Minute No. 300
Report – Standing Policy Committee on Property and Development – March 6, 2012

Item No. 4 **Encroachment Agreement - City Property between Lockwood Street and Centennial Street – Centennial Park Development Ltd. (River Heights-Fort Garry Ward)**

STANDING COMMITTEE RECOMMENDATION:

On March 14, 2012, 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 Centennial Park Development Ltd. to install and maintain a private watermain encroaching onto the City Right-of-Way between Lockwood Street and Centennial Street, as shown on Misc. Plan No. 14185/1, 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 foregoing.

Report – Standing Policy Committee on Property and Development – March 6, 2012

DECISION MAKING HISTORY:

Moved by Councillor Browaty,

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

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 14, 2012, 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 March 6, 2012, 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

Title: Proposed Encroachment Agreement for the Installation and Maintenance of a Private Watermain Encroaching onto City Property Between Lockwood Street and Centennial Street – Centennial Park Development Ltd.

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

AUTHORIZATION

Author	Department Head	CFO	CAO
J. Zabudney	B. Thorgrimson	N/A	D Joshi COO

RECOMMENDATIONS

1. That a proposed Encroachment Agreement in favour of Centennial Park Development Ltd. to install and maintain a private watermain encroaching onto the City Right-of-Way between Lockwood Street and Centennial Street, as shown on attached Misc. Plan No. 14185/1, 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 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 property for which the Director of Planning, Property and Development has no authority. In this regard, the Planning Property and Development has negotiated the proposed terms and conditions of an Encroachment Agreement.

This report seeks the Committee's approval of the terms and conditions of the Encroachment Agreement.

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 Misc. Plan No. 14185/1.

The proposed Encroachment Agreement will formalize the terms and conditions for the use of the City's right-of-way as outlined on Misc. Plan 14185/1.

HISTORY

Pre-Con Builders, on behalf of Centennial Park Development Ltd., submitted an encroachment application to the City's Zoning and Permits Branch for the installation and maintenance of a private watermain, encroaching into the City's right-of-way, shown as 'Encroachment Area' on the attached Misc. Plan No. 14185/1.

The private watermain is required to service the imminent development of a 30 unit row housing complex located at 725 Kingsway Avenue.

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

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:** January 31, 2012

Project Name: **First Year of Program** **2012**

Proposed Encroachment Agreement to Install and Maintain a Private Watermain onto the City's Right-of-Way between Lockwood Street and Centennial Street

	2012	2013	2014	2015	2016
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	1,671	1,705	1,705	1,705	1,705
Net Cost/(Benefit)	$ (1,671)	$ (1,705)	$ (1,705)	$ (1,705)	$ (1,705)
Less: Existing Budget Amounts	(1,671)	(1,705)	(1,705)	(1,705)	(1,705)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Revenues in 2012 consist of the initial admin fee of $250 + $1,705 lease revenue prorated for a March 1 assumed commencement date. Revenues from 2013 onward represent the $1,705 annual lease payment, which is assumed to remain constant.

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

CONSULTATION

In preparing this report there was consultation with:

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

SUBMITTED BY

Department	Planning, Property and Development
Division	Real Estate
Prepared by:	Maxine Clayton
Date:	February 7, 2012
File No.	

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Schedule A

PROPOSED TERMS AND CONDITIONS FOR ENCROACHMENT AGREETMENT TO ALLOW FOR A PRIVE WATERMAIN BETWEEN LOCKWOOD STREET AND CENTENNIAL STREET ADJACENT TO 725 KINGSWAY – CENTENNIAL PARK DEVELOPMENT LTD.

Licensor:	The City of Winnipeg
Licensee:	Centennial Park Development Ltd.
Use:	Installation and Maintenance of a Private Watermain between Lockwood Street and Centennial Street, adjacent to 725 Kingsway, in conjunction with underground services for the development of 30 row housing units;
Area:	Shown and identified as 'Encroachment Area' on Misc. Plan No. 14185/1 attached;
Term:	Annual Continuing commencing on the first day of the month following approval from the City's Standing Committees and Council or such other date as mutually agreed upon;
Rental:	$1705.00 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 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 administration 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: Commercial general liability insurance in the amount of at least two million dollars $2,000,000.00) per occurrence, such liability policy to include the City of Winnipeg as an additional insured and contain evidence of a cross liability clause; All policies to be taken out with insurers licensed to and carry on business in the Province of Manitoba; 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; The Licensee shall file with the City a certificate of insurance in a form satisfactory for the City Solicitor; The City shall have the right to alter the limits and/or coverage's as reasonably required from time to time during subsequent renewals

thereof, provided that the City shall give the Licensee reasonable notice and shall request reasonable change;

Cancellation: Ninety (90) days written notice by either party;

Conditions: Approval of this application by the Designated Officer-Encroachments is only valid for a period of 6 (six) 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 obtains an extension of time from the Designated Officer-Encroachments;

Licensee to comply with all laws, by-laws and regulations of any federal, provincial or municipal authority, and shall obtain all necessary permits pertaining to the use and occupancy of the Encroachment Lands.

That all utilities are permitted to enter the Encroachment Area for maintenance, repair or installation of services, at anytime without notice to the Licensee, and that any removal and/or relocation of existing facilities, as a result of the proposed application, will be at the expense of the Licensee.

The Licensee acknowledges and agrees that prior to any digging or excavation, Manitoba Hydro and/or Centra Gas Manitoba Inc. that Licensee contact the Call-Before-You-Dig line at 480-1212 and that in this situation, soft-dig methods are used when excavating the area;

That if any removal, relocation or adjustment of existing MTS facilities is required, it will be at the expense of the Lessee; that extreme caution be used when excavating in the vicinity of MTS buried plant, that a minimum of 1.0m clearance from all MTS conduits and manholes is required from the proposed construction as per marking from MTS on attached drawings, and that the Licensee contact the Buried Plan Location Service at 941-7267, 48 hours prior to excavation for further confirmation in the field;

For all necessary sewer work and maintenance, the Licensee shall employ only contractors that are licensed and approved annually by The City of Winnipeg pursuant to the provisions off Sewer By-Law No. 92/2010. The Licensee shall ensure that each such licensed contractor files evidence of insurance with The City in accordance with the City's licensing requirements pursuant to Sewer By-Law No. 92/2010 and maintains such insurance for the full term of the agreement;

That any costs associated with the repair and maintenance, relocation and/or removal of the private watermain is the responsibility of the Licensee;

The Licensee acknowledges and agrees that all applicable permits be obtained prior to any development;

The Licensee shall enter into a formal agreement with the City embodying the foregoing terms and conditions and such other terms and conditions as the City Solicitor/Director of Legal Services deems necessary and in a form satisfactory to the City Solicitor/Director of Legal Services as to form.

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/Director of Legal Services as to form and content.

Centennial Park Development Ltd. acknowledges and agrees that if the subject encroachment is denied by the Standing Committees and Council, the Licensee shall remove the private watermain and any/and all improvements encroaching onto the right-of-way at the sole cost and expense of the Licensee and shall restore the right-of-way to a condition satisfactory to the City.

CENTENNIAL PARK DEVELOPMENT LTD. hereby agrees to enter into an encroachment agreement with the City of Winnipeg for the use of the City property identified as "Encroachment Area" on the attached Misc. Plan No. 14185/1 and in accordance with the terms and conditions as outlined herein.

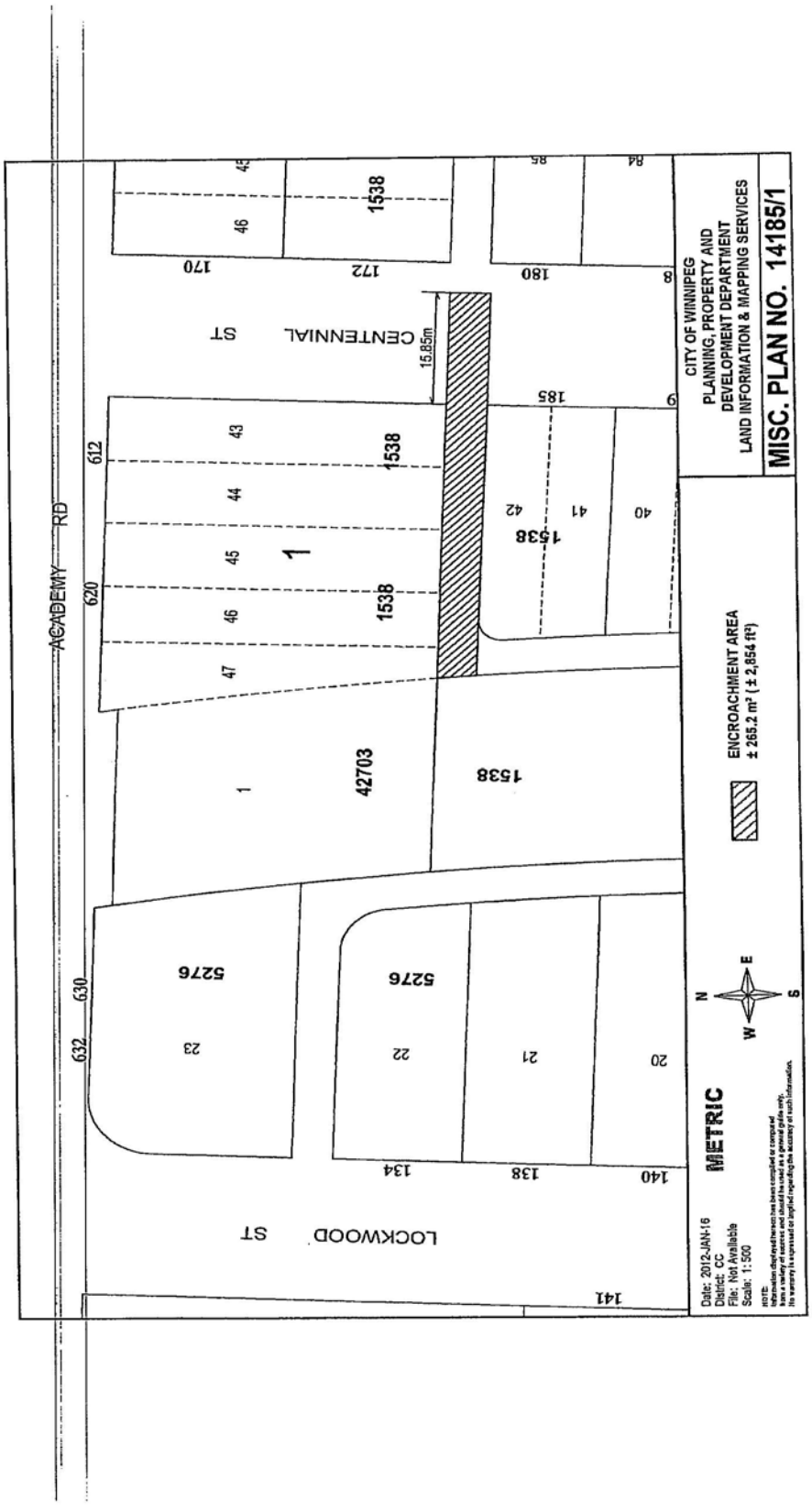
CENTENNIAL PARK DEVELOPMENT LTD.

Myles Kraut
NAME

Jan 24/12
DATE

President
TITLE

I/We have the authority to bind the corporation


MISC. PLAN NO. 14185/1
CITY OF WINNIPEG
PLANNING, PROPERTY AND
DEVELOPMENT DEPARTMENT
LAND INFORMATION & MAPPING SERVICES
ENCROACHMENT AREA
± 265.2 m² (± 2,854 ft²)
METRIC
ACADEMY RD
CENTENNIAL ST
LOCKWOOD ST
15.85m
1538
42703
5276
612
620
630
632
170
172
180
185
134
138
140
141