Minute No. 39
Report - Standing Policy Committee on Property and Development - November 2, 2004

Item No. 14 **Encroachment Agreement - 4913095 Manitoba Ltd. - Parking Purposes within the Cockburn Street North Right-Of-Way – 702-704 Scotland Avenue**
File ED(32)

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 4913095 Manitoba Ltd. for parking purposes within the Cockburn Street North right-of-way, shown as "Leased Area" on Misc. Plan No. 12355, be approved in accordance with the terms and conditions outlined on Schedule "A" to the report from the Director of Planning, Property and Development dated October 21, 2004, the Agreement to provide for such other terms and conditions as are deemed necessary by the Director of Planning, Property and Development and the City Solicitor/Manager of Legal Services to protect the City's interests.

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 - November 2, 2004

DECISION MAKING HISTORY:

Moved by Councillor De Smedt,
That the recommendation of the Standing Policy Committee on Property and Development be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On November 17, 2004, 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 November 2, 2004, the Standing Policy Committee on Property and Development concurred in the administrative recommendation and submitted the matter to the Executive Policy Committee and Council.

Re: Proposed Encroachment Agreement in Favour of 4913095 Manitoba Ltd. for Parking Purposes within the Cockburn Street North Right-Of-Way
City Centre Community
Fort Rouge-East Fort Garry Ward

For submission to: **Standing Policy Committee on Property & Development**

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

Report date: October 21, 2004

Recommendation(s):

1. That Council approve an Encroachment Agreement in favour of 4913095 Manitoba Ltd. for parking purposes within the Cockburn Street North right-of-way, shown as "Leased Area" on Misc. Plan No. 12355, attached, in accordance with the terms and conditions outlined on attached Schedule "A"; the Agreement to provide for such other terms and conditions as are deemed necessary by the Director of the Planning, Property and Development Department and by the City Solicitor/Manager of Legal Services to protect the City's interests.

2. 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:

The Planning, Property and Development Department has negotiated proposed terms and conditions of an Encroachment Agreement in favour of 4913095 Manitoba Ltd. for parking purposes within the Cockburn Street North right-of-way.
This report seeks approval of the Encroachment Agreement as negotiated.

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):
There are no environmental implications associated with the recommendations of this report

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:

Council has the authority to permit or license the use of public right-of-way.

The Planning, Property and Development Department has negotiated the terms and conditions of an Encroachment Agreement in favour of 4913095 Manitoba Ltd. for parking purposes within the Cockburn Street North right-of-way identified as "Leased Area" on Misc. Plan No. 12355, attached. This report seeks Council's approval to the proposed Encroachment Agreement.

HISTORY:

Tony Bagnulo, on behalf of 4913095 Manitoba Ltd., submitted an encroachment application to the City's Zoning and Permits Branch for the proposed development and use of a portion of the Cockburn Street North right-of-way, directly adjacent to 702/704 Scotland Avenue, for parking purposes.

The application was circulated to various City departments and public utilities for consideration and comments. No objections were received for the proposed development and use of the subject right of-way.

DISCUSSION:

Pursuant to 4(1)(d) of the City's Encroachment By-law No. 692/74, the Department has concluded its negotiations of an Encroachment Agreement with Mr. Bagnulo and both parties concur that the proposed terms and conditions are fair and reasonable. As well, the proposed terms and conditions are consistent with other such Encroachment Agreements for similar uses. Briefly, the terms and conditions of the Encroachment Agreement (Schedule "A" attached), agreed to by Mr. Bagnulo are as follows:

Term: Annual continuing, commencing on a mutually agreeable date.
Purpose: Development and use for parking purposes only.
Rental: $435.00 per annum, plus an amount equivalent to realty taxes (Estimated Taxes for 2004 are ± $215.00).
Insurance: General Liability Insurance of at least $2,000,000.00, naming The City of Winnipeg as additional insured and containing a cross-liability clause.
Cancellation: 180 days written notice by either party.
Other: Any other terms and conditions as are deemed necessary by the Director of the Planning, Property and Development Department and by the City's Solicitor/Manager of Legal Services to protect the City's interests.

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

Public Works Department
This report submitted by:

Planning, Property and Development Department
Division: Real Estate
Prepared by: Stewart Anderson
PPD File #: 4368/A (04)

Document name: o:\reports directive\real estate\leasing\(sa)encroachment - 702-704 scotland.doc

Financial Impact Statement

Date: October 14, 2004

Project Name:

Proposed Encroachment Agreement in Favour of 4913095 Manitoba Ltd – For Parking Purposes Within the Cockburn Street North Right-Of-Way.

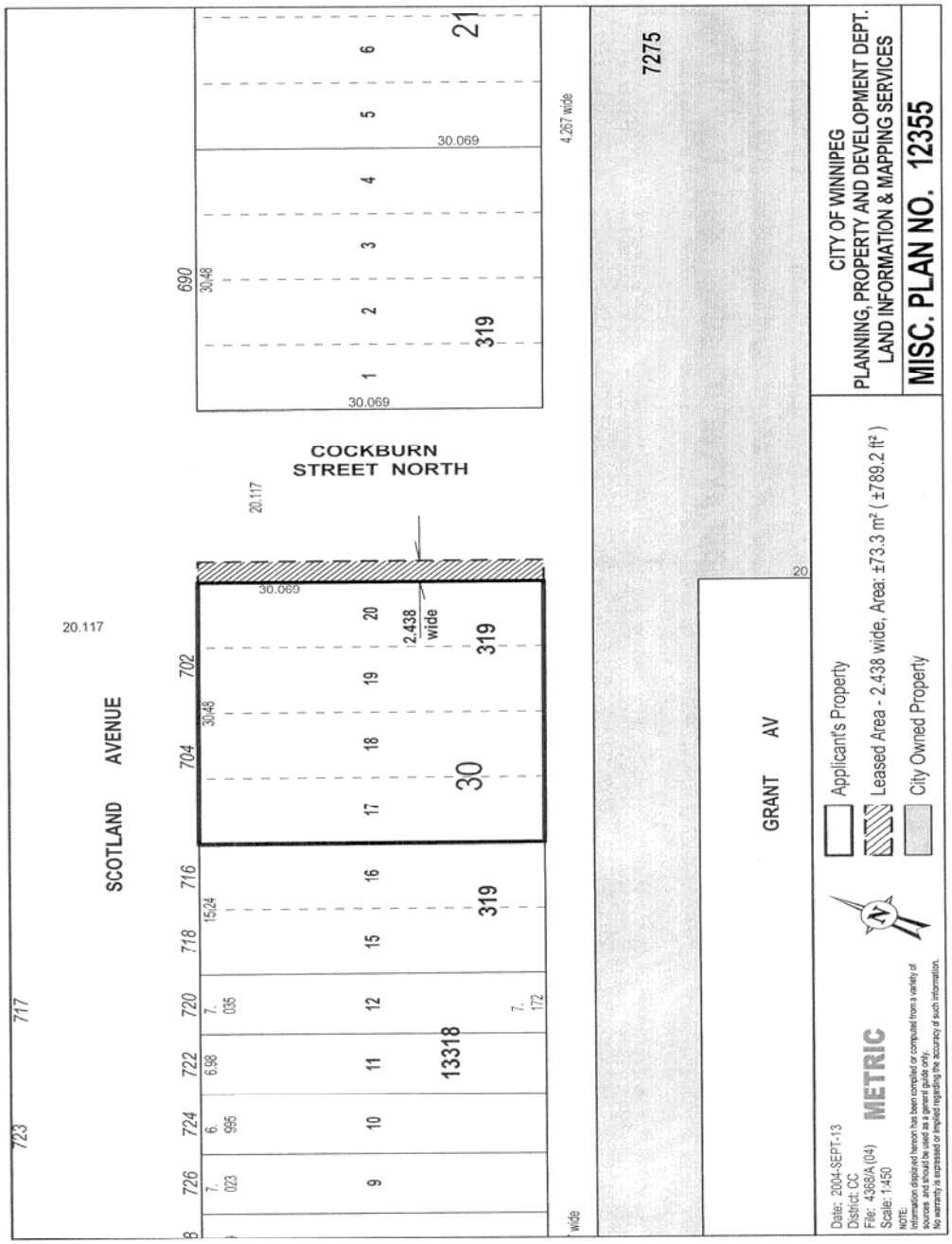
First Year of Program 2004

	2004	2005	2006	2007	2008
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	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	54	650	650	650	650
Net Cost/(Benefit)	$ (54)	$ (650)	$ (650)	$ (650)	$ (650)
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ (54)	$ (650)	$ (650)	$ (650)	$ (650)

Additional Comments:

Incremental Revenue is Calculated as follows: Annual Rent of $435.00 + Estimated Tax Equivalent of $215.00 = $650.00/annum. Assuming the earliest commencement date for the proposed lease is December 1/04, the values for 2004 have been prorated accordingly. The estimated tax equivalent was calculated using an estimated assessed value of $3,950.00 and 2004 mill rates. Future changes to these rates have not been considered in subsequent years.

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


SCOTLAND AVENUE
COCKBURN STREET NORTH
GRANT AV
20.117
30.069
2.438 wide
4.267 wide
7275
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 12355
Applicant's Property
Leased Area - 2.438 wide, Area: ±73.3 m² (±789.2 ft²)
City Owned Property
METRIC
Date: 2004-SEPT-13
District: CC
File: 4368A (04)
Scale: 1:450
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.

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SCHEDULE "A"

Proposed terms and conditions for Encroachment Agreement for parking purposes shown as, "Leased Area" on the attached Misc. Plan No. 12355.

Use:	Parking purposes only.
Term:	Annual continuing, commencing on a mutually agreeable date.
Rental:	$435.00 per annum, plus GST, subject to annual review by the City.
Taxes:	All municipal taxes, school taxes, local improvements, license fees, business tax, etc. which may be charged in respect of the use and occupation of the Subject City Properties. (Estimated Taxes for 2004 are ±$215.00).
Insurance:	General Liability Insurance of at least $2,000,000.00, naming The City of Winnipeg as additional insured and containing a cross-liability clause.
Cancellation:	180 days written notice by either party.
Other:	The development and maintenance of the Subject City Land will be performed at the sole cost, expense and effort of 4913095 Manitoba Ltd , including, obtaining all permits required to develop, occupy and utilize subject property for its intended use. Any other terms and conditions as are deemed necessary by the Director of the Planning, Property and Development Department, the Director of the Public Works Department and by the City Solicitor/Manager of Legal Services to protect the City's interests. 4913095 Manitoba Ltd agrees to enter into an appropriate Lease Agreement with the City embodying the within terms and conditions and in a form satisfactory to the City Solicitor/Manager of Legal Services. This proposal is subject to final approval by the City of Winnipeg's Council, or it's delegated authority and approval by the Vendor's Senior Management within 30 days of acceptance of the final offer.

I, **Tony Bagnulo,** on behalf of 4913095 Manitoba Ltd. hereby agrees to enter into a lease agreement with the City of Winnipeg for the use of the property identified as "Leased Area" on the attached Misc. Plan No. 12355 and in accordance with the terms and conditions as outlined herein on this Schedule "A".

Tony Bagnulo for 4913095 Manitoba Ltd.

SEPTEMBER 29/04

Date