Minute No. 517
Report - Standing Policy Committee on Property and Development – July 5, 2011

Item No. 7 **Encroachment Agreement - Erect and Maintain an Electronic Sign encroaching onto the Colony Street Right-of-Way at Portage Avenue – Plug In Institute of Contemporary Art (Daniel McIntyre Ward)**

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Property and Development and adopted the following:

1. That an Encroachment Agreement in favour of Plug-In Institute of Contemporary Art to erect and maintain an electronic sign encroaching onto the City right-of-way at Colony Street and Portage Avenue, as shown on Misc. Plan No. 14000, be approved in accordance with the terms and conditions as set out in Schedule A, subject to the following:

    A. That the sign shall be static in nature and shall change images no more than once every six (6) seconds.

    B. That each transition between advertisements shall not exceed one (1) second.

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 Property and Development – July 5, 2011

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 July 13, 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 July 5, 2011, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service, with the following amendment:

- Amend Recommendation 1, by adding the following to the end thereof, namely:

  "subject to the following:

  A. That the sign shall be static in nature and shall change images no more than once every six (6) seconds.

  B. That each transition between advertisements shall not exceed one (1) second,"

and forwarded the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: **Proposed Encroachment Agreement to Erect and Maintain an Electronic Sign encroaching onto the Colony Street Right-of-Way at Portage Avenue – Plug In Institute of Contemporary Art**

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

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Thorgrimson	D. Joshi	M. Ruta Deputy CAO/ Chief Financial Officer	A. Robinson Deputy CAO

RECOMMENDATIONS

1. That a proposed Encroachment in favour of Plug-In Institute of Contemporary Art to erect and maintain an electronic sign encroaching onto the City right-of-way at Colony Street and Portage Avenue, as shown on attached Miscellaneous Plan No. 14000, 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 Plug-In

Institute of Contemporary Art for the use of City right-of-way shown on Misc. Plan No 14000. 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 Misc. Plan. No. 14000.

- 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. No. 14000.

HISTORY

Plug-In Institute of Contemporary Art submitted an encroachment application to the City's Zoning and Permits Branch to erect and maintain an electronic sign encroaching onto the City right-of-way at Colony Street at Portage Avenue.

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 Plug-In Institute of Contemporary Art to erect and maintain an electronic sign encroaching onto the Colony Street right-of-way at Portage Avenue.

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: June 8, 2011

Project Name:

First Year of Program 2011

Proposed Encroachment Agreement to Erect and Maintain an Electronic Sign encroaching onto the Colony Street Right-of-Way at Portage Avenue – Plug In Institute of Contemporary Art

	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	312	62	62	62	62
Net Cost/(Benefit)	$ (312)	$ (62)	$ (62)	$ (62)	$ (62)
Less: Existing Budget Amounts	(312)	(62)	(62)	(62)	(62)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Revenues in 2011 consist of the initial admin fee of $250 + annual rent of $62 while from 2012 onward, only the $62 rental fee is applicable.

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

CONSULTATION

In preparing this report there was consultation with:

Legal Services as to legal issues

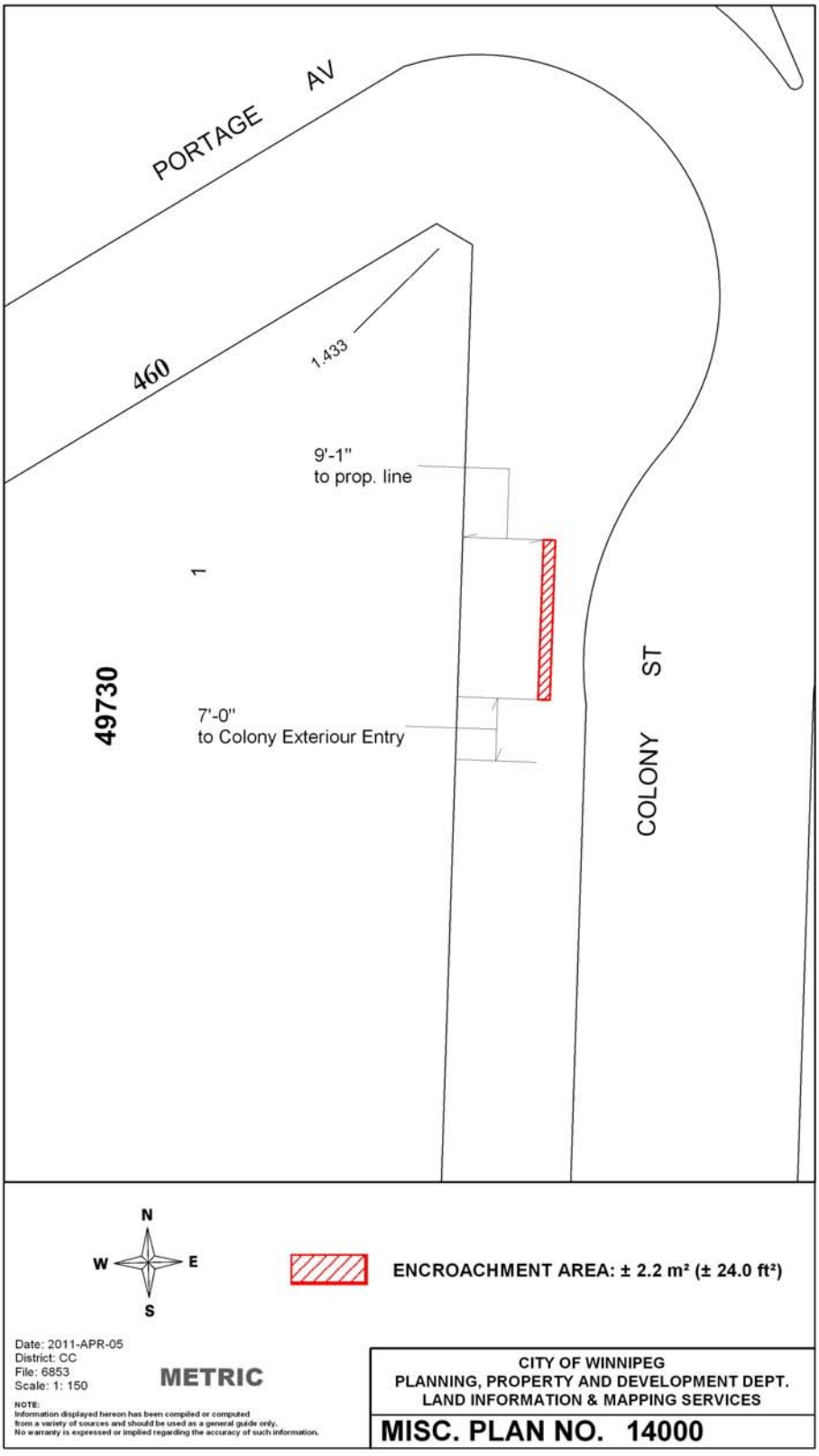
Corporate Finance, Risk Management

Public Works Department

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Real Estate
Prepared by:	M. Clayton, Real Estate Officer
Date:	June 14, 2011
File No.:	6853

O:\Reports Directive\Real Estate\Leasing\(mpc) Encroachment Agmt-Plug In.doc


PORTAGE AV
460
1.433
9'-1"
to prop. line
1
49730
7'-0"
to Colony Exteriour Entry
COLONY ST
N
W
E
S
ENCROACHMENT AREA: ± 2.2 m² (± 24.0 ft²)
Date: 2011-APR-05
District: CC
File: 6853
Scale: 1: 150
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. 14000

SCHEDULE A

PROPOSED TERMS AND CONDITIONS FOR ENCROACHMENT AGREEMENT TO ERECT AND MAINTAIN AN ELECTRONIC SIGN ENROACHING ONTO THE COLONY STREET RIGHT-OF-WAY AT PORTAGE AVENUE – PLUG-IN INSTITUTE OF CONTEMPORARY ART

Use:	Erection and Maintenance of an electronic sign
Licensee:	Plug In Institute of Contemporary Art
Area:	Shown and identified as 'Encroachment Area' on Misc. Plan No. 14000, attached;
Term:	Annual Continuing, commencing May 1, 2011;
Rental:	$62.00 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: Commercial general liability insurance in the amount of at least $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 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 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;

The Licensee shall ensure that any Contractor or Sub-contractor hired to perform maintenance work or repairs to the sign shall provide a certificate of insurance evidencing general liability insurance in the amount of not less that $2,000,000.00 The Policy shall include the City of Winnipeg as an additional insured, contractual liability, products and completed operations, cross liability clause, non-owned automobile liability and a provision to provide a minimum of 30 days notice of cancellation/termination

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 Licensee will be at the expense of the University of Winnipeg. Prior to any digging or excavation, Manitoba Hydro and/or Centra Gas Manitoba Inc. advise the University of Winnipeg to contact the Call-Before-You Dig line at 480-1212;

If any removal, relocation or adjustment of existing MTS facilities is required, it will be at the expense of the Licensee;

The Licensee shall ensure that the following conditions provided by Public Works be adhered to:

- That the electronic message display be equipped with automatic dimming features based on ambient light sensing and the electronic message display shall always function with automatic dimming feature enabled
- That the electronic message centre shall not use any stroboscopic or high intensity flash effect
- That the electronic message centre shall not display any graphics which imitate or resemble any traffic control device
- That, if directed by the Director of Public Works or his designate, the lighting levels of the electronic message display shall be adjusted to ensure the safety of the motoring public. To assist with this requirement, the Licensee shall provide a contact person and phone number to facilitate the process of notifying the sign

operator that an adjustment to the electronic message centre is required.

That extreme caution be used when excavating in the vicinity of MTS buried plant and that Licensee contact the Buried Plant Location Service at 941-7267, 48 hours prior to excavation for further confirmation in the field;

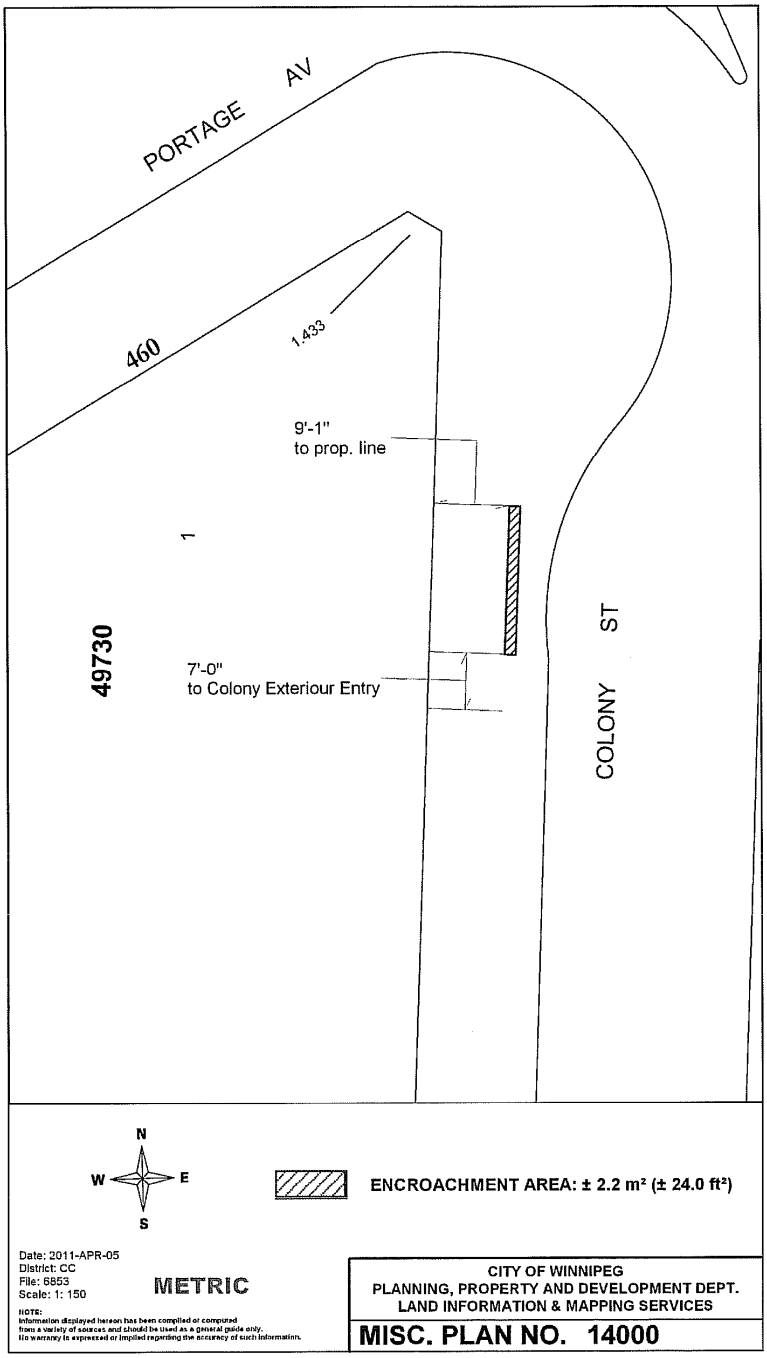
That all applicable permits be obtained prior to any development;

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.

PLUG-IN INSTITUTE OF CONTEMPORARY ART hereby agree to enter into an Encroachment Agreement with the City of Winnipeg for the erection and maintenance of an electronic sign, shown as 'Encroachment Area Total' on Misc. Plan No. 14000 attached, in accordance with the terms and conditions as outlined herein.

June 2, 11

PLUG IN INSTITUTE OF CONTEMPORARY ART


PORTAGE AV
460
1.433
9'-1"
to prop. line
1
49730
7'-0"
to Colony Exteriour Entry
COLONY ST
N
W
E
S
ENCROACHMENT AREA: ± 2.2 m² (± 24.0 ft²)
Date: 2011-APR-05
District: CC
File: 6853
Scale: 1: 150
METRIC
NOTE:
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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.
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MISC. PLAN NO. 14000