Agenda - Executive Policy Committee - July 16, 2003

REPORTS

Item No. 1 CanWest Stadium – Various Tenant Requests
File FR-4.1

COUNCIL'S DECISION:

On June 25, 2003, Council referred back Item 4 of the Report of the Executive Policy Committee dated June 18, 2003 with respect to the above.

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 18, 2003, the Executive Policy Committee concurred in the following administrative recommendations and submitted the following to Council:

1. That the proposed Leave and License Agreement for the encroachment of the third floor of the baseball stadium expansion into Pioneer Avenue as shown on the attached Misc. Plan Nos. 11931 and 11931/1 at an annual rent of $1.00 plus realty tax, business tax and applicable GST and in accordance with the terms and conditions as stated herein, be approved;

2. That the request for the City to pay the portion of municipal realty taxes assessed against the Westbrook Parking Lot portion of the leased premises under the Master Lease Agreement be denied;

3. That the request to add Parcel "5" as shown on the attached Misc. Plan No. 11119/4 to the Master Lease Agreement between the City and Riverside Park Management Inc. dated October 31, 1997 be approved subject to terms which are consistent with the terms as apply to the Westbrook parking lot; and

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Re: Canwest Stadium – Various Tenant Requests
City Centre Community
Fort Rouge Ward

For submission to: **Executive Policy Committee**

Original report signed by: **Director of Planning, Property and Development**

Report date: June 12, 2003

Recommendation(s):

1. That the proposed Leave and License Agreement for the encroachment of the third floor of the baseball stadium expansion into Pioneer Avenue as shown on the attached Misc. Plan No's 11931 & 11931/1 at an annual rent of $1.00 plus realty tax, business tax and applicable GST and in accordance with the terms and conditions as stated herein, be approved;

2. That the request for the City to pay the portion of municipal realty taxes assessed against the Westbrook Parking Lot portion of the leased premises under the Master Lease Agreement be denied;

3. That the request to add Parcel "5" as shown on the attached Misc. Plan No. 11119/4 to the Master Lease Agreement between the City and Riverside Park Management Inc. dated October 31, 1997 be approved subject to terms which are consistent with the terms as apply to the Westbrook parking lot; and

4. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

REPORT SUMMARY

Key Issues:

- Riverside Park Management Inc. requested that a Leave and License Agreement be approved to regularize a proposed encroachment of the baseball stadium at the third storey level into the Pioneer Avenue right of way. Accordingly, the Department is recommending the terms and conditions for a Leave and License Agreement.

- Riverside Park Management Inc. has requested that the City change the realty tax treatment of the Westbrook Parking Lot portion of the Master Lease Agreement wherein the Municipal tax credit would apply to the area used for vehicle parking. The Administration is not prepared to recommend approval being as the land is used primarily for vehicle parking purposes on a year round basis and that same would not be equitable to other parking lot owners.

- Riverside Park Management has requested that Parcel '5" as shown on the attached Misc. Plan No. 1119/4 be added to the Master Lease Agreement. At its meeting held on July 17, 2002, Council denied a prior similar request of Riverside. The Department has reviewed this request having regard for subsequent events and is now recommending that Riverside's request be approved subject to terms which are consistent with the terms as apply to the Westbrook parking.

Implications of the Recommendation(s):

General implications:

X	**None**
	For the organization overall and/or for other departments
	For the community and/or organizations external to the City of Winnipeg
	Involves a multi-year contract

Comment(s):

-

Policy implications:

X	**No**
	Yes

Comment(s):

-

Environmental implications:

X	**No**
	Yes

Comment(s):

-

Human resources implications:

X	**No**
	Yes

Comment(s):

-

Financial implications:

X	**Within approved current and/or capital budget**
	Current and/or capital budget adjustment required

Comment(s):

-

REASON FOR THE REPORT:

The Planning, Property and Development Department is, by this report, advising as to further Tenant requests relative to the Riverside Park Management Inc. tenancy. The Department is also advising as to a proposed resolution of the requests which will require Council consideration.

HISTORY:

At its meeting held on July 17, 2002, Council considered an Executive Policy Committee Report dated July 17, 2002 regarding various requests from Riverside Park Management Inc. and City-owned lands located north of the "Forks". With respect to Parcel "5" as shown on Misc. Plan No. 11119/4, the Report indicated the following:

- That Plan Winnipeg: 2020 Vision, CentrePlan (Vision & Strategies, Development Framework) and the Forks North Portage Partnership Concept and Financial Plan (2001 – 2020) provided a conceptual framework to consider any requests for the use of City-owned lands situated north of the "Forks".
- That Parcels 1, 2, 3, 4 and 5 as shown on Misc. Plan No. 11119/4 are prominent downtown development sites foreseen for retail, office, entertainment, residential and other uses.
- That permanent surface parking is not consistent with the existing above referenced planning documents.
- That to enable marketing and future development of Parcels 1 (portion B) , 2, 3, 4 and 5, that the City not encumber same with long term leases.
- That opportunities for permanent parking facilities (surface or structured) be considered as plans for Parcels 2, 3, 4 and 5 evolve.
- That Riverside Park Management Inc. did not agree with the above position to only lease Parcel "5" on an interim basis.

Following consideration of the above, Council approved the following recommendation:

> "3. That the request for an amendment of the Master Lease Agreement to include the lands identified as Parcels 3, 4 and 5 as shown on Misc. Plan 11119/4 not be approved, but that, the Chief Administrative Officer or her designate be delegated authority to approve such interim parking leases in favour of Riverside Park Management Inc. as may be feasible, in her sole discretion to facilitate parking on the City-owned lands during the Provencher Bridge and Approach Roadways Construction."

In November, 2002, Pre-Con Builders applied to the City on behalf of Riverside Park Management Inc. for an encroachment into Pioneer Avenue.

By letter dated March 13, 2003, Riverside Park Management Inc. requested the following matters be addressed through amendments to the Master Lease Agreement:

- Parcel "5" be added to the Master Lease Agreement; and

- That the realty tax related to the Westbrook Plaza be treated in a manner consistent with the other lands as identified in the Master Lease Agreement.

The Master Lease Agreement was amended in accordance with Council's direction of July 17, 2002. Riverside Park Management Inc. executed the amending Agreement on March 28, 2003.

DISCUSSION:

Riverside has submitted the following requests to the Planning, Property and Development Department for consideration:

Request to Enter into a Leave and License Agreement:

As part of the baseball park expansion project, as approved by Council at its meeting of July 17, 2002, Riverside Park Management Inc requested the City to grant an encroachment for the extension of the third floor of the structure into the Pioneer Avenue right of way. Riverside proposed that the rent rate be $1.00 and in accordance with the terms of the Master Lease Agreement. This encroachment (as shown on the attached Misc. Plan No's 11931&11931/1) has now been constructed.

The particulars of the subject City-owned property and proposed terms of the Leave and License Agreement are as follows:

Owner:	City
Tenant:	Riverside Park Management Inc.
Location:	That part of Pioneer Avenue as shown on the attached Misc Plan No's 11931&11931/1
Zoning:	Ra,NRg,PL,S-3,P/L1,BR-5
Size:	54.8 sq m (590 sq ft)
Term:	Annual Continuing
Commencement Date:	January 1, 2003 – Annual Continuing
Termination:	Upon default or in conjunction with the termination of the Master Lease Agreement
Rental:	Rental of $1.00 per year; plus payment of business, school and municipal realty taxes; plus payment of the entertainment funding tax in accordance with the provisions of the Master Lease Agreement as amended.

Departmental Comment:

The Department has processed this application in the normal fashion and has not received any objections to the proposal. As such, the Department recommends the application be approved.

In developing the proposed rent rate for the Leave and License Agreement, the Department considered the following facts:

- That Council approved the Master Lease Agreement with Riverside Park Management Inc. at $1.00/annum plus school, business and entertainment funding taxes. The entertainment funding tax remitted is refunded in full each year in accordance with the provisions of the amateur access agreement;

- That the former Island Parking Lot Lease (located on the subject Parcel 5) with Riverside Park Management Inc. was at $1.00/ annum plus municipal, school, and business taxes;

- That Council on July 17, 2002, added additional land shown as Parcel 1 on Misc. Plan No. 11119/4 - 1.09 acres) to the Master Lease Agreement to facilitate the expansion of the ballpark and to facilitate a future building site. The rental arrangements for this land will be consistent with the provisions of the Master Lease;

- The baseball stadium grandstand structure is constructed within the boundaries of the Master Lease Agreement. The encroachment, while lying outside of the boundaries of the Master Lease Agreement, is still physically part of the grandstand structure.

In view of the foregoing considerations, and on the basis of consistency, the Department is recommending that the rental terms as applicable to the Master Lease Agreement be applied to the proposed Leave and License Agreement as well. For clarification, the rent rate would be $1.00/ annum plus school tax, business tax and GST (if applicable).

For the further information of Council, under normal circumstances, the rental for this encroachment would be $1,475.00/annum plus realty tax and business taxes and GST (if applicable).

Request to Change Realty Tax Treatment of Westbrook Parking Lot under the Master Lease Agreement:

As shown on the attached Misc. Plan 11119/4, Riverside Park Management Inc. utilizes City-owned lands between Westbrook Street and the CN Highline under the Master Lease Agreement. This portion of the leased premises is approximately 0.8572 acres in size and is improved with a parking lot.

Under Clause 27.01 of the Master Lease Agreement, the City agreed to pay the municipal portion of real property taxes (excluding any school taxes) on that portion of the Land and Project which relates to the presentation of baseball games, meaning the area of land and project necessary for baseball games, such as the playing surface, dugouts, locker rooms, stands, bleachers and the like, as determined by the Landlord in its sole and absolute discretion.

Based on the above wording of the Clause, the Administration has not paid the municipal portion of realty taxes assessed against the Westbrook Parking Lot portion of the Master Lease Agreement (41 Westbrook). These taxes have been paid by Riverside Park Management Inc.

Riverside Park Management Inc. has requested that the City pay for the municipal realty taxes owing against this portion of the leased premises. In 2002, this amount was $16,150.67. Over the remaining term of the agreement (20.5 years), this equates to approximately $187,620.72 (based on a 6% discount over the 20.5 remaining years of the Master Lease).

Departmental Comment:

The Administration does not recommend that the City agree to pay the municipal portion of realty taxes against this portion of the City-owned lands under the Master Lease Agreement for the following reasons:

1) The rent rate for the subject lands is $1.00;

2) Being as the parking lot is only used for baseball games approximately 50 days per year and that Riverside Park Management Inc. receives parking revenue for the majority of the year (parking lot is used by monthly renters); and

3) From a tax equity perspective, it would not be equitable to other downtown parking lot owners who pay full municipal realty taxes for parking lots used on a full time basis.

Request to add Parcel 5 "Island Parking Lot" to the Master Lease Agreement:

Riverside has requested the City to add Parcel 5 as shown on the attached Misc. Plan No. 11119/4 to the Master Lease Agreement. Riverside Park Management Inc. has advised that it intends on developing and using the property for parking lot purposes associated with the baseball stadium and its planned development on Parcel "1" as shown on Misc. Plan No. 11119/4.

The particulars of the subject City-owned property are as follows:

Owner:	City of Winnipeg
Location:	Residual Island between Pioneer Ave and Water Ave shown as Parcel 5 on the attached Misc. Plan No. 11119/4
Zoning:	Ra, NRg, PL,S-3,P/L 1, BR-5
Size:	0.57 ac.

Planning and Asset Management Considerations:

On July 17, 2002, Council considered Riverside's previous request to add Parcel "5" to the Master Lease Agreement. Council concurred with the Administration's advice to not approve this request as an asset management strategy for these and other City-owned lands in this area had not yet been developed at that time.

The Department has given the current request further consideration in light of recent developments respecting these lands and has the following comments which would tend to support the granting of this request:

- The recent announcement by the Asper Foundation to create the Canadian Human Rights Museum, which if approved by Council, will give definition to the proposed use of City-owned lands defined as Parcels 3 and 4 (as shown on Misc. Plan No. 11119/4). This project will not require Parcel "5";
- With the clarification of the site requirements to facilitate the Museum Project and with the inclusion of Parcel "1" (as shown on Misc. Plan No. 11119/4) into the Master Lease Agreement with Riverside, the Department is of the opinion that the proposed use of Parcel "5" as a parking lot in support of these projects, and of the baseball stadium itself, is appropriate;
- The Department is also of the opinion that the proposed Museum is a signature project which will become a major attraction. As a result, Parcel "5" becomes less strategic from the perspective of promoting redevelopment of the City's properties at this location.
- The Public Works Department has completed the reconstruction of Pioneer Avenue and Water Avenue and does not require Parcel "5" for public works purposes.
- Parcel "5" is probably unsuitable for a major redevelopment given its size and shape and its location between Pioneer and Water Avenue(s).

Financial Considerations:

In addition to considering the above, the Department also reviewed the financial parameters of the subject request.

Addition of Parcel "1" – July 17, 2002:

At its meeting held on July 17, 2002, Council approved the recommendation to add 1.09 acres (Parcel 1) to the Master Lease Agreement to facilitate the expansion of the baseball stadium and to enable further economic development of part of parcel 1. The annual rental for Parcel 1 became $1.00 and is subject to the various tax provisions as contained in the Master Lease Agreement. The estimated value of the subsidy was then estimated at $1.5 million over the remaining term of the lease agreement. It was understood that the subsidy would be in support of baseball stadium operations.

Proposed Addition of Parcel "5":

The estimated value of the subsidy (the foregone commercial rental and municipal taxes) related to adding the additional 0.57 acres (Parcel "5") to the Master Lease Agreement is estimated at $412,940.00 based on a 6% discount over the 20.5 remaining years in the Master Lease.

If it is determined that Parcel "5" is not used for the presentation of baseball games for the purpose of receiving the municipal tax credit, then the estimated value of the subsidy is estimated at $346,129.00 (only the foregone commercial rental).

Strategic Positioning related to the Manitoba Hydro Downtown Office RFP:

The Department also considered the relationship of Parcel "5" to a current initiative involving the potential development of an Office Tower in response to the Manitoba Hydro RFP. The City-owned lands under the Master Lease Agreement (41 Westbrook Street) may be required for this project. The Department is of the opinion that the responsibility to finance the acquisition of Riverside's leasehold interest in the Westbrook lands would rest with the proponent.

However, then it may be wise to not include Parcel "5" into the Master Lease at this time, and to hold it in reserve until such time as Manitoba Hydro determines its selection. In the event that the selected project involves the Westbrook location, then the city-owned Parcel "5" could potentially offer a means to facilitate the relocation of the existing Westbrook Street parking lot.

Recent Events (Week of June 9, 2003):

Riverside Park Management Inc. submitted plans for the development of a parking lot on Parcel "5.

The Planning, Property and Development Department is satisfied with the quality of proposed design and layout. The design acknowledges that the site as a significant gateway into the Downtown. The proposed parking lot will be recessed into the ground to assist in making it less visible. The Department is advised that the parking lot will incorporate the highest quality standards for landscaping, lighting and signage. The design will afford an opportunity for a significant public art piece at the confluence of Water Avenue and Pioneer Avenue. The aesthetic treatment of the CN Highline was considered as a backdrop in the design.

Subsequently, the Department is now processing the requests for a building permit; conditional use approval; variance; and other approvals as required.

In addition, the Department prepared an Interim Lease Agreement to facilitate occupancy and development of Parcel "5" and has provided the Agreement to Riverside Park Management Inc. for review and approval. This Interim Lease is intended to enable Riverside to move forward with the development of the parking lot and will have a term of 3 years. Should Council decide to amend the Master Lease Agreement by authorizing the inclusion of Parcel 5, then the Interim Lease will be terminated accordingly.

The particulars of the proposed "Interim" Lease Agreement are as follows:

Owner:	City of Winnipeg
Lessee:	Riverside Park Management Inc.
Location:	Residual Island between Pioneer Ave and Water Ave shown as Parcel 5 on the attached Misc. Plan No. 11119/4
Zoning:	Ra, NRg, PL,S-3,P/L 1, BR-5

Size:	0.57 ac.
Term:	3 years, commencing June 9, 2003
Rent:	$1.00 plus realty and business taxes
Cancellation:	Upon adding Parcel “5” to the Master Lease Agreement

Departmental Comment:

The Department does not support the extension of the municipal tax credit under the Master Lease Agreement as the Department believes that Parcel “5” will be used to provide a parking service to the general community and not exclusively for the presentation of baseball at the Stadium. The Department is of the opinion that the intended use of Parcel 5 is no different than the use of the Westbrook parking lot. Therefore, the Department would support the inclusion of Parcel 5 into the Master Lease, but, only on the basis that the terms of rental are consistent with the Westbrook lot. For clarification purposes, the rental would be $1.00 plus realty (school and municipal and business taxes).

Financial Impact Statement — Date: June 12, 2003

Project Name: Canwest Stadium Expansion

First Year of Program 2003

	2003	2004	2005	2006	2007
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
External	-	-	-	-	-
Grants (Identify)	-	-	-	-	-
Reserves, Equity, Surplus, Other	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ 16,372	$ 31,269	$ 31,269	$ 31,269	$ 31,269
Less: Incremental Revenue/Recovery	73,079	30,670	30,670	30,670	30,670
Net Cost/(Benefit)	$ (56,707)	$ 599	$ 599	$ 599	$ 599
Less: Existing Budget Amounts	(56,707)	599	599	599	599
Net Budget Adjustment Required	$ (0)	$ -	$ -	$ -	$ -

Additional Comments:

The "direct costs" shown above consist of annual rent subsidies related to the addition of Parcel 5 and the leave and license agreement. Recoveries in year 1 consist of building permit revenues plus municipal realty taxes related to parcel 5 for the remainder of the year and the Westbrook parking lot for 2003. Ongoing recoveries consist of annual municipal realty taxes for the same properties. The request to change the realty tax treatment of the Westbrook Parking Lot which, if granted, would result in a loss of $16,150.67 per year. The impact of new business taxes has not been included because of difficulties in determining the relevant amounts.

"Original signed by"
Gord Courage, Manager
Support Services Division

IN PREPARING THIS REPORT, THERE WAS CONSULTATION WITH AND CONCURRENCE BY:

Chief Financial Officer

Manager of Revenue and Taxation

Manager of Downtown Improvements and Departmental Projects

Public Works Department

Zoning and Permits Branch

THIS REPORT SUBMITTED BY:

Planning, Property and Development Department
Division: Real Estate
Prepared by: D. Armstrong
PPD File #: 7933/A (IV)

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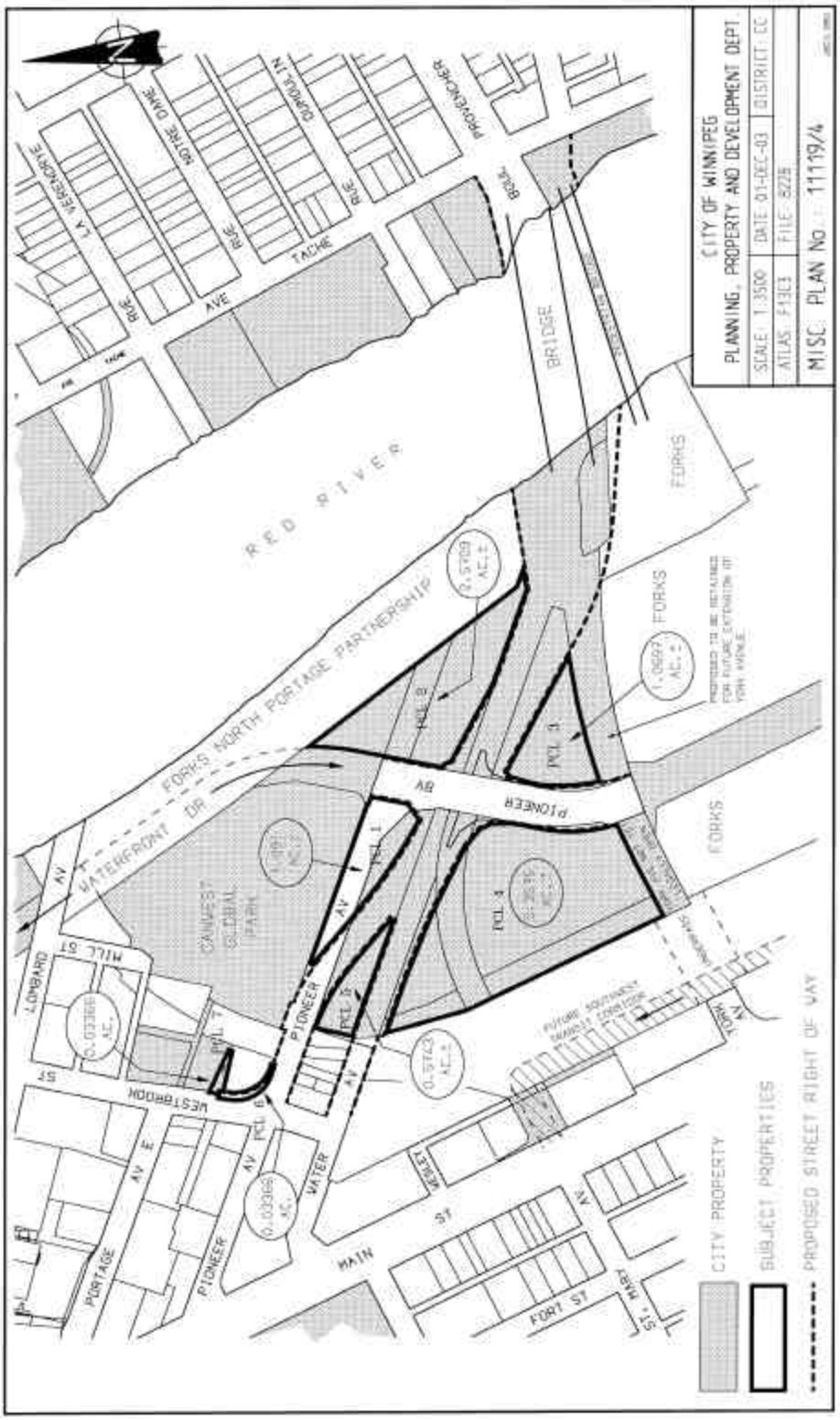
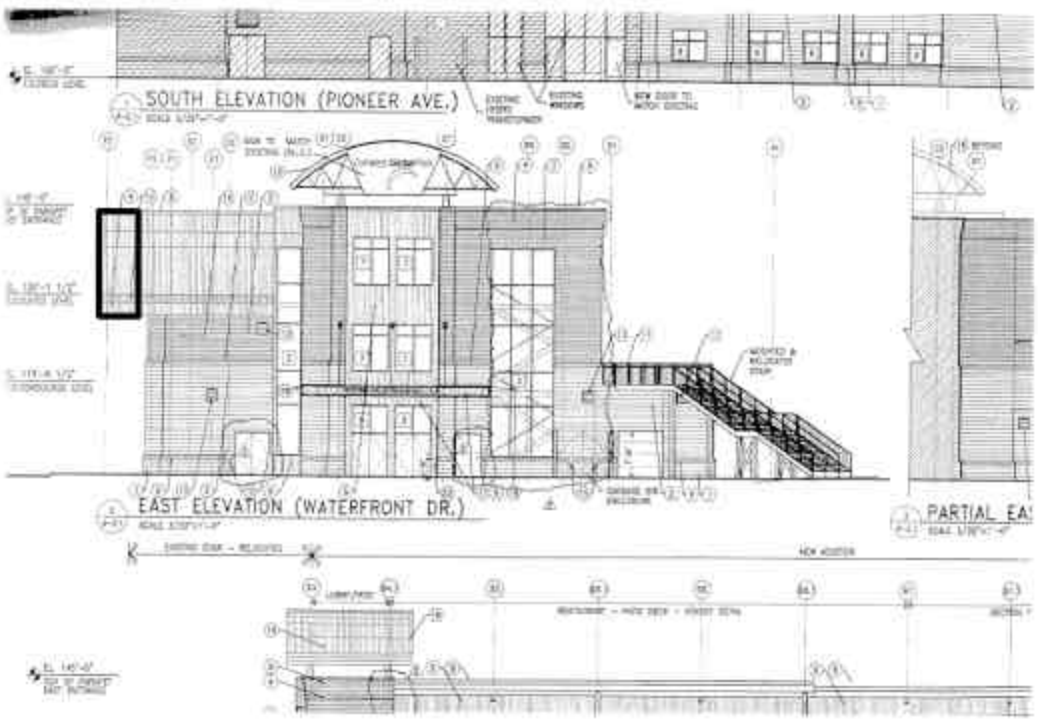

CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
SCALE: 1:3500
DATE: 01-DEC-03
DISTRICT: CC
ATLAS: F13C3
FILE: 8228
MISC. PLAN No.: 11119/4
RED RIVER
FORKS NORTH PORTAGE PARTNERSHIP
WATERFRONT DR
CANWEST GLOBAL PARK
PIONEER AV
PCL 1
PCL 2
PCL 3
PCL 4
PCL 5
PCL 6
PCL 7
BRIDGE
FORKS
MAIN ST
FORT ST
ST. MARY AV
PORTAGE AV E
WESTBROOK ST
MILL ST
LOMBARD AV
WATER AV
WEBLEY
YORK AV
LA VERENDRYE RUE
NOTRE DAME RUE
QUMOULIN RUE
TACHE AVE
PROVENCHER BOUL
CITY PROPERTY
SUBJECT PROPERTIES
PROPOSED STREET RIGHT OF WAY



Date: 2003-JUN-11
District: CC
File: 7503/A/V4
Scale: N.T.S.

METRIC

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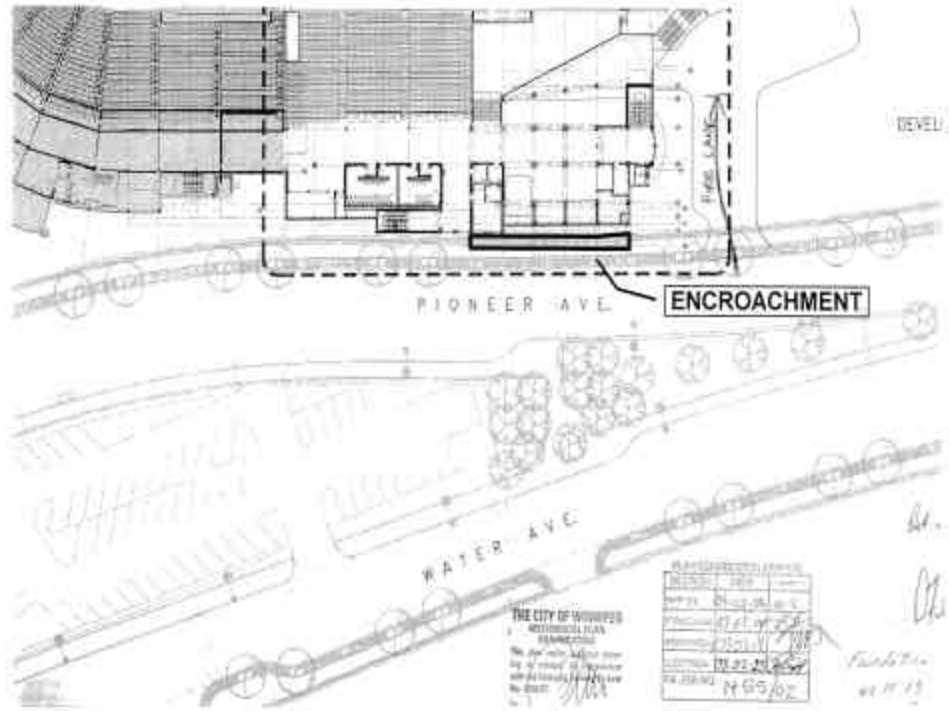
ENCROACHMENT

CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES

MISC. PLAN NO. 11931



Date: 2003-JUN-11
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METRIC

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ENCROACHMENT

CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES

MISC. PLAN NO. 11931/1