Agenda - Executive Policy Committee - June 10, 2009

Report - Standing Policy Committee on Property and Development - June 2, 2009

Item No. 16 Lease - Seven Oaks School Division
(Mynarski Ward)
eFile FI-2.2 (34)

STANDING COMMITTEE RECOMMENDATION:

On June 2, 2009, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service and submits the following to Council:

1. That that a lease agreement be approved in favour of the Seven Oaks School Division to use the City-owned land in conjunction with the Ecole Leila North Community School for a football/soccer field, shown as "Subject City Property" on Misc. Plan. No. 8095/3, in accordance with the terms and conditions outlined in the report from the Winnipeg Public Service dated May 19, 2009; the Agreement to provide for such other terms and conditions as are deemed necessary by the Director of Planning, Property and Development Department, the Director of Public Works, and by the Acting 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, including the execution of any documents related thereto.

Pursuant to Section 205(2) of The City of Winnipeg Charter, disposal of land owned or acquired by the City for park or cemetery purposes requires approval by two-thirds of all Members of Council.

Agenda - Executive Policy Committee - June 10, 2009

Report - Standing Policy Committee on Property and Development - June 2, 2009

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

On June 2, 2009, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

RE: **Proposed Lease Agreement between the City of Winnipeg and the Seven Oaks School Division.**

CRITICAL PATH: **Standing Policy Committee on Property and Development**

AUTHORIZATION

Author	Department Head	CFO	CAO
R. Klassen	D.Joshi	M Ruta	P Sheegl, Deputy CAO

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 the Planning, Property and Development Department has no authority. In this regard, the Department has negotiated a proposed lease in favour of the Seven Oaks School Division for the use of the area identified as "Subject City Property" on the attached Misc. Plan. 8095/3.

As referenced on the attached Misc. Plan No. 8095/3, the "Subject City Property" is located west of the Seven Oaks School Division property (Ecole Leila North Community School at 20 Allan Blye Drive).

The Planning, Property and Development Department is seeking the approval of the Standing Policy Committee on Property and Development of the terms and conditions of a proposed ten-year lease with the Seven Oaks School Division.

RECOMMENDATIONS

1. That Council approve a new Lease Agreement in favour of the Seven Oaks School Division to use the City-owned land in conjunction with the Ecole Leila North Community School for a football/soccer field, shown as "Subject City Property" on Misc. Plan. No. 8095/3, in accordance with the terms and conditions outlined herein; the Agreement to provide for such other terms and conditions as are deemed necessary by the Director of Planning, Property and Development Department, the Director of Public Works, and by the A/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.

IMPLICATIONS OF THE RECOMMENDATIONS

The Department has determined that there are no general, policy, regulatory, environmental, human resource or financial implications to the lease of this land as described on the attached Misc. Plan. 8095/3.

The Seven Oaks School Division is regarded as a Tenant in good standing and wishes to enter into a lease for the continued use of the City-owned land.

A copy of the accepted Terms and Conditions are attached to this Report as Schedule “A”.

HISTORY

On July 24, 1990, members of the Lord Selkirk/West Kildonan Community Committee heard an application submitted by Lombard North Group Ltd. on behalf of the Seven Oaks School Division, Genstar Development and the Templeton South Holdings Ltd. The application was approved to create a parcel comprising approximately 2.2 acres slated to be dedicated to the City as green space in Phase II of the Amber Trails subdivision.

At its meeting held on January 8, 1991, the Committee on Finance and Administration approved a land exchange of the subject property with the school division, to make it possible for Genstar to dedicate land to the City and the exchange of that land from the City to the Seven Oaks School Division.

On January 29, 1991, the Committee on Finance and Administration approved a land exchange between the City and the Seven Oaks School Division for a 1.98 acre parcel. The subject City property shown on Misc. Plan No. 8095/3 attached, was part of an exchange of lands with the Seven Oaks School Division, ratified on July 22, 1991. The City exchanged Parcel “A” for Parcel “C”. The Seven Oaks School Division would then be able to build the Ecole Leila North Community School on Parcel “A” & “B”. Title to the school division lands were then transferred into the name of the City free and clear of all encumbrances.

On December 4, 1992, the Committee on Protection, Parks and Culture recommended that the Director of Land Surveys and Real Estate enter into negotiations with the Seven Oaks School Division to lease this City-owned property.

On July 1, 1994, the Seven Oaks School Division entered into a Lease Agreement with the City for the development and maintenance of a football/soccer field identified as “Subject City Property”, (parcel C), on Misc. Plan No. 8095/3. This agreement provided the Seven Oaks School Division “to use the demised premises at the Lessee’s sole cost and expense for the development and maintenance of a football/soccer field only” for a ten year term that expired on June 30, 2004.

Seven Oaks School Division has been a good Tenant since July 1, 1994 and have requested to enter into a new Lease Agreement with the City of Winnipeg.

FINANCIAL IMPACT

Financial Impact Statement **Date:** May 14, 2009

Project Name:

Proposed Lease Agreement between the City of Winnipeg and the Seven Oaks School Division

COMMENTS:

The recommendations contained in this report include that Council approve a new Lease Agreement in favour of the Seven Oaks School Division to use the City-owned land in conjunction with the Ecole Leila North Community School for a football/soccer field, shown as "Subject City Property" on Misc. Plan. No. 8095/3, in accordance with the terms and conditions outlined herein; the Agreement to provide for such other terms and conditions as are deemed necessary by the Director of Planning, Property and Development Department, the Director of Public Works, and by the A/City Solicitor/Manager of Legal Services to protect the City's interests.

Other than a nominal rental fee paid by the tenant, there are no financial implications associated with the recommendations.

"Original Signed By'
Mike McGinn, CA
Manager of Finance

CONSULTATION

In preparing this Report there was consultation with:

Public Works
Water & Waste
Corporate Finance
Corporate Support Services, Legal Services Division

SUBMITTED BY

Department	Planning, Property and Development
Division	Real Estate
Prepared by:	Peter Johannsson
Date:	May 19, 2009
File No.	7530

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Proposed Terms and Conditions for Lease Agreement between the City of Winnipeg and the Seven Oaks School Division No. 10

Landlord:	City of Winnipeg
Tenant:	Seven Oaks School Division No. 10
Leased Lands:	86,466.6 sq. ft. or 7.98966 m² (1.985 acres) as shown on the attached Misc. Plan 8095/3
Use:	Premises shall be used as a football/soccer field.
Term:	Ten (10) years commencing July 1, 2009 and terminating June 30, 2019
Rent:	$1.00 per annum plus GST
Realty Taxes:	Tenant is responsible for all realty taxes, municipal taxes, school taxes, local improvements, license fees, business tax, etc. of which may be charged in respect of the use and occupation of the subject property. Currently this property is tax exempt.
Cancellation:	Then agreement is subject to cancellation by either party, for any reason by giving 90 days written notice. Upon termination or cancellation of the agreement the Tenant shall remove its property and any and all improvements at its sole cost on or before the effective termination date of the Agreement and shall restore the premises to a condition satisfactory to “the Director”. Should the Tenant default in so doing the City may remove the Tenant’s property and restore the premises at the sole risk and expense of the Tenant. Not withstanding the forfeiture or termination of this agreement in any manner herein provided for, the Tenant shall be and remain liable to the City for all payments due and obligations and liabilities to the City for all payments due and obligations and

liabilities incurred hereunder up to the date of such forfeitures or termination and for the fulfillment of all obligations on the part of the Tenant to be observed and performed upon after the said termination.

Insurance:

Tenant to indemnify and save harmless the City from and against any and all claims for damages which may arise out of the use of the premises by the Tenant.

A Comprehensive General Liability policy, including but not limited to the following provisions:

- The City of Winnipeg to be named as additional insured;
- The policy to contain a cross liability clause;
- Minimum limits of $2,000,000.00 all inclusive, including Tenant's legal liability; and

Tenant shall file with the City a certified copy of the Insurance Policy in form satisfactory to the City Solicitor -Manager of Legal Services.

City shall have the right to alter limits and coverages as required from time to time during the term of this agreement.

Tenant Responsibilities:

To use the "Leased Area" at the Tenant's sole cost and expense for the development and maintenance of a football/soccer field only, and not to use or permit the "Leased Area" or any part thereof to be used for any other purpose with out the written permission of the Director of Planning, Property and Development (hereinafter referred to as "the Director").

To maintained the "Leased Area" in a neat and tidy condition satisfactory to the "Director".

To pay all utilities and operating costs in connection with its use and occupancy of the "Leased Area".

To assume all costs and expenses incurred by the City in repairing actual damage to the "Leased Area" and/or utilities therein, which is caused by or arises out of the Tenant's use and occupancy of the "Leased Area".

No assignment without written consent, no sub-letting, no placement of signage or advertising and leasehold improvements without prior written approval from “the Director”.

To be totally responsible for all security costs as required, in connection with its use and occupancy of the “Leased Area”.

Tenant acknowledges and agrees that the limits of the “Leased Area” are consistent with what has been identified on the attached drawings.

Tenant agrees that no permanent structures shall be erected within the “Leased Area”, and all improvements to the land are subject to the prior approval of “the Director”

The City shall have the right of access to the “Leased Area” at any time (24 hours a day, seven days a week) by its employees or other persons acting with authorization, with or without equipment:

To view the state of repair of the leased area, and the Tenant shall repair according to notice in writing given by the City. If the Tenant fails to repair according to the notice, the City may do such work at the sole cost and expense of the Tenant, or

For the purpose of maintaining or repairing its utilities in or near to the “Leased Area” at any time with or without equipment, for the purpose of renewing, altering or repairing its facilities including the right to exclude all others for as long as may be necessary to carry out such work; or

For any other purpose, without being responsible for any damage occasioned thereby.

And the Tenant hereby acknowledges and agrees that it shall assume all loss, injury and damage to the property of the Tenant arising out of the doing of any act or thing by the City under this sub-section, except due to negligence on the part of the City.

Tenant shall ensure that all environmental contaminants are received, handled, used, stored, treated, shipped and disposed of in the manner required from time to time by applicable laws, by-laws, regulations, rules or requirements of all authorities having jurisdiction over the premises of the Tenant.

Tenant shall not release into the environment, or deposit, discharge, place or dispose of, at on, or near the premises and/or adjoining City land, any dangerous goods as that term is defined in The Dangerous Goods Handling and Transportation Act, R.S.M. 1987, c.D12, as amended, replaced or substituted from time to time.

Tenant shall comply with all applicable statutes, by-laws, ordinances and regulations pertaining to those of the premises as herein contemplated.

In the event of the Tenant not complying with the terms and conditions contained in the agreement and such default continues for a period of thirty (30) days after notice to remedy such default, the agreement is subject to immediate cancellation by "the Director".

Tenant shall not file any caveat or other encumbrance against the "Leased Area".

Tenant shall enter into a formal agreement with the City embodying the foregoing terms and conditions and such other terms and conditions as the City Solicitor/Manager of Legal Services deems necessary and in form satisfactory to the City Solicitor/Manager of Legal Services.

_____ _____

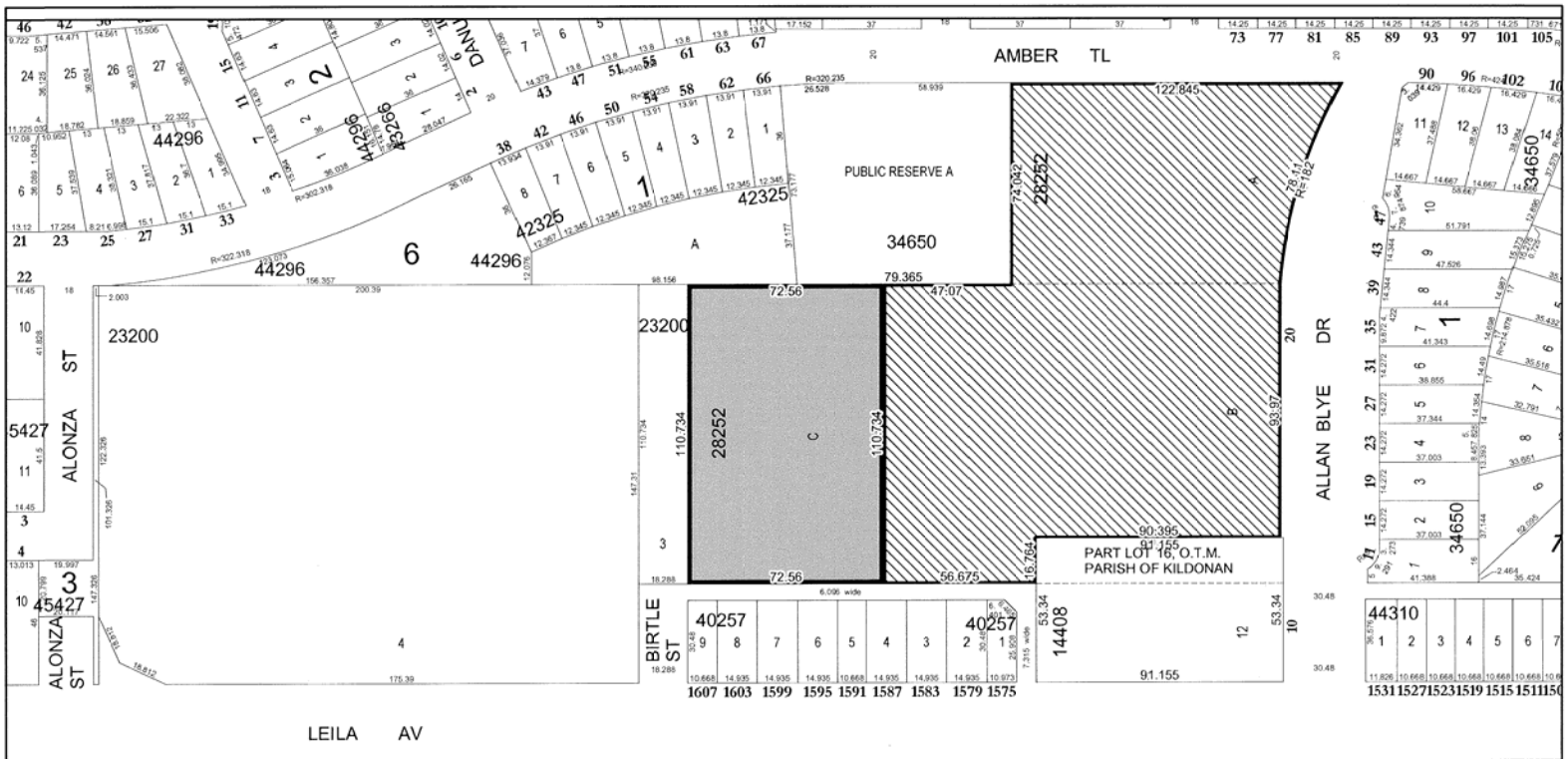
Seven Oaks School Division No. 10 DATE

Per: _____

Name:

_____

Title:



Date: 2009-APRIL-08
District: LSEK
File: 7530
Scale: 1:1800

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.

Subject City Property

The Seven Oaks School Division No. 10

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

MISC. PLAN NO. 8095/3