Minute No. 589
Report – Standing Policy Committee on Downtown Development, Heritage and Riverbank Management – September 10, 2012

Item No. 2 Encroachment Agreement - 504 Main Street – Red River College (Point Douglas Ward)

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management and adopted the following:

1. That an Encroachment Agreement in favour of The Board of Governors of Red River College for the development and maintenance of two accessible ramps, as shown as 'Encroachment Areas' on Misc. Plan No. 14284, be approved in accordance with the proposed 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.

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DECISION MAKING HISTORY:

Moved by Councillor Swandel,

That the recommendation of the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 19, 2012, 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 10, 2012, 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.

Carried

ADMINISTRATIVE REPORT

Title: Proposed Encroachment Agreement for the development and Maintenance of Two Accessible Ramps Located at 504 Main Street – Red River College

Critical Path: Standing Policy Committee on Downtown Development, Heritage and Riverbank Management, 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 The Board of Governors of Red River College for the development and maintenance of two accessible ramps, as shown as 'Encroachment Areas' on attached Misc. Plan No. 14284, 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

The Standing Policy Committee on Downtown Development to the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management 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.

In general, the City cannot grant the lease of land comprising a public right-of-way unless first legally closing the public right-of-way. The City has, however, the power to lease or permit the use of a public right-of-way subject to the continuing pleasure of Council.

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

IMPLICATIONS OF THE RECOMMENDATIONS

The Department has determined that there is no policy, regulatory, environmental or human resource implications to the lease of the subject property as described on the attached Misc. Plan No. 14284.

HISTORY

The Public Service received an encroachment application from Prairie Architects Inc., on behalf of Red River College requesting the approval of two accessible ramps encroaching within right-of way located at 504 Main Street.

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

The Corporate Finance Department, Risk Management, 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:** August 15, 2012

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

Proposed Encroachment Agreement for the development and Maintenance of Two Accessible Ramps Located at 504 Main Street – Red River College

	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	281	125	125	125	125
Net Cost/(Benefit)	$ (281)	$ (125)	$ (125)	$ (125)	$ (125)
Less: Existing Budget Amounts	(281)	(125)	(125)	(125)	(125)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Revenues in 2012 consist of a one-time admin fee of $250 + the annual rental amount of $125 prorated for an assumed October 1 commencement date. Revenues from 2013 onward represent annual rental for a full year.

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

CONSULTATION

In preparing this report there was consultation with:

Corporate Finance
Legal Services Department to legal issues
Public Works Department

SUBMITTED BY

Department	Planning, Property and Development
Division	Real Estate
Prepared by:	Stewart Anderson, CRA, SR/WA
Date:	August 15, 2012
File No.	4293/A Vol 5

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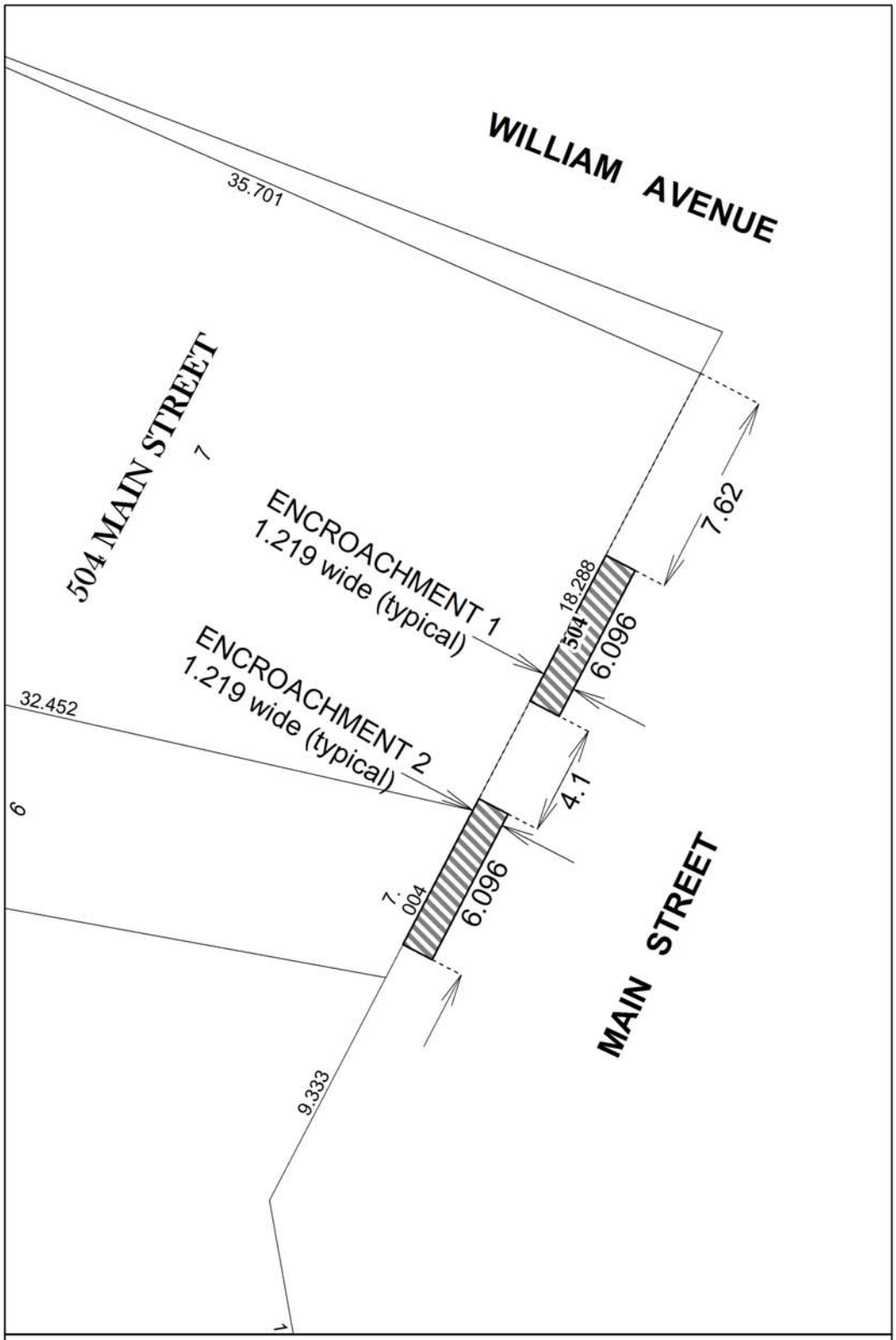

WILLIAM AVENUE
35.701
504 MAIN STREET
7
ENCROACHMENT 1
1.219 wide (typical)
ENCROACHMENT 2
1.219 wide (typical)
7.62
18.288
504
6.096
4.1
32.452
6
7.004
6.096
MAIN STREET
9.333
1
N
W
E
S
ENCROACHMENT AREAS
±7.432 m² (80 ft²) each
Date: 2012-JUNE-22
District: LSWK
METRIC
CITY OF WINNIPEG

SCHEDULE A

PROPOSED TERMS AND CONDITIONS FOR AN ENCROACHMENT AGREEMENT AT 504 MAIN STREET FOR THE DEVELOPMENT AND MAINTENANCE OF TWO WHEELCHAIR RAMPS

Use:	Development and Maintenance of two wheelchair ramp.
Area:	Shown and identified as 'Encroachment Areas' on Misc. Plan No. 14284, attached.
Term:	Annual Continuing, commencing upon Council approval.
Rental:	$125.00 per annum, plus GST, computed pursuant to Section 4 (1)(d) of 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.
Administration Fee:	$250.00 plus GST.
Insurance:	**Phase 1 – Construction and Development**:

The Board of Governors of Red River College shall ensure that any contractor and sub-contractor hired to perform work shall provide and maintain the following insurance coverage:

- Commercial general liability insurance in the amount of at least two million dollars ($2,000,000) inclusive, with The City of Winnipeg and the Developer to be added as an additional insured, cross liability clause, contractual liability, unlicensed motor vehicle ability, non-owned automobile and products and completed operations cover to remain in place at all times during the performance of the Work.
- Automobile liability insurance for owned automobiles used for or in connection with the Work in the amount of at least $2,000,000 to be in place at all times during the performance of the Work.
- 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 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 15 calendar days written notice.

- Any certificates of insurance should be sent to: The City of Winnipeg, Risk Management Division, 3rd Floor, 185 King Street, Winnipeg, MB R3B 1J1. Attention: Supervisor of Insurance and Risk Financing Fax 986-6132.

Phase 2 – Maintenance and Operation

During the maintenance and operation phase (after construction) the Lessee/Developer shall provide and maintain the following insurance coverage:

- Commercial general liability insurance, in an amount of at least $2,000,000 inclusive, such liability policy to add The City of Winnipeg as an additional insured, cross liability clause, provision to provide 15 days written notice of termination/cancellation.

- All policies shall be taken out with insurers licensed to and carrying on business in the Province of Manitoba.

- Deductibles shall be borne by the Developer.

- The Developer shall file with the City an annual certificate of insurance in a form satisfactory to the City Solicitor.

- 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 lease 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 if any removal, relocation or adjustment of existing MTS facilities is required, it will be at the expense of the applicant and/or customer: 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.

Accesses to any Fire Department connections for the building are not to be compromised by the ramps.

The proposed ramp must be in compliance with the Manitoba Building Code.

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.

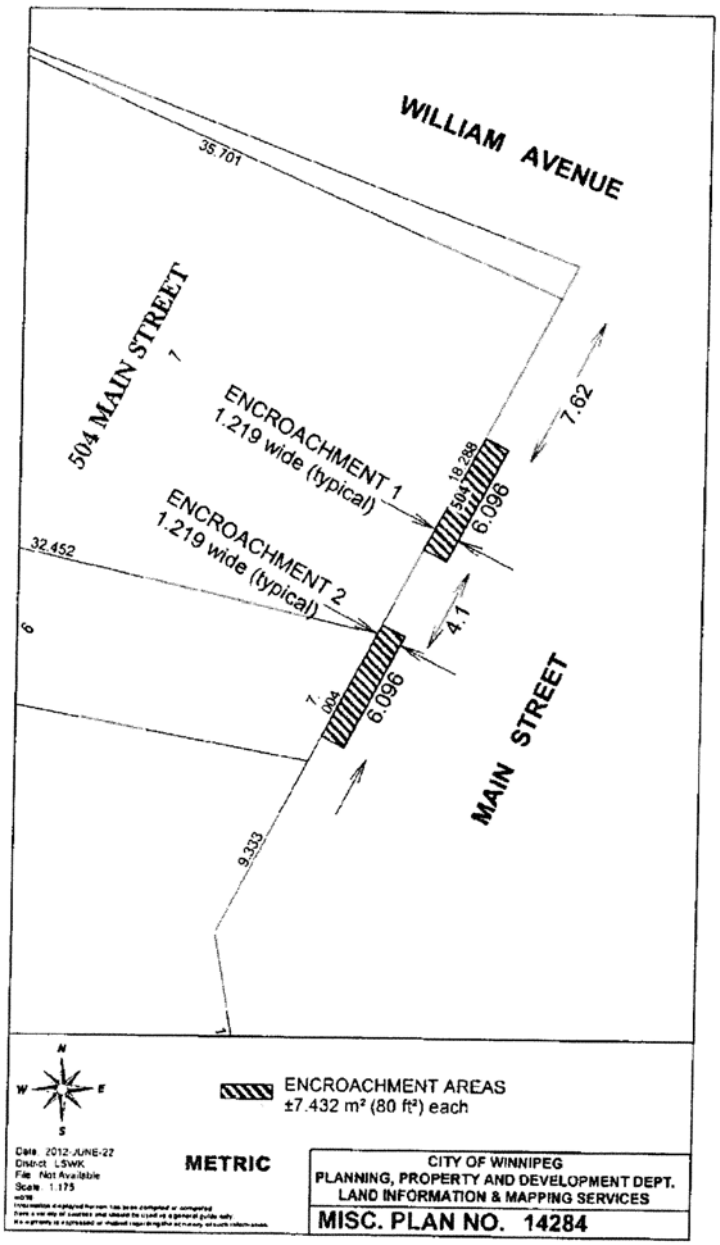
I/WE, Diane Ready + Robert Buisson **, BEING DULY AUTHORIZED TO ACT ON BEHALF OF THE BOARD OF GOVERNORS OF RED RIVER COLLEGE, HERE BY ACKNOWLEDGES AND AGREES TO THE ABOVE TERMS AND CONDITIONS.**

TITLE: Corporate Counsel

DATE July 27 2012

TITLE: VP FIN + ADMIN

DATE July 30, 2012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ENCROACHMENT AREAS
±7.432 m² (80 ft²) each
Date: 2012-JUNE-22
District: LSWK
File: Not Available
Scale: 1:175
METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 14284