($2,000,000.00) inclusive, with The City of Winnipeg and West End Business Improvement Zone added as additional insureds, such liability policy to also contain a cross-liability clause, contractual liability, unlicensed motor vehicle liability, non-owned automobile liability and products and completed operations cover, to remain in place at all times during the performance of the Work and throughout the warranty period; (b) Automobile liability insurance for owned automobiles used for or in connection with the Work in the amount of at least two million dollars ($2,000,000.00) to be retained at all times during the performance of the Work and until the date of Total Performance; Deductibles shall be borne by the Contractor; The Contractor shall provide the City with a certificate of insurance of each policy, in a form satisfactory to the City of Winnipeg, at least two (2) Business Days prior to the commencement of any Work on the Site;

The Contractor shall not cancel, materially alter, or cause each policy to lapse without providing at least fifteen (15) Calendar Days prior written notice to the Contract Administrator.

Any certificates of insurance documenting the above should be sent to: The City of Winnipeg, Risk Management Division, 3rd Floor, 185 King Street, Winnipeg, Manitoba R3B 1J1 Attention: E. Martin, Supervisor of Insurance and Risk Financing Phone: 986-5252 Fax: 986-6132 Email: emartin@winnipeg.ca

The City shall have the rights to alter the limits and/or coverages as reasonably required from time to time during the continuance of the encroachment agreement and any subsequent renewal thereof; provided that the City shall give the Lessee reasonable notice and request reasonable change;

Cancellation: Ninety (90) 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;

That all utilities be permitted to enter the area for maintenance, repair or installation of services at anytime without notice to the applicant and that any removal or relocation of existing facilities as a result of the proposed application will be at the expense of the applicant and that prior to any digging or excavation, Manitoba Hydro and Centra Gas Manitoba Inc. advise the applicant contact the Call-Before-You-Dig line at 480-1212;

That extreme caution be used when excavating in the vicinity of MTS buried plant and that the applicant contact the Buried Plant Location Services at 941-7267, 48 hours prior to excavation for further confirmation in the field;

The Lessee acknowledges and agrees that the following conditions from the Public Works Department be adhered to:

There shall be no sharp or pointy edges on any part of the proposed poles or banners;

A minimum width of 1.8m will be required between the south curb of Ellice Avenue and the proposed feature on the south side of Ellice Avenue east of Spence Street;

There shall be a minimum of 1.8m clear pedestrian pathway

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adjacent to the proposed bench and bike rack on the south side of Ellice Avenue;

The Public Works Department will not replace or repair damaged or worn out banners and/or decorative poles. As such, the Lessee is encouraged to consider fabricating surplus banners for replacement purposes in future;

The Lessee acknowledges and agrees that at the end of the decorative poles useful life or if the decorative poles become damaged for any reason, the Lessee shall be responsible for repairing or replacing the decorative poles, or restoring the encroachment area(s) to the satisfaction of the Director of Public Works;

That all applicable permits be obtained prior to any development;

The proposed terms and conditions of the proposed encroachment Agreement are subject to the final approval of the City's Standing Committees and Council and to the City Solicitor as to form and content.

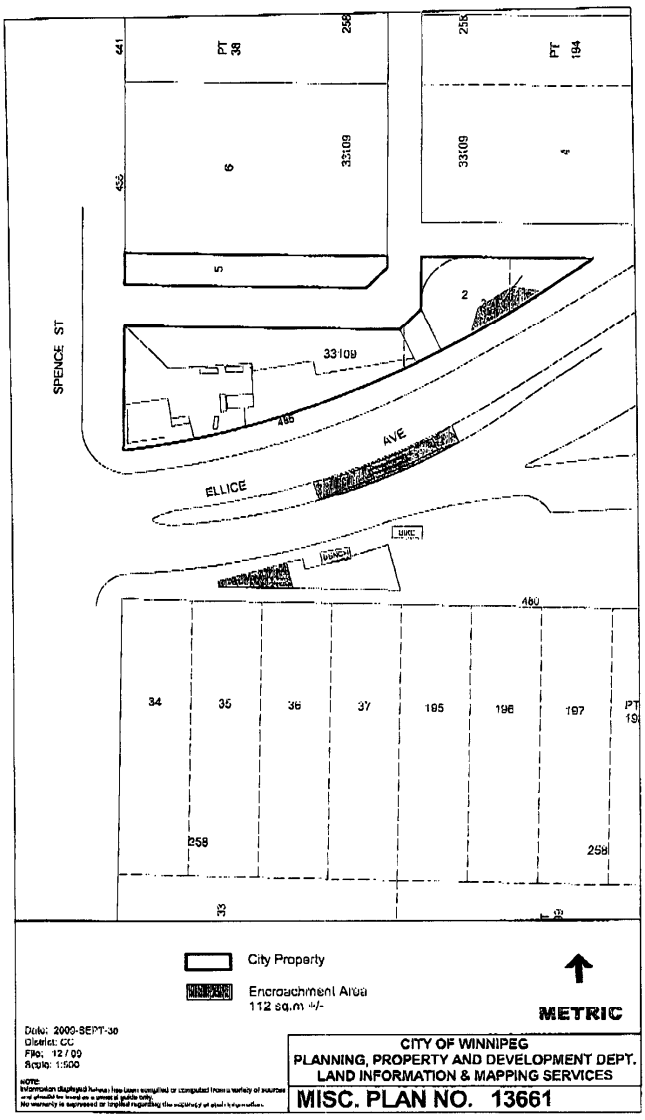
WEST END BIZ ACKNOWLEDGES AND AGREES WITH THE ABOVE PROPOSED TERMS AND CONDITIONS.



Oct 13, 2009

TITLE: Executive Director

DATE



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