Minutes – Executive Policy Committee – May 28, 2013

Minute No. 309
Report – Standing Policy Committee on Downtown Development, Heritage and Riverbank Management – May 27, 2013

Item No. 2 Encroachment Agreement - Public Rights-of-Way along Spence Street and Young Street adjacent to 350 Spence Street (Daniel McIntyre Ward)

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management and submitted the following to Council:

1. That an Encroachment Agreement in favour of the University of Winnipeg for the purpose of door swings, access ramps and overhangs shown and identified as "Right of Way Encroachment Areas" on Misc. Plan No. 7234/13 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.

Report – Standing Policy Committee on Downtown Development, Heritage and Riverbank Management – May 27, 2013

DECISION MAKING HISTORY:

Moved by Councillor Pagtakhan,

That the recommendation of the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management be concurred in and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On May 27, 2013, 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 to allow the use of Public Rights of Way along Spence Street and Young Street adjacent to 350 Spence Street for the purpose of door swings, access ramps and overhangs.**

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

AUTHORIZATION

Author	Department Head	CFO	CAO
Iain Day	B. Thorgrimson	M. Ruta	D. Joshi

RECOMMENDATIONS

1. That a proposed Encroachment Agreement in favour of the University of Winnipeg for the purpose of door swings, access ramps and overhangs shown and identified as “Right of Way Encroachment Areas” on Misc. Plan 7234/13 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.

In this regard, the Planning, Property and Development Department has negotiated the proposed terms and conditions of an Encroachment Agreement in favour of The University of Winnipeg at 350 Spence Street.

IMPLICATIONS OF THE RECOMMENDATIONS

The Department has determined that there is no general, policy, regulatory, environmental or human resource implications to entering into an Encroachment Agreement shown on the attached Miscellaneous Plan No. 7234/13.

HISTORY

In 2012 the University of Winnipeg announced plans to construct the UNITED Health & RecPlex, a state of the art multi-sport facility at 350 Spence Street designed to serve the needs of both University of Winnipeg students and inner city youth. It is slated to open in the summer of 2014.

The University of Winnipeg submitted an application to the City's Zoning and Permits Branch to allow for door swings, access ramps, and overhang encroachments at the UNITED Health & RecPlex located at 350 Spence Street.

The application was circulated to applicable City departments and public utilities for consideration and comments. All comments and concerns have been incorporated into the signed terms and conditions.

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.

The Planning, Property and Development Department has negotiated proposed terms and conditions of an Encroachment Agreement in favour of The University of Winnipeg.

This report seeks approval of the Encroachment Agreement as negotiated.

FINANCIAL IMPACT

Financial Impact Statement

Date: May 14, 2013

Project Name:

First Year of Program **2013**

Proposed Encroachment Agreement to allow the use of Public Rights of Way along Spence Street and Young Street adjacent to 350 Spence Street for the purpose of door

	2013	2014	2015	2016	2017
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	610	719	719	719	719
Net Cost/(Benefit)	$ (610)	$ (719)	$ (719)	$ (719)	$ (719)
Less: Existing Budget Amounts	(610)	(719)	(719)	(719)	(719)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Revenue in 2013 consists of the annual encroachment fee of $719 pro-rated for an assumed commencement date of July 1 + a one-time admin fee of $250. Revenue from 2014 onward represents the annual encroachment fee.

"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

SUBMITTED BY

Department	Planning, Property and Development
Division	Municipal Accommodations
Prepared by:	Nolan Winters
Date:	May 14, 2013
File No.	6666

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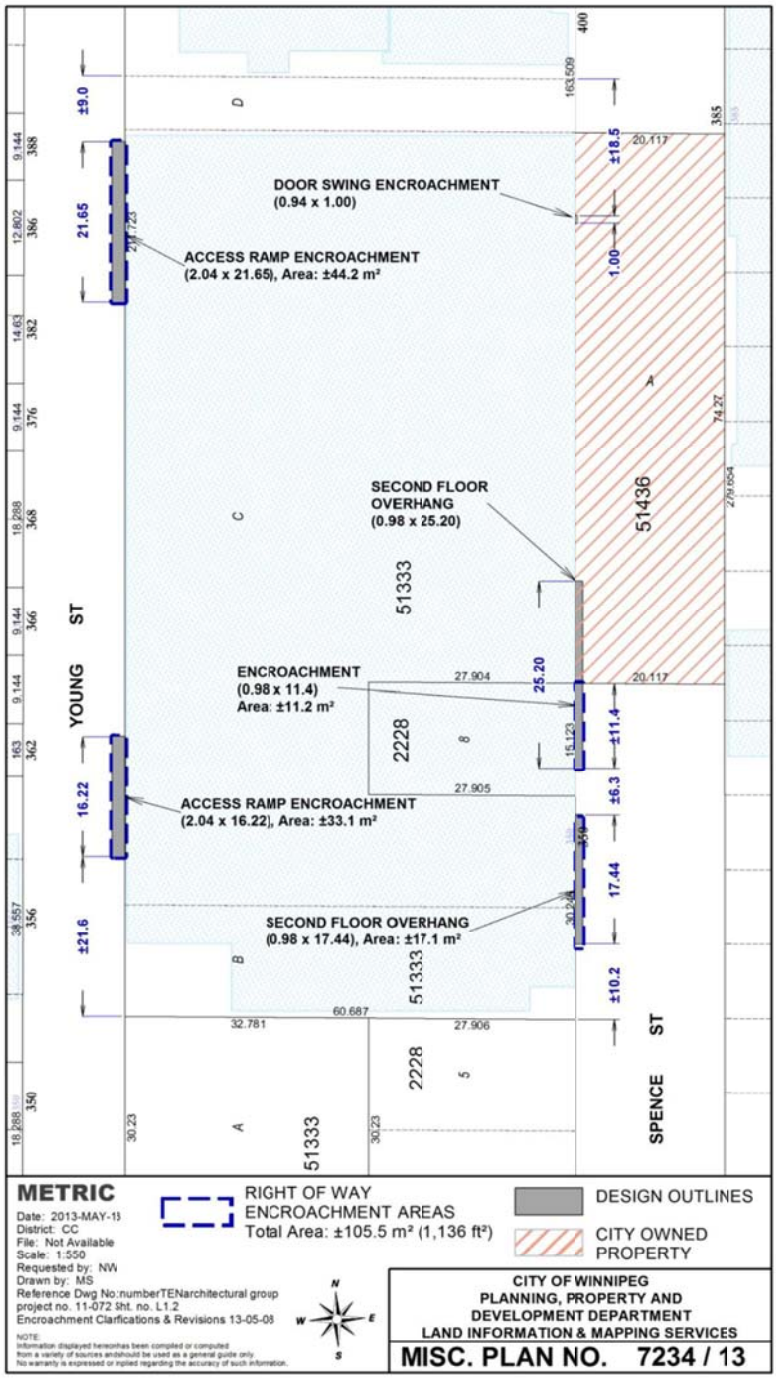

DOOR SWING ENCROACHMENT
(0.94 x 1.00)
ACCESS RAMP ENCROACHMENT
(2.04 x 21.65), Area: ±44.2 m²
SECOND FLOOR
OVERHANG
(0.98 x 25.20)
ENCROACHMENT
(0.98 x 11.4)
Area: ±11.2 m²
ACCESS RAMP ENCROACHMENT
(2.04 x 16.22), Area: ±33.1 m²
SECOND FLOOR OVERHANG
(0.98 x 17.44), Area: ±17.1 m²
YOUNG ST
SPENCE ST
51333
51436
2228
METRIC
Date: 2013-MAY-13
District: CC
File: Not Available
Scale: 1:550
Requested by: NW
Drawn by: MS
Reference Dwg No:numberTENarchitectural group
project no. 11-072 Sht. no. L1.2
Encroachment Clarfications & Revisions 13-05-08
RIGHT OF WAY
ENCROACHMENT AREAS
Total Area: ±105.5 m² (1,136 ft²)
DESIGN OUTLINES
CITY OWNED
PROPERTY
CITY OF WINNIPEG
PLANNING, PROPERTY AND
DEVELOPMENT DEPARTMENT
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 7234 / 13

SCHEDULE A

PROPOSED TERMS AND CONDITIONS FOR AN ENCROACHMENT AGREEMENT TO ALLOW FOR THE USE OF PORTIONS OF YOUNG STREET AND SPENCE STREET ADJACENT TO 350 SPENCE STREET FOR THE PURPOSE OF ACCESS RAMPS, OVERHANGS, AND DOOR SWINGS.

Use:	Door Swings, Access Ramps, Overhangs
Licensor:	The City of Winnipeg
Licensee:	The University of Winnipeg (hereinafter called the "Licensee")
Area:	Shown and identified as "Right of Way Encroachment Areas" on attached Misc. Plan No. 7234/13 (hereinafter called the "Encroachment Area");
Term:	Annually continuing, commencing the first day of the month following approval from the City's Standing Committees and Council;
Rental:	$718.75 per annum plus GST; plus an initial administrative fee of $250.00 plus GST; in accordance with the fees set forth in the City's Encroachment By-law 692/74 as amended from time to time. In the event the fees in said By-law are revised or amended, the Licensee agrees to pay the revised or amended fee.
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 five million dollars ($5,000,000) per occurrence, such liability policy to include the City of Winnipeg as an additional insured and contain evidence of a cross liability clause and contractual liability;
	All policies to be taken out with insurers licensed to and carrying on business in the Province of Manitoba;
	Deductibles shall be borne by the Licensee;
	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 coverages as reasonably required from time to time during the continuance of this encroachment 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 by either party;
Conditions:	The Licensee understands and agrees that the 'Encroachment Area' is licensed on an "as is" basis. The development and maintenance of the Encroachment Area will be performed at the sole cost, expense and effort of the Licensee, including obtaining all permits required to develop, occupy and utilize the Encroachment Area for its intended use. The City shall have the right to access the Encroachment Area at any time (twenty four hours a day, seven days a week) by its employees or other persons acting with its authorization, with or without equipment to maintain, operate, repair, inspect or rehabilitate existing water mains, sewer lines, the existing pumping station and appurtenances located within the Encroachment Area. The Licensee shall not erect or permit the erection of any building or other structure, nor make any excavation or place fill upon the Encroachment Area. The Licensee shall be responsible for all costs, utilities, and operating expenses in connection with the use and occupation of the Encroachment Area including, but not limited to; license fees, business tax, garbage removal, snow removal, security, etc. The Licensee shall also be responsible for cleanup of litter in the immediate area as a result of use and occupation of the Encroachment Area. That all utilities shall be permitted to enter the area for maintenance, repair or installation of services at any time without notice to 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 204-480-1212; Manitoba Hydro and Centra Gas Manitoba Inc. have facilities in the affected area but have no easement requirements. All areas require underground locates to confirm the exact location of hydro cables as underground street light circuits may be in the indicated areas, on the attached map (Schedule B). Any removal or relocation of Manitoba Hydro and/or Centra Gas Manitoba Inc. existing facilities will be at the expense of the developer and/or Licensee. Future electrical and/or gas service can be obtained from the local Manitoba Hydro District Office. If this application is revised at any time, it will be necessary for Manitoba Hydro/Centra Gas to review the file to determine if our easement requirements remain the same. The Licensee shall not assign this agreement or sublet the lands without the prior consent of the City.

The Licensee shall indemnify and save the City harmless from and against any and all claims for damages or injuries, including death that may arise from the use of the lands by the Licensee.

As Spence Street is an access route utilized by the Fire Department, the Street shall be no less than 6 metres in width from Portage Avenue to Ellice Avenue. The route shall not be closer than ten feet from the nearest edge of the fire lane. The access route shall not contain any obstruction such as a gate or locking bollards that would potentially slow down the Fire Department's primary emergency response.

Second floor overhangs are to have a minimum of 2.60 metres of clearance above the street grade.

The door swing encroachment on Spence Street at the South end of the building is to be 650 mm (three doors).

The door swing encroachment on Spence Street at the North end of the building is to be 820 mm (one door).

The Licensee is to enter into an agreement with the City of Winnipeg in which the Licensee agrees to be responsible for snow clearing and spring/summer clean-up of the sidewalk on the East side of Young Street between the driveways North and South of the new building at 350 Spence Street. Snow cleared from the sidewalk must be completely removed from the right-of-way and cannot be deposited onto the remaining boulevard area. Streets Maintenance has indicated that they are not prepared to clear snow or sweep this section of the sidewalk due to the probability of damage associated with clearing the proposed access ramps.

In the event that the sidewalk on the access ramp encroachment heaves to the extent that it affects the door swing, the Licensee will be responsible for all costs associated with fixing the sidewalk to allow the doors to open.

A railing must be installed at the West edge of both access ramps of the West side of the Field House Sports Complex to prevent pedestrians from tripping on the edge of the ramp (Schedule C)

A consistent curb height of 150 mm is to be installed on the East side of Young Street in between the driveways North and South of the Field House Sports Complex when the boulevard is reconstructed to accommodate the development;

The exact location of a 2100 mm storm sewer must be confirmed by the Licensee to ensure adequate clearance is maintained during construction. The storm sewer will need to be televised before and after construction to ensure it is not damaged as a result of the building construction. Any damage to this City owned

infrastructure is the responsibility of the Licensee to repair, at the Licensee's cost;

The Licensee will not damage the fire hydrant and catch basin in close proximity to the North/West proposed access ramp encroachment in addition to the catch basin in close proximity to the South/West proposed access ramp encroachment. Any damage to this City owned infrastructure is the responsibility of the Licensee to repair, at the Licensee's cost;

That the approval of this application by Council or its delegated authority is only valid for a period of six (6) months from the date of said approval unless the applicant executes 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;

That all applicable permits be obtained prior to any further 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.

Any other terms and conditions as are deemed necessary by the Director of the Planning, Property and Development Department, the Director of Public Works Department and by the City Solicitor/Director of Legal Services to protect the City's interests and agreed to by the Licensee, acting reasonably.

I, Bill Balan, am duly authorized to act on behalf of The University of Winnipeg, hereby agree to enter into an Encroachment Agreement with the City of Winnipeg for the use of the property identified as "Right of Way Encroachment Areas" on the attached Misc. Plan No. 7234/11 and in accordance with the proposed terms and conditions as outlined herein. 13

Per: _____ May 10 2013
DATE

Bill Balan
NAME

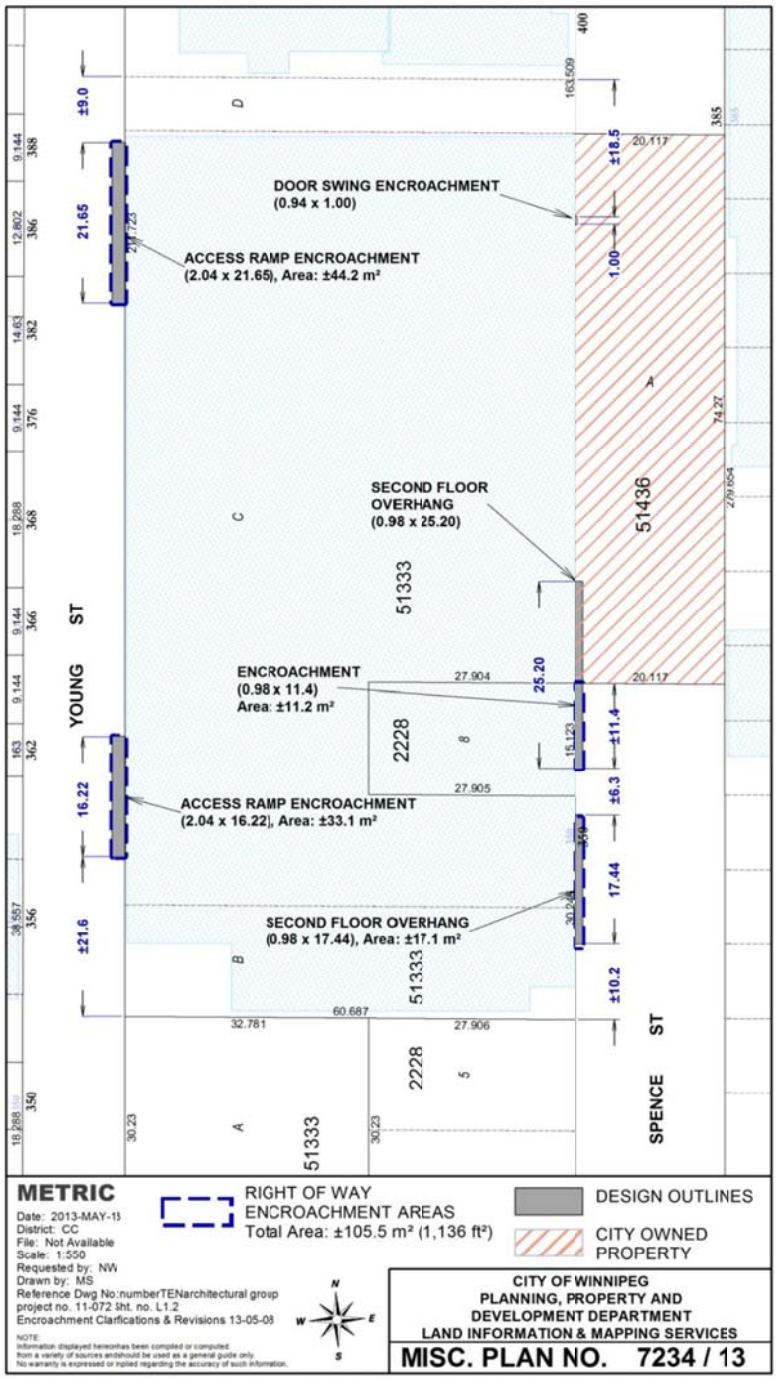
VP FINANCE & ADMIN
TITLE

I, _____, am duly authorized to act on behalf of The University of Winnipeg, hereby agree to enter into an Encroachment Agreement with the City of Winnipeg for the use of the property identified as "Right of Way Encroachment Areas" on the attached Misc. Plan No. 7234/11 and in accordance with the proposed terms and conditions as outlined herein. 13

Per: _____ May 10/2013
DATE

Leonard Camm
NAME

Executive Director Facilities
TITLE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(0.98 x 17.44), Area: ±17.1 m²
YOUNG ST
SPENCE ST
51333
51436
2228
METRIC
Date: 2013-MAY-13
District: CC
File: Not Available
Scale: 1:550
Requested by: NW
Drawn by: MS
Reference Dwg No:numberTENarchitectural group
project no. 11-072 Sht. no. L1.2
Encroachment Clarfications & Revisions 13-05-08
RIGHT OF WAY
ENCROACHMENT AREAS
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CITY OWNED
PROPERTY
CITY OF WINNIPEG
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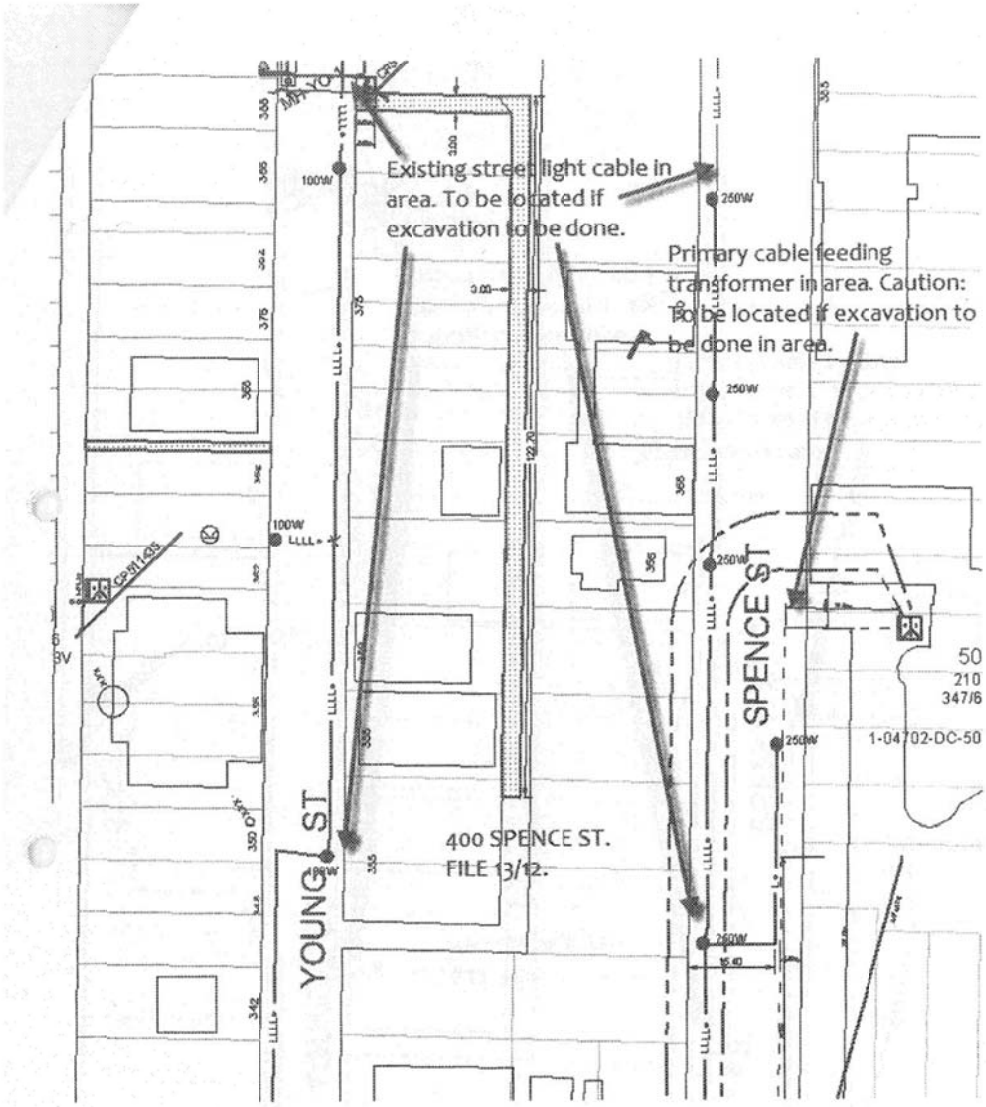
MISC. PLAN NO. 7234 / 13

SCHEDULE B

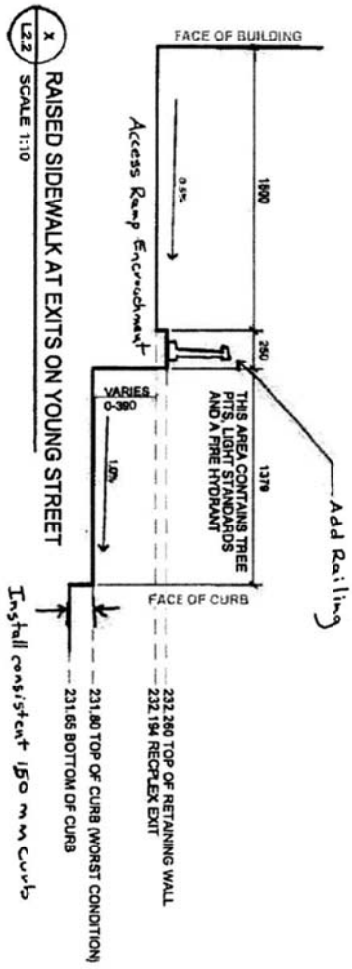


Thank you,

Erin Dyck
Subdivision Circulars
Manitoba Hydro I Property Department
edyck@hydro.mb.ca

2

SCHEDULE C



FACE OF BUILDING
1600
0.5%
Access Ramp Encroachment
250
VARIES
0-390
1.0%
1379
THIS AREA CONTAINS TREE PITS, LIGHT STANDARDS AND A FIRE HYDRANT
Add Railing
FACE OF CURB
232.260 TOP OF RETAINING WALL
232.194 RECPLEX EXIT
231.80 TOP OF CURB (WORST CONDITION)
231.65 BOTTOM OF CURB
Install consistent 150 mm curb
X
L2.2
RAISED SIDEWALK AT EXITS ON YOUNG STREET
SCALE 1:10