**Agenda - Council – September 28, 2011**

**Report - Standing Policy Committee on Downtown Development, Heritage and Riverbank Management – September 12, 2011**

**Item No. 3 Encroachment Agreement for the Development and Maintenance of a Parking Area encroaching onto the City right of Way adjacent to 194 Broadway**

STANDING COMMITTEE RECOMMENDATION:

On September 21, 2011, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management and submits the following to Council:

1. That an Encroachment Agreement in favour of the Manitoba Club to develop and maintain a parking area encroaching onto the City right of way adjacent to 194 Broadway, as shown on Misc. Plan No. 14047, be approved in accordance with the terms and conditions as set out in Schedule A.

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 Downtown Development, Heritage and Riverbank Management – September 12, 2011**

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 21, 2011, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On September 12, 2011, the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

# ADMINISTRATIVE REPORT

**Title:** **Proposed Encroachment Agreement for the Development and Maintenance of a Parking Area encroaching onto the City right of Way adjacent to 194 Broadway**

**Critical Path:** **Standing Policy Committee on Downtown Development, Heritage and Riverbank Management – EPC - Council**

## AUTHORIZATION

| Author | Department Head | CFO | CAO |
|---|---|---|---|
| B. Thorgrimson | D. Joshi | N/A | Deepak Joshi<br>Chief Operating Officer |

## RECOMMENDATIONS

1. That a proposed Encroachment Agreement in Favour of Manitoba Club to develop and maintain a parking area encroaching onto the City right of way adjacent to 194 Broadway, as shown on attached Miscellaneous Plan No. 14047, 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

On March 24, 2004, Council established the Standing Policy Committee on Downtown Development. This Standing Policy Committee has jurisdiction over matters related to asset management, development control, land acquisition, land development and planning and land use in the area defined as Downtown.

On March 23, 2011, Council amended the name of the Standing Policy Committee on Downtown Development to the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management.

The Encroachment Bylaw 692/74, which regulates the construction and maintenance of certain encroachments in streets, under General Regulations, clause 4 (3) (a) states that encroachments are permitted “at the pleasure of Council”.

In this regard, the Planning, Property and Development Department has negotiated the proposed terms and conditions of an Encroachment Agreement in favour of Manitoba Club.

## IMPLICATIONS OF THE RECOMMENDATIONS

The Department has determined that there is no general, policy, regulatory, environmental or human resource implications to lease the lands as shown on the attached Miscellaneous Plan No. 14047.

## HISTORY

Hill Sokalski Vincent Walsh Trippier, on behalf of the Manitoba Club, located at 194 Broadway, submitted an encroachment application to the City's Zoning and Permits Branch to develop and maintain a parking area encroaching onto the City right of way adjacent to 194 Broadway.

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 the Manitoba Club to develop and maintain a parking area encroaching onto the City right of way.

The Public Works Department has no objection to the proposed encroachment, subject to 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 terms and conditions.

This report seeks approval of the Encroachment Agreement as negotiated.

## FINANCIAL IMPACT

**Financial Impact Statement** **Date:** August 9, 2011

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

Proposed Encroachment Agreement with the Manitoba Club

| | 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 | 614 | 1,457 | 1,457 | 1,457 | 1,457 |
| Net Cost/(Benefit) | $ (614) | $ (1,457) | $ (1,457) | $ (1,457) | $ (1,457) |
| Less: Existing Budget Amounts | (614) | (1,457) | (1,457) | (1,457) | (1,457) |
| Net Budget Adjustment Required | $ - | $ - | $ - | $ - | $ - |

**Additional Comments:** Revenues in 2011 consist of an initial admin fee of $250 + annual rental of $1,457 prorated for an assumed October 1, 2011 commencement date. Revenues from 2012 onward represent just the annual rental amount.

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

## CONSULTATION

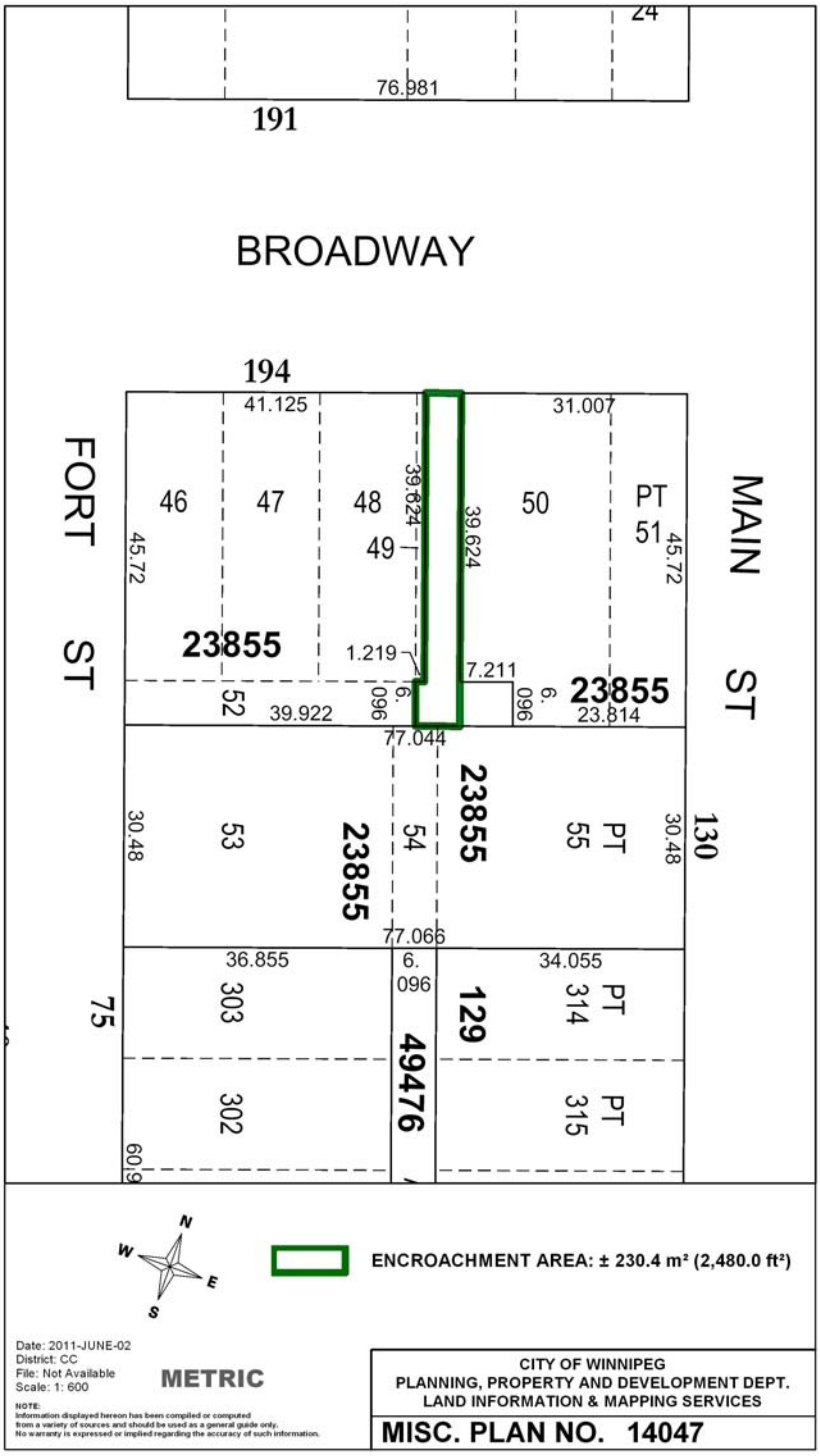
**In preparing this report there was consultation with:**

Corporate Finance
Legal Services Department as to legal issues
Public Works Department

## SUBMITTED BY

| | |
|---|---|
| Department: | Planning, Property and Development |
| Division: | Real Estate |
| Prepared by: | Marlene Haderer |
| Date: | August 10, 2011 |
| File No. | 430 |

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24
76.981
191
BROADWAY
194
41.125
31.007
FORT ST
MAIN ST
46
47
48
49
50
PT 51
45.72
39.624
39.624
45.72
23855
1.219
7.211
6.096
6.096
23855
52
39.922
23.814
77.044
23855
23855
30.48
53
54
55
PT
30.48
130
77.066
36.855
6.096
34.055
303
129
314
PT
75
302
49476
315
PT
60.9
N
W
E
S
ENCROACHMENT AREA: ± 230.4 m² (2,480.0 ft²)
Date: 2011-JUNE-02
District: CC
File: Not Available
Scale: 1: 600
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. 14047

## SCHEDULE A

**PROPOSED TERMS AND CONDITIONS FOR ENCROACHMENT AGREEMENT TO ALLOW FOR THE LEASE OF A PUBLIC LANE ADJACENT TO THE MANITOBA CLUB LOCATED AT 194 BROADWAY FOR THE PURPOSE OF PARKING.**

| | |
|---|---|
| Use: | Development and Maintenance of Parking Area |
| Licensee: | Manitoba Club (hereinafter called the 'Licensee") |
| Area: | Shown and identified as 'Encroachment Area' on Misc. Plan No. 14047, attached; |
| Term: | Annually Continuing, commencing the first day of the month following approval from the City's Standing Committees and Council; |
| Rental: | $1,457.00 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 purchase and keep in force during the full term of the agreement the following insurance coverage:<br><br>Commercial general liability insurance in the amount of at least two million dollars ($2,000,000) per occurrence, such liability policy to include the City of Winnipeg as an additional insured and contain evidence of a cross liability clause;<br><br>All policies to be taken out with insurers licensed to and carrying on business in the Province of Manitoba;<br><br>Deductibles shall be borne by the Licensee;<br><br>The Licensee shall not cancel, materially change or cause any such policies to lapse without a minimum of thirty (30) days prior written notice to the City of Winnipeg;<br><br>The Licensee shall file with the City a certificate of insurance in a form satisfactory for the City Solicitor;<br><br>The City shall have the right to alter the limits and/or coverage's as reasonably required from time to time during the continuance of this lease agreement and any subsequent renewals thereof, |

provided that the City shall give the Licensee reasonable notice and shall 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 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 Licensee and that any removal or relocation of existing facilities as a result of the proposed applicant will be at the expense of the Licensee. Prior to any digging or excavation, Manitoba Hydro and/or Centra Gas Manitoba Inc. advise the Licensee contact the Call-Before-You Dig line at 480-1212;

That if any removal, relocation or adjustment of existing MTS facilities is required, it will be at the expense of Licensee; that extreme caution be used when excavating in the vicinity of MTS buried plant and that the Licensee contact the Buried Plan Location Service at 941-7267, 48 hours prior to excavation for further confirmation in the field;

That the conditions outlined by the Senior Urban Designer in the attached note dated April 11, 2011 regarding refuse bins be adhered to:

That the refuse bins be moved to the Fort Street side of 194 Broadway and that they be enclosed with a suitable fencing which will tie together with the enclosure around the chiller and transformer located at the rear end of the building. A design review application is to be submitted through Zoning along with the fence drawings for approval before the enclosure is constructed;

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.

MANITOBA CLUB HEREBY ACKNOWLEDGES AND AGREES WITH THE ABOVE TERMS AND CONDITIONS.

MANITOBA CLUB

DATE

PRESIDENT

TITLE