**Agenda - Council – June 22, 2011**

**Report - Standing Policy Committee on Property and Development – June 7, 2011**

**Item No. 14 Encroachment Agreement - Regent Avenue West Right-of-Way at Winona Street – Transcona Business Improvement Zone (Transcona Ward)**

STANDING COMMITTEE RECOMMENDATION:

On June 15, 2011, 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 an Encroachment Agreement in favour of Transcona Business Improvement Zone to erect and maintain an archway encroaching onto the City right-of-way at Regent Avenue West at Winona Street as shown on Misc. Plan No. 13835, be approved in accordance with the terms and conditions as set out in Schedule A.

2. That all encroachment fees associated with this agreement be waived in perpetuity.

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 – June 7, 2011**

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 15, 2011, 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 7, 2011, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service, as amended, namely:

- Add the following Recommendation and renumber the remaining Recommendations accordingly:

    "2. That all encroachment fees associated with this agreement be waived in perpetuity."

and forwarded to the Executive Policy Committee and Council.

# ADMINISTRATIVE REPORT

**Title:** **Proposed Encroachment Agreement to Erect and Maintain an Archway over Regent Avenue West Encroaching onto the Regent Avenue West Right-of-Way at Winona Street – Transcona Business Improvement Zone**

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

## AUTHORIZATION

| Author | Department Head | CFO | CAO |
|---|---|---|---|
| B. Thorgrimson | D. Joshi | n/a | A Robinson<br>Deputy CAO |

## RECOMMENDATIONS

1. That a proposed Encroachment in favour of Transcona Business Improvement Zone to erect and maintain an archway encroaching onto the City right-of-way at Regent Avenue West at Winona Street as shown on attached Miscellaneous Plan No. 13835, be approved in accordance with the proposed terms and conditions as set out in the 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.

## 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 Planning, Property and Development Department has no authority.

- In this regard, the Planning, Property and Development Department has negotiated the proposed terms and conditions of an Encroachment Agreement in favour of Transcona Business Improvement Zone for the use of City right-of-way shown on Miscellaneous Plan No. 13835. This report seeks the Committee's approval of the terms and conditions of the encroachment agreement as negotiated.

## IMPLICATIONS OF THE RECOMMENDATIONS

- The Department has determined that there is no general policy, regulatory, environmental, human resource or financial implications to the lease of the subject property as described on the attached Miscellaneous Plan No. 13835.
- The proposed encroachment agreement will formalize the terms and conditions for the use of the City's right-of-way as outlined on Miscellaneous Plan No. 13835

## HISTORY

Transcona Business Improvement Zone submitted an encroachment application to the City's Zoning and Permits Branch to erect and maintain an archway encroaching onto the City right-of-way at Regent Avenue West and Winona Street.

The application was circulated to applicable City departments and public utilities for consideration and comments. No objections were received.

The Planning, Property and Development Department has negotiated proposed terms and conditions of an Encroachment Agreement in favour of Transcona Business Improvement Zone to erect and maintain an archway encroaching onto the Regent Avenue West right-of-way.

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

**Financial Impact Statement** **Date:** May 24, 2011

**Project Name:** **First Year of Program** **2011**

Proposed Encroachment Agreement to erect and maintain an archway over the Regent Avenue West right-of-way at Winona Street

| | 2011 | 2012 | 2013 | 2014 | 2015 |
|---|---|---|---|---|---|
| **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 | 467 | 217 | 217 | 217 | 217 |
| Net Cost/(Benefit) | $ (467) | $ (217) | $ (217) | $ (217) | $ (217) |
| Less: Existing Budget Amounts | 467 | 217 | 217 | 217 | 217 |
| Net Budget Adjustment Required | $ (934) | $ (434) | $ (434) | $ (434) | $ (434) |

**Additional Comments:** Revenues in 2011 consist of a one-time adimin fee of $250 + the annual encroachment fee of $217. Revenues from 2012 onward consist of the encroachment fee only.

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

## CONSULTATION

**In preparing this report there was consultation with:**

Corporate Finance, Risk Management

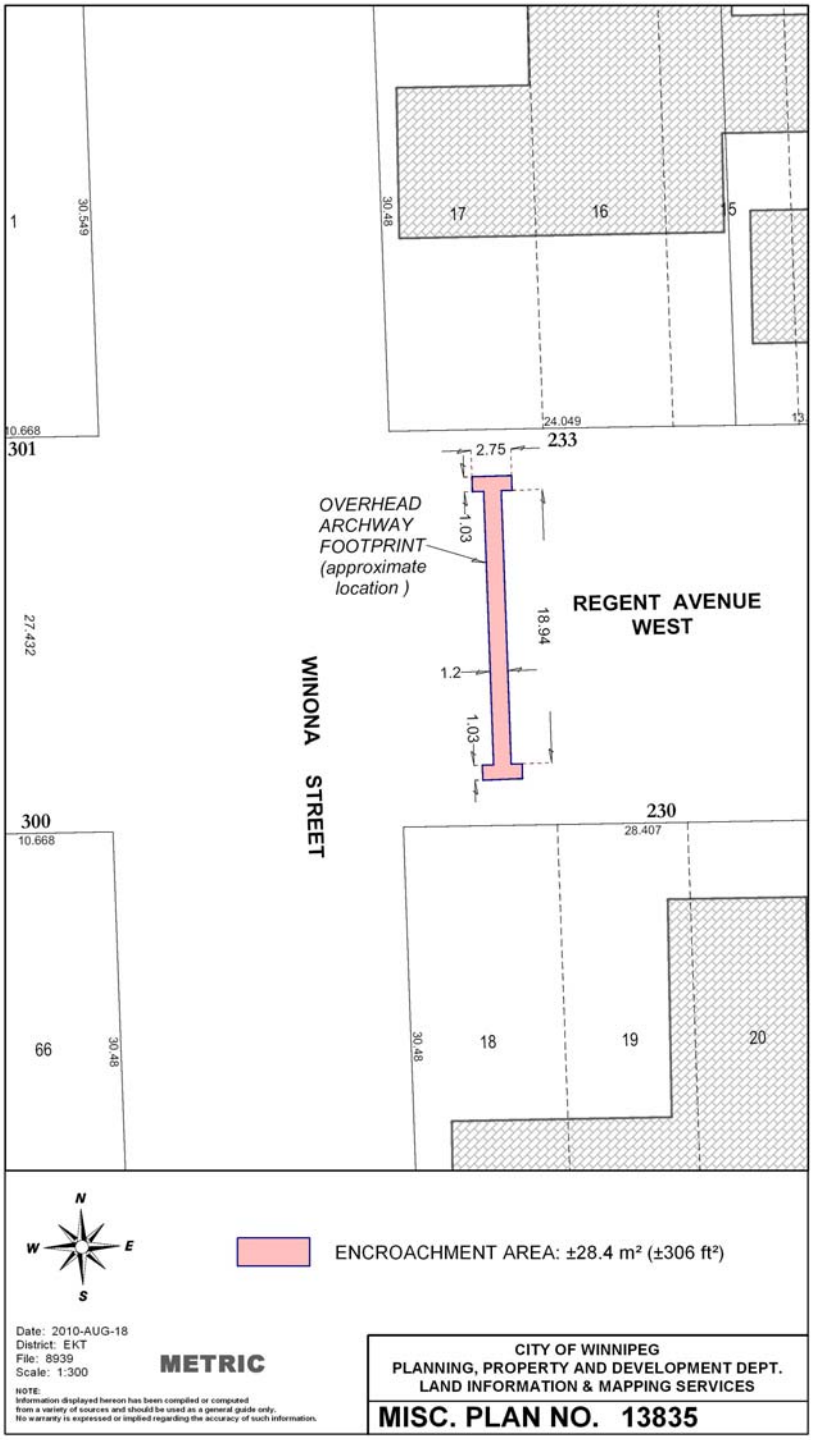
Legal Services as to legal issues

Public Works Department

## SUBMITTED BY

| | |
|---|---|
| Department | Planning, Property and Development |
| Division | Real Estate |
| Prepared by: | Maxine Clayton |
| Date: | May 26, 2011 |
| File No. | 8939 |

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REGENT AVENUE
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ENCROACHMENT AREA: ±28.4 m² (±306 ft²)
Date: 2010-AUG-18
District: EKT
File: 8939
Scale: 1:300
METRIC
NOTE:
Information displayed hereon has been compiled or computed
from a variety of sources and should be used as a general guide only.
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CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 13835

**SCHEDULE A**

**PROPOSED TERMS AND CONDITIONS FOR ENCROACHMENT AGREEMENT TO ERECT AND MAINTAIN AN ARCHWAY OVER REGENT AVENUE ENROACHING ONTO THE REGENT AVENUE RIGHT-OF-WAY AT WINONA STREET– TRANSCONA BUSINESS IMPROVEMENT ZONE**

| | |
|---|---|
| Use: | Erection and Maintenance of an archway; |
| Licensee: | Transcona Business Improvement Zone (hereinafter called the 'Licensee") |
| Area: | Shown and identified as 'Encroachment Area' on Misc. Plan No. 13835, attached; |
| Term: | Annual Continuing, commencing March 1, 2011; |
| Rental: | $217.00 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 Licensee shall ensure that that any Contractor of Sub-contractor hired to perform maintenance work or repairs to the Archway shall:<br><br>Provide a certificate of insurance for Comprehensive General Liability insurance in the amount of at least $2,000,000.00, with the following requirements:<br><br>i) the City of Winnipeg to be added as an additional insured,<br>ii) policy to contain a cross-liability clause,<br>iii) provision to provide a minimum of 30 days written notice of cancellation/termination.<br><br>Such certificate of insurance must be in a form satisfactory to the Supervisor of Insurance and must be provided at least two (2) business days prior to the commencement of any work on the site;<br><br>Deductibles shall be borne by the Contractor and/or Sub-contractor; |
| 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 Licensee 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 applicant will be at the expense of the applicant. Prior to any digging or excavation, Manitoba Hydro and/or Centra Gas Manitoba Inc. advise the applicant contact the Call-Before-You Dig line at 480-1212 and all conditions in the attached memo from Manitoba Hydro be adhered to;

That extreme caution be used when excavating in the vicinity of MTS buried plan (MTS facilities have been marked on the attached drawing) and that the applicant contact the Buried Plant Location Service at 941-7267, 48 hours prior to excavation for further confirmation in the field;

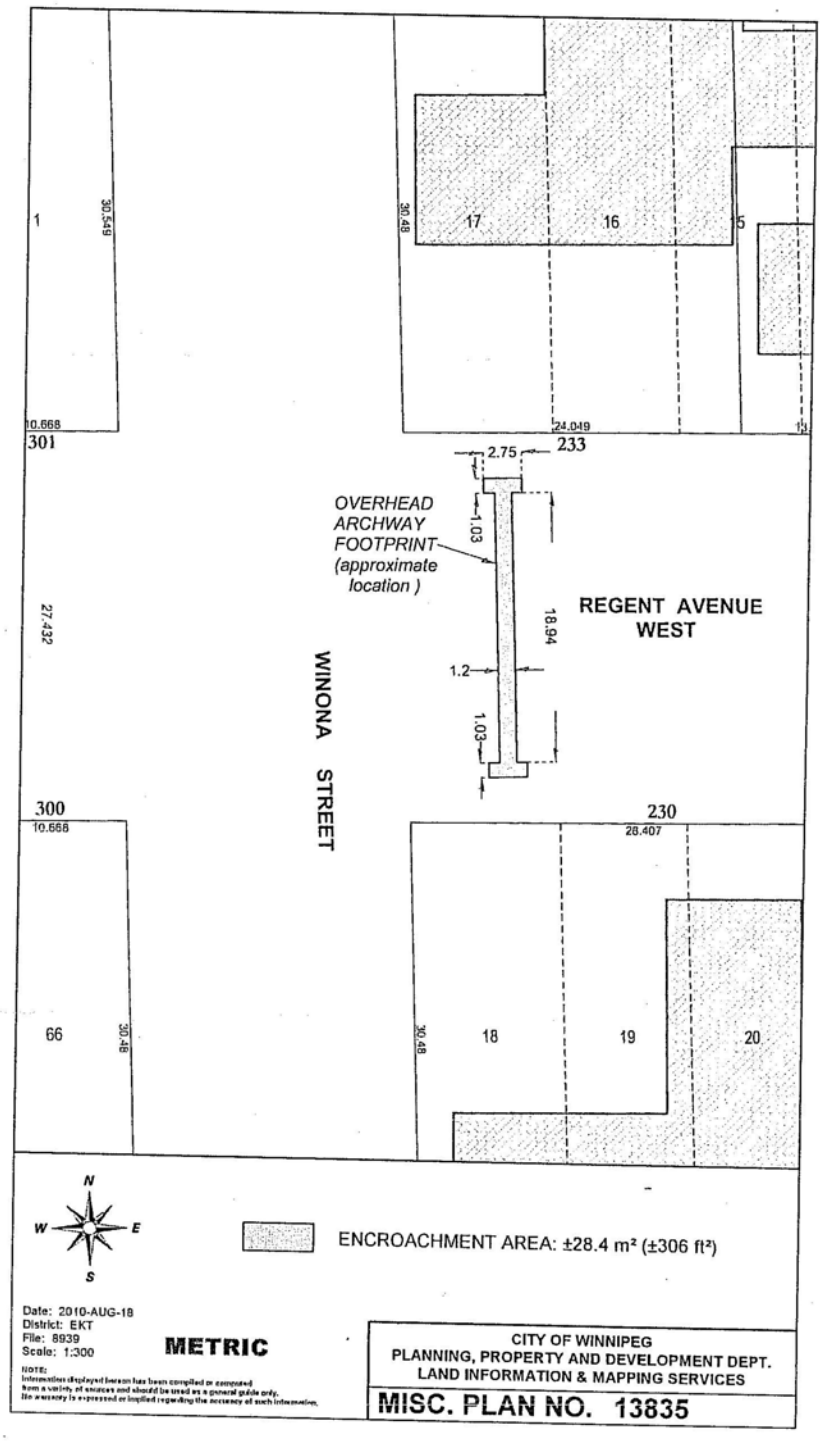
That any costs associated with having to repair any leaking of the water main as a result of having to relocate the existing water main to accommodate the location of the base for the archway is the responsibility of Licensee as stipulated by Water and Waste;

Manitoba Hydro is unable to determine where their existing facilities are located in relation to the proposed encroachment area. Manitoba Hydro will require the Licensee's surveyor to prepare a sketch showing the exact location of all Centra Gas Manitoba Inc. facilities on the encroachment area and adjacent City property.. Manitoba Hydro will return an easement layout for the preparation of the easement plan, if required;

Any removal or relocation of Manitoba Hydro and/or Centra Gas Manitoba Inc. existing facilities as a result of the proposed encroachment will be at the expense of the Licensee. As a result of this application, a survey or plan may be required. This will be the responsibility and at the expense of the Licensee;

Should the Licensee require any future electrical and or gas service it can be obtained from the local Manitoba Hydro District Office;

That all applicable permits be obtained prior to any development;


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