Agenda - Executive Policy Committee - July 14, 2010

Moved by Councillor

That Rule 10(3) of The Procedure By-law No. 50/2007 be suspended in order that the following item, which was received less than 96 hours preceding the committee meeting, be considered by Committee.

ADDENDUM REPORTS

Item No. 5 Assiniboine Park Conservancy Inc. - Management Agreement
eFile PR-7.1

WINNIPEG PUBLIC SERVICE RECOMMENDATION:

1. That Council approves Appendix A of this Report which outlines general terms and conditions for Agreement between the City of Winnipeg and the Assiniboine Park Conservancy Inc. (APC) for the acquisition of certain assets, operation, management, restoration and redevelopment of Assiniboine Park.

2. That the Assiniboine Park Conservancy, as at December 31st of each year be permitted to carry over unspent City funded capital dollars provided for in APC Building Repairs and Upgrades Projects approved in the Capital Budget Process.

3. That, at the conclusion of each Assiniboine Park Conservancy Capital Development Plan project, residual / unspent City funded capital dollars be carried over to other Council approved APC Development Plan projects.

4. That the Assiniboine Park Enterprise Reserve Fund be eliminated effective January 1, 2011 and that any residual balance is provided to the Assiniboine Park Conservancy.

5. That Executive Policy Committee authorizes the execution of a Participation Agreement by APC regarding APC's participation in the group life insurance plan operated by the Board of Trustees of the Winnipeg Civic Employees Benefits Program (the Program). Authorization will be subject to receipt of recommendation from the Board of Trustees to authorize the execution of the Participation Agreement and that the agreement will contain similar terms as shown in the form attached to Schedule "B" to the Pension Trust Agreement of the Program.

6. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing; and, that the Chief Administrative Officer be delegated the authority to finalize terms and conditions of agreements contemplated in this report.

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On June 16, 2010, the Executive Policy Committee granted a further extension of time of 30 days to the Assiniboine Park Conservancy Inc. for the negotiation of a Management Agreement with the City of Winnipeg, and submission of same to Council for approval.

On May 12, 2010, the Executive Policy Committee granted a further extension of time of 30 days to the Assiniboine Park Conservancy Inc. for the negotiation of a Management Agreement with the City of Winnipeg, and submission of same to Council for approval.

On February 17, 2010, the Executive Policy Committee granted a further extension of time of up to 90 days to the Assiniboine Park Conservancy Inc. for the negotiation of a Management Agreement with the City of Winnipeg, and submission of same to Council for approval.

On October 21, 2009, the Executive Policy Committee granted an extension of time of 120 days to the Assiniboine Park Conservancy Inc. for the negotiation of a Management Agreement with the City of Winnipeg, and submission of same to Council for approval.

COUNCIL DECISION:

On March 25, 2009, Council granted an extension of time of 180 days to the Assiniboine Park Conservancy Inc. for the negotiation of a Management Agreement with the City of Winnipeg, and submission of same to Council for approval.

On June 20, 2007, Council adopted a new governance structure for Assiniboine Park, which included the following recommendation:

7. That within twelve (12) months of incorporation, the Corporation negotiate a Management Agreement with the City of Winnipeg for approval by Council.

ADMINISTRATIVE REPORT

Issue: **Management Agreement between the City of Winnipeg and the Assiniboine Park Conservancy, Inc. for the Operation, Management and Redevelopment of Assiniboine Park**

Critical Path: **Executive Policy Committee – Council**

AUTHORIZATION

Author	Department Head	CFO	CAO
F. Caldwell	C. Wightman	M. Ruta	A. Robinson Deputy CAO

RECOMMENDATIONS

1. That Council approves Appendix A of this Report which outlines general terms and conditions for Agreement between the City of Winnipeg and the Assiniboine Park Conservancy Inc. (APC) for the acquisition of certain assets, operation, management, restoration and redevelopment of Assiniboine Park.

2. That the Assiniboine Park Conservancy, as at December 31st of each year be permitted to carry over unspent City funded capital dollars provided for in APC Building Repairs and Upgrades Projects approved in the Capital Budget Process.

3. That, at the conclusion of each Assiniboine Park Conservancy Capital Development Plan project, residual / unspent City funded capital dollars be carried over to other Council approved APC Development Plan projects.

4. That the Assiniboine Park Enterprise Reserve Fund be eliminated effective January 1, 2011 and that any residual balance is provided to the Assiniboine Park Conservancy.

5. That Executive Policy Committee authorizes the execution of a Participation Agreement by APC regarding APC's participation in the group life insurance plan operated by the Board of Trustees of the Winnipeg Civic Employees Benefits Program (the Program). Authorization will be subject to receipt of recommendation from the Board of Trustees to authorize the execution of the Participation Agreement and that the agreement will contain similar terms as shown in the form attached to Schedule "B" to the Pension Trust Agreement of the Program.

6. That the Proper Officers of the City be authorized to do all things necessary to implement the foregoing; and, that the Chief Administrative Officer be delegated the authority to finalize terms and conditions of agreements contemplated in this report.

REASON FOR THE REPORT

At its meeting of June 20, 2007 Council approved a new governance structure for Assiniboine Park, which created a not-for-profit corporation (Assiniboine Park Conservancy, Inc) that would operate independently from the City of Winnipeg with a mandate to lead, manage, fundraise and redevelop Assiniboine Park. Additionally, based upon the aforementioned, APC was to negotiate a Management Agreement detailing terms and conditions between Assiniboine Park Conservancy and the City of Winnipeg for approval by Council.

By-Law 5644/91 governing the Civic Employees Group Life Insurance Plan requires Executive Policy Committee authorization to execute a Participation Agreement in the Plan.

IMPLICATIONS OF THE RECOMMENDATIONS

General Implications:

Adoption of the recommendations proposed in this report will result in the Assiniboine Park Conservancy, Inc. (APC) being given the means and authority under the Terms specified, to operate, manage and redevelop Assiniboine Park.

Terms and conditions of the proposed agreement have been developed collaboratively between the Public Service and Assiniboine Park Conservancy, with advice from and consultation with legal representation.

Critical Terms of the proposed Agreement include:

All Assiniboine Park lands, built and natural infrastructure are public assets which will continue to be owned by the City of Winnipeg.

Assiniboine Park will be maintained as a public park with free entry to green space.

Assiniboine Park Conservancy will report to Winnipeg City Council through Executive Policy Committee. APC will be required to present a ten-year Development Plan for Council approval. The Development Plan will outline APC's plans for renewal and redevelopment of Assiniboine Park and its attractions.

Within approvals provided, APC shall be given the authority to redevelop Assiniboine Park attractions, to develop new facilities and programs for public enjoyment and to pursue commercial activities appropriate to the Park to support sustainability of operations.

APC shall undertake a capital fundraising campaign to raise funds for Assiniboine Park restoration and redevelopment.

Human Resources Implications:

The Assiniboine Park Conservancy shall become the successor employer to City of Winnipeg, Assiniboine Park staff. APC will inherit in its entirety, all Terms of Agreement and General Conditions between the City of Winnipeg and the Canadian Union of Public Employees, Local 500; and between the City of Winnipeg and the Winnipeg Association of Public Service Officers for employees represented by those respective collective agreements.

The Board of Trustees of the Winnipeg Employees Civic Benefits Program (WECBP) has approved of APC becoming a 'participating employer' in the City of Winnipeg pension plan and long term disability program. With Executive Policy Committee approval and subject to a recommendation for same from WECBP Board (expected in August, 2010), a Participation Agreement for inclusion in the Civic Employees' Group Life Insurance Plan will be concluded, per requirements noted in Schedule "B" of the Pension Trust Agreement.

Assiniboine Park Enterprise operations (Zoo, Conservatory, gardens) and staff will transfer to APC on October 1, 2010.

Work and services provided in Assiniboine Park by Public Works Department's Parks and Open Space Division (grounds care) and by Planning, Property and Development Department's Municipal Accommodations Division (facility maintenance) will be delivered to APC by those Divisions under a Purchase of Service Agreement for 2011. Operations and associated staff will transfer to APC effective January 1, 2012 (no staff transfer is anticipated from Municipal Accommodations Division which does not dedicate staff to Assiniboine Park).

CUPE Local 500 and WAPSO have been notified of the proposed transition dates and engaged in discussions to create a smooth transition of staff to the new employer.

Financial Implications:

The City of Winnipeg will commit to long-term funding of Assiniboine Park Conservancy, providing on an annual basis, a Council approved Grant comprised of operating and capital funds.

APC's Draft 10 year Business Plan submitted to the Public Service in May 2009 indicated that for the first several years, APC will require larger operating grants than have been traditionally provided for Assiniboine Park operations. Increases are required to improve Park conditions, services and programs, and for new advertising and promotion costs. The Business Plan anticipates that APC will have improved its financial sustainability by 2015, at which time the operating component of the annual Grant should begin to decrease to close to historical levels adjusted for inflation and general cost increases.

Capital funds approved on an annual basis for building repairs and Park upgrade projects will be carried over by APC to continue the ongoing work required to improve the conditions of Park facilities and amenities.

The City of Winnipeg will contribute a maximum of 25% of capital costs of the Council approved Development Plan for Assiniboine Park. APC is required to obtain matching funds from private sector donations and senior government contributions.

Capital funds approved for Development Plan projects that are unspent at the conclusion of the project can be carried over to other Council approved APC Development Plan projects.

The Assiniboine Park Enterprise Reserve Fund will be eliminated effective January 1, 2011 and any residual balance will be provided to APC.

Based upon Projected 2011 operating budgets for Assiniboine Park that includes mill rate support funding from Community Services and Public Works, sufficient mill rate support funds exist to provide APC with 2011 operating funds.

Based upon Projected 2011 capital budgets, an incremental capital request of $3.1 M will be required in 2011 and 2012, reducing to an additional $2.1 M thereafter in the six year forecast.

Funding to APC for 2011 Assiniboine Park operations and Development will be confirmed by Council through its 2011 – 2013 budget process.

HISTORY

In its 106th year, Winnipeg's premiere green space and its central features and attractions have been for some time, showing their age and need for reinvestment. Following Council adoption of a new governance structure for Assiniboine Park, Council approved the Assiniboine Park Conservancy's initial Board of Directors under the Chair of Mr. Hartley Richardson in January 2008. In March, 2009, Council received as information, APC's Strategic Plan.

APC has worked closely with the Public Service and with Assiniboine Park partner organizations (Zoological Society of Manitoba, Friends of the Assiniboine Park Conservatory, Partners in the Park) to develop plans, agreements and processes satisfactory to all parties for assumption of responsibility and authority and for integration of Assiniboine Park operations and redevelopment under the lead of the Assiniboine Park Conservancy. The Friends of the Assiniboine Park Conservatory subsequently determined that their organization's interests extended beyond Assiniboine Park and that they would retain their autonomy and operations outside of APC and Assiniboine Park.

FINANCIAL IMPACT

Project Name: **First Year of Program** **2010**

Management Agreement between the City of Winnipeg and the Assiniboine Park Conservancy, Inc. for the Operation, Management and Redevelopment of Assiniboine Park

	2010	2011	2012	2013	2014
Capital					
Capital Expenditures Required	$ 7,972,000	$ 5,123,000	$ 5,123,000	$ 5,123,000	$ 5,123,000
Less: Existing Budgeted Costs	7,972,000	2,000,000	2,000,000	3,000,000	3,000,000
Additional Capital Budget Required	$ -	$ 3,123,000	$ 3,123,000	$ 2,123,000	$ 2,123,000
Funding Sources:					
Debt - Internal	$ -	$ 3,123,000	$ 3,123,000	$ 2,123,000	$ 2,123,000
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ 3,123,000	$ 3,123,000	$ 2,123,000	$ 2,123,000
Total Additional Capital Budget Required	$ 10,492,000				
Total Additional Debt Required	$ 10,492,000				
Current Expenditures/Revenues					
Direct Costs	$ 3,133,500	$ 9,377,000	$ 9,377,000	$ 9,377,000	$ 9,377,000
Less: Incremental Revenue/Recovery	3,133,500	9,377,000	9,377,000	9,377,000	9,377,000
Net Cost/(Benefit)	$ -	$ -	$ -	$ -	$ -
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: It is expected that APC will make a public presentation to EPC/Council for their 2011 – 2013 Operating and Capital request. Funding will be confirmed through the City's annual budget process. Based upon APC's 2010 financial request it is assumed APC's 2011 capital request will include capital funds for major building upgrades and park improvement projects. No projections are available for any intended 2011 Development Plan (new facilities) projects.

Based upon APC Projected 2011 operating budgets for Assiniboine Park that includes mill rate support funding from Community Services and Public Works, sufficient mill rate support funds exist to provide APC with 2011 operating funds at a level similar to 2010 support.

original signed by

Cindy Fernandes, CMA
Manager Finance and Administrative Services

CONSULTATION

In preparing this report there was consultation with:

External Consultation and Concurrence on Proposed Terms and Conditions of Agreement with Assiniboine Park Conservancy;

Internal Consultation and Concurrence on Proposed Terms and Conditions by an Inter-Departmental Steering Committee with representation from:

- Community Services Department
- Corporate Support Services Department
- Corporate Finance Department
- Legal Services Department
- Public Works Department
- Planning, Property and Development Department

SUBMITTED BY

Department:	Community Services
Division:	Assiniboine Park Enterprise
Prepared by:	Frank Caldwell, Manager
Date:	July 13, 2010
File No.	



Appendix A - Term Sheet

TERM SHEET

General

This summary of terms and conditions outlines the parties' general understanding of the agreement between the City and APC for the acquisition of certain assets, operation, management, restoration and redevelopment of Assiniboine Park. It is presently intended that these terms and conditions will be executed through definitive documentation comprised of a Lease Agreement, a Funding Agreement and a Purchase of Service Agreement, but may include certain additional agreements as may be determined between the City and APC to reflect required terms and conditions.

These terms and conditions have been built upon a set of Guiding Principles developed by the City Public Service and APC. (Attached as Appendix 1) In addition to this term Sheet, these Guiding Principles are meant to guide the parties' as they develop the above-referenced agreements.

It is understood that until such definitive documentation is executed and delivered, no binding obligation is created with respect to anything contained herein.

Failure to conclude transactions contemplated in this summary shall cause the parties to cease to be obligated to undertake to complete any of the other transactions and to the extent that any transactions have already been completed, the parties shall work co-operatively to reverse such transactions, unless otherwise provided herein.

The City will strive to work closely with APC, to expedite processes and administrative approval requirements for development and restoration in Assiniboine Park.

Assiniboine Park Conservancy shall be permitted to utilize the Park and facilities to develop new facilities, pursue appropriate initiatives that will support sustainability of the Park, develop new programs and uses for the facilities and to meet the expectations of its philanthropic supporters all in a manner consistent with the Development Plan, which Development Plan and any amendments thereto, shall be approved by Council

Ownership

All Assiniboine Park lands, buildings, roads, pathways, trees, plants, fixtures, zoo animals, operating equipment, underground, built and green infrastructure are public assets which are owned by the City of Winnipeg and which will continue to be owned by the City of Winnipeg.

Upon completion of constructing any improvements on site, ownership of said improvements shall rest indefeasibly with the City.

Certain movable assets such as the art collection contained in the Pavilion Gallery Museum are not presently owned by the City of Winnipeg and will not be under this Agreement. Future donations of art or other movable assets may require ownership by other than the City of Winnipeg as a condition of acceptance.

Public Access

Assiniboine Park is a public park maintained and operated for the enjoyment of all Winnipeg residents and visitors. Entry to the Park's green space shall be free-of-charge to all visitors 365 days a year.

Free entry to green space will not preclude charges or admission fees to Park attractions, special events, park services or revenue generating services and certain future attractions / features developed within Assiniboine Park.

Term

Assiniboine Park Conservancy, Inc. shall enter into a 50 year lease with the City, providing for the control, occupation and use of the Park. Provided APC does not remain in default of any obligations provided in the Agreement, APC shall have the right to renew the lease for two further periods of 25 years each.

The initial Funding Agreement is expected to be of no more than ten years duration and the Purchase of Service Agreement for building maintenance and grounds care services is presently expected to be no longer than two years.

Acknowledge City of Winnipeg Contribution

The Assiniboine Park Conservancy shall clearly and prominently acknowledge the contribution of the City to all projects in Assiniboine Park in all public information material related to such projects and in all signage respecting such projects using City symbols, logos or other identifiers provided by the City for this purpose, in a manner that is consistent with the current marketing strategies of APC and the administrative practice of the City.

Dispute Resolution

Assiniboine Park Conservancy and the City of Winnipeg agree to act in good faith and work to find amicable solutions to currently identified outstanding issues and future unresolved issues.

The Agreements between the City and APC will contain a dispute resolution process which ensures fair and expeditious resolution of any differences arising between parties relating to interpretation of the Agreements. If the parties are unable to reach a resolve

under that process, the matter will be settled by arbitration in accordance with The Arbitration Act (Manitoba).

Termination

The City of Winnipeg has the right to terminate any agreement hereunder at any time provided that the City enter into satisfactory arrangements with the Conservancy to ensure that the City honors the use of funds, facilities and services previously provided to APC and dedicated to the development of the Park pursuant to a Development Plan accepted by the City.

The Conservancy is a registered charity and will be soliciting and receiving donations in support of its mandate, which assume the Conservancy's control, occupation and use of the Park. In the event the City terminates the lease Agreement, the funds raised by the Conservancy must be used for the purposes for which they were solicited.

Upon end of Agreement or default of APC, all assets owned by the City of Winnipeg will revert to possession by the City of Winnipeg, subject to the City entering into satisfactory arrangements with APC to ensure that the City will assume the commitments to donors and honor the use of those funds as described above.

Governance

The Conservancy will annually table its slate of Directors for Council ratification.

Responsibility for Whole Park

Assiniboine Park Conservancy shall be the sole authority responsible for operations, planning, management, development and restoration of Assiniboine Park.

The current Agreements in place between the City of Winnipeg and the Zoological Society of Manitoba; Pavilion Gallery Museum, Inc.; Leo Mol Garden Inc.; Assiniboine Park Bandshell Inc; and Partners in the Park, Inc., are being reviewed by APC and the Public Service to determine what respective commitments are required in relation to APC assuming responsibility for the operation of those entities as part of APC's authority over all operations in the Park.

Community Input

By June 2007 Council Motion, a Community Advisory Committee appointed by Council and comprised of individuals from various sectors of the community shall be utilized by APC's Board of Directors to obtain input on matters that will affect the public.

Assiniboine Park Conservancy recognizes the importance of community input in relation to operation and development of Assiniboine Park. By December 2010, APC will bring

forward for Council consideration, proposed Terms of Reference and revisions to the appointment processes for a Community Advisory Committee, ensuring Council retains its right to appoint members as well as ensuring representation by Assiniboine Park users.

Community Access

APC will develop and implement a public good, fee waiver program to carry on the practice of the Assiniboine Park Zoo providing free or reduced admission rates to the Assiniboine Park Zoo for economically disadvantaged Winnipeg residents.

Name

The City will take steps to trademark the names Assiniboine Park, Assiniboine Park Zoo, Assiniboine Park Conservatory and other names associated with Assiniboine Park. The City will give APC exclusive use of all these names and shall retain rights to their use for City publications, reviewing usage with APC to ensure consistency during the term of APC occupancy.

Excluded Park Areas

Public Works Regional yard located at 735 Assiniboine Park Drive

700 Assiniboine Park Drive building and immediate surrounding area.
In future, should the City determine this facility to be surplus to its needs, the City will consult with APC to determines APC's interest in use of the building and upon an appropriate use of this facility in Assiniboine Park.

The City of Winnipeg will retain responsibility for the Assiniboine Park footbridge, Assiniboine Park roadways, fibre optic cable and water and sewer underground infrastructure in Assiniboine Park. As APC replaces U/G infrastructure through new facility development, APC will assume responsibility for its water and sewer lines to City mains in accordance with Water and Waste Department practice.

Unlimited access as required for City of Winnipeg needs and interests related to its operations and responsibilities in Assiniboine Park shall be provided.

Governing Legislation, Bylaws, Policy and Directives

APC shall at all times maintain and operate the Park and the facilities in accordance with all laws, by-laws, workplace health and safety regulations, environmental requirements, directions, rules, privacy and protection of personal information requirements, and regulations including those set by the Canadian Association of Zoos and Aquariums for operation and accreditation of the Assiniboine Park Zoo.

The City Public Service and APC will review all By-Laws specifically impacting APC's operation of the Park (e.g. Parks By-Law 85/2009; Fees and Charges 196/2008) and will recommend for Council approval, changes necessary for ease of operation, to ensure the ability of APC to act independently in support of Park sustainability and to implement business principles into operations while safeguarding public interests.

APC shall obtain all necessary permits and licenses of any federal, provincial or municipal authority having jurisdiction and shall not commit or permit any act of omission which would result in illegal or non-conforming use or cause any breach of law, direction, rule or regulation.

APC shall develop and adhere to conflict of interest guidelines, procurement, contracting and tendering guidelines that are consistent with the City of Winnipeg standards, policies and procedures.

Restoration and Redevelopment of Assiniboine Park

Assiniboine Park Conservancy was established with a mandate to develop, redevelop, operate, maintain and preserve Assiniboine Park for the benefit of the community.

Development Activities

APC will present for Council approval, a ten year Development Plan for the restoration and rebuilding of Assiniboine Park. The Development Plan shall make provision for public consultation. Further to Council approval of the Development Plan, the Assiniboine Park Conservancy shall undertake a capital fundraising campaign to raise sufficient funds from private sector donors and governments for said restoration.

Existing Building Renovation

As part of the funding contemplated herein, the City of Winnipeg will provide capital funds for a 10 year period for the restoration and improvement of existing buildings in Assiniboine Park that are not intended for removal / replacement in the Conservancy's Development Plan.

The City and APC will agree on an acceptable level of condition and care for existing facilities and the associated costs to reach those levels. The Conservancy will determine the priority of restoration and improvement work, and will manage the work.

Grounds Care / Green Infrastructure

City of Winnipeg and Assiniboine Park Conservancy will immediately begin to work together to significantly improve and ensure the long-term sustainability of Assiniboine Park's grounds care, level of cleanliness, green infrastructure (trees, shrubs, turf, etc)

and significantly improve the condition of pathways, roadways, parking lots, park amenities including such things as lighting, signage, benches, picnic tables.

Reporting

For any reporting required by these terms, APC will report to Council through the Executive Policy Committee.

Development Plan

APC is required to present for Council consideration, a ten year Development Plan for Assiniboine Park, outlining redevelopment plans and forecasted costs and revenues. Annual and ten year capital forecasted requests for City of Winnipeg capital funding shall be in accordance with the Council approved Development Plan.

APC will report annually on its past year's Development Plan progress as well as on the intended build and restoration plans for the upcoming year.

As Development Plans are completed, or require revision as time progresses, APC will develop and present new or amended Development Plans for Council approval.

Annual Report

APC shall present annual reports to Council, highlighting its activities, a management discussion and analysis regarding its annual objectives, reporting on performance of such annual objectives, park development, fundraising, and financial statements for the reporting period. The Conservancy shall publish an Annual Report each year, covering the prior year and present audited financial statements to the City for such reporting period.

Audits

The City shall have access to and the right to audit the records of APC pertaining to all its revenue and expenditures, to inspect the documents, ledgers, minute books, journals, corporate records, books and inventory of Assiniboine Park Conservancy.

Funding Applications

APC shall share with the City of Winnipeg all relevant information regarding formal funding applications to Provincial and Federal governments as those applications are being made.

Inspection

The City of Winnipeg shall be entitled to inspect the Park to confirm that APC is in compliance with its obligations as set out in the Agreement.

Funding/Financial Reporting

Base Funding

The City of Winnipeg will commit to long-term funding of Assiniboine Park Conservancy, providing on an annual basis, a Council approved Baseline Grant comprised of operating and capital funds. The Baseline Grant does not include Development Plan Capital Contributions.

APC provided preliminary projected capital and operating figures in 2009. It is acknowledged that figures may be subject to change and do not include costs unavailable to APC at the time, including increases to salaries and utility costs, costs of insurance, WCB coverage, and general inflation.

Based upon the preliminary figures provided, APC requires larger operating grants from the City of Winnipeg during the first several years to improve Park conditions, services and programs, and for new advertising and promotion costs. Based upon APC's projected requirements, an anticipated operating grant of $9.377 million is expected for the first five years of APC management and operations of Assiniboine Park. By Year Six of operations and with APC forecasted capital development and new revenue sources, APC is expected to improve its sustainability, resulting in the annual contribution from the City of Winnipeg to decrease to approximately $5 million.

A capital grant requirement for the first ten years at $3.123 million annually is required by APC to restore existing Assiniboine Park buildings that are not scheduled for removal and replacement through the Capital Development Plan. An additional $2 million annually is required on an ongoing basis for park improvements. The combined annual capital grant of $5.123 million approved annually by Council will represent the City of Winnipeg's ongoing commitment to the Park's improvement, building repairs and general upgrades.

In 2010, Council approved mill rate support funding in the amount of $9.8 million for Assiniboine Park operations. This included an operating grant to APC in the amount of $3,123,500 and City operations support of $6.7 million. Council further approved $5.1 million capital funding for building repairs and Park upgrades. Not included in these figures are capital funds approved for amounts approved for APC's Development Plan Duck Pond and Playground projects.

Based upon early years' requirements for Park improvements and upon projected revenue growth following new development, the anticipated funding pattern is shown in the chart below.

2010 Adopted	2011	2012	2013	2014	2015	2016	2017	2018	2019
Cap $5.1 Op $9.7	Cap $5.1 Op $9.4	Cap $5.1 Op $9.4	Cap $5.1 Op $9.4	Cap $5.1 Op $9.4	Cap $5.1 Op $4.9	Cap $5.1 Op $4.9	Cap $5.1 Op $4.9	Cap $5.1 Op $4.9	Cap $5.1 Op $4.9
$14.8M	$14.5M	$14.5M	$14.5M	$14.5M	$10M	$10M	$10M	$10M	$10M

Funding to APC for 2011 Assiniboine Park operations will be confirmed through the 2011 – 2013 City of Winnipeg budget process.

The City has provided APC with all current expenses of the City required to operate and maintain the Park (the "Current Cost Baseline"[1]).The City will represent and warrant to APC that the Current Cost Baseline is true and correct and contains all costs associated with the current operation and maintenance of the Park. In developing its budget needs, APC is relying on the representations of current costs provided by the City.

The City recognizes that unforeseen / unbudgeted capital expenses may occur from presently unknown or unforeseen defects in the Park. In these situations, the City and APC will jointly decide on a corrective course of action.

Annual Budget Submission

APC will submit annual capital and operating budgets to the City's Chief Financial Officer in sufficient time to meet the City's fiscal budget planning cycle, providing sufficient detail and information to support requested adjustments (increases) to baseline operating support and any changes to the Council approved capital Development Plan. APC's submission will include highlights of its intended build and restoration plans for the upcoming fiscal year.

The City will review all requests for additional operating funding for new facilities on a case by case basis with the expectation that new development will build sustainable practices and revenue sources. Additional funding, if deemed appropriate will be adopted each year by Council through its budget process.

Development Plan Capital Contribution

[1] *The "Current Cost Baseline" of $8.634 Million represents the City of Winnipeg 2007 contribution from all sources to Assiniboine Park operations including capital, less funds identified as "General Government Charges" and as reflected in APC's Historical Consolidated Statements of Operations for the City of Winnipeg.*

The City of Winnipeg will contribute a maximum of 25% of capital costs of the Council approved Development Plan for Assiniboine Park. APC is required to obtain matching funds from private sector donations and senior government contributions.

To ensure even contribution levels, APC will annually track cumulative contributions beginning in 2010. Where that calculation shows that the City's contribution exceeds 25% of total capital contributions, APC is required to obtain sufficient other contributions to bring the City's share to 25% within three years of that discovery.

Increases to EBP Contribution Rates

The City of Winnipeg will fully fund increases to the Winnipeg Civic Employees Benefits Program contribution rates and / or increases in benefits to members which are employer funded and which are beyond the control of the Assiniboine Park Conservancy as a "Participating Employer" in the Program, including Pension, Long Term Disability and Group Life insurance.

Property Tax Exemption

The Public Service will support a recommendation to Council that APC be included in the City of Winnipeg By-Law 89/2005 so as to exempt this community group occupying City-owned facilities from assessment of Property Tax on such facilities, pursuant to s. 11(2.1) (b) of the Manitoba Municipal Assessment Act.

In the event that APC is charged and pays property taxes, the City will reimburse APC for the municipal portion of said taxes.

Third Party Operator

Assiniboine Park Conservancy will secure the consent of the City's Chief Administrative Officer for any proposals/considerations to lease or otherwise provide space for business operations by any third party operator which were not included in a Development Plan previously approved by Council. The consent of the CAO will not be unreasonably withheld. Portions of Assiniboine Park that are occupied by third parties (e.g. restaurant space) will be assessed for property and business taxes in their name and be liable for payment of such taxes.

In its annual Baseline Grant to APC, the City of Winnipeg will consider an addition of the value of municipal property taxes collected from Assiniboine Park operations.

Use of City Services

The City and APC will work together to explore mutually beneficial, cost effective mechanisms wherein APC may be able to utilize the City's information technology,

finance and human resources systems and processes. Parties will also explore and determine best options for motorized vehicles presently provided to Assiniboine Park operations through Winnipeg Fleet Management Agency.

Services provided in regional parks by Forestry, Park Patrol Services, Centralized Parks Services (athletic fields and amenities) and Insect Control Divisions shall continue to be offered at Assiniboine Park at a level equitable to other Winnipeg regional parks.

Athletic Fields

Athletic fields in Assiniboine Park will remain in the inventory of the City of Winnipeg for use of organized sport. Organized sport rentals will be booked by the City Public Service using protocols and processes established by the City of Winnipeg.

Casual athletic field rentals, picnic grounds and shelters, open park space and all other Assiniboine Park rentals (Conservatory, gardens, Pavilion, Lyric Theatre, etc.) will be managed by APC.

Insurance

APC will work together with City of Winnipeg to determine required levels of insurance coverage for all assets and liabilities associated with Assiniboine Park and its operations.

The cost of required insurance will be included in the annual Baseline Grant from the City to APC.

Where cost effectiveness may be achieved by purchasing requisite insurance through the City of Winnipeg, such measures will be decided between the City and APC.

Presently, the City has arranged for property, boiler and machinery and liability insurance on behalf of APC, effective May 1, 2010 and is including APC in its liability coverage.

Assiniboine Park Conservancy will work with the Workers Compensation Board of Manitoba to ensure that all its personnel are covered for workplace injury and illness, in accordance with Collective Agreement provisions between the City of Winnipeg and CUPE Local 500 and WAPSO.

Transition of Operations

Successor Employer

The Assiniboine Park Conservancy will become the successor employer to Assiniboine Park staff. As the successor employer, APC will inherit in its entirety, all Terms of

Agreement and General Conditions between the City of Winnipeg and the Canadian Union of Public Employees, Local 500; and between the City of Winnipeg and the Winnipeg Association of Public service Officers for employees represented by those Collective Agreements.

Orderly Transition

The City of Winnipeg and the Assiniboine Park Conservancy will work cooperatively with CUPE Local 500 and with WAPSO to affect an orderly transition process and to address all union / staff issues related to the change of employer.

Accrued Staff Liabilities

The City of Winnipeg will be responsible for direct and associated costs of liabilities accrued by staff up to the date of transfer, including but not limited to: annual vacation credits, accumulated sick time credits, managerial recognition time credits, severance liability, long service credits, overtime and shift premium credits, workers compensation top-up, safety clothing and equipment allowances.

Operating Equipment

All non-Fleet equipment, tools, furnishings, supplies and materials owned by the City of Winnipeg for use in operation of Assiniboine Park shall be transferred at no cost for use by the Assiniboine Park Conservancy. The City makes no representations as to the fitness or condition of such equipment, tools, furnishings, supplies and materials.

Timeframe

Operations, required staff, the balance of 2010 operating budget and Assiniboine Park Enterprise Reserve Fund of Community Services Department's Assiniboine Park Enterprise Division will transfer to APC by October 1, 2010. Assiniboine Park Enterprise operations include the Assiniboine Park Zoo, the Conservatory, Assiniboine Park gardens and associated business operations of Assiniboine Park including Zoo admissions, Conservatory rentals and education programs, and contracts with third party operators, both revenue generating (e.g. miniature steam train, Conservatory restaurant) and non-revenue generating (e.g. placement of commemorative busts in the Citizens Hall of Fame).

Operations and staff of Public Works Department's Parks and Open Space Division in Assiniboine Park will remain with the City of Winnipeg for no longer than two years, to December 31, 2011 and will provide services to APC under Terms of a Purchase of Services Agreement between APC and the City of Winnipeg. Parks and Open Space Division operations in Assiniboine Park will transfer to APC no later than January 1, 2012. Public Works' revenues generated from Assiniboine Park green space, picnic

shelters and athletic field rentals, exclusive of participation fees payable to youth recreation leagues will accrue to APC effective January 1, 2011.

Facility maintenance services provided through Municipal Accommodations Division of Planning, Property and Development Department will be delivered under Terms of a Purchase of Services Agreement between the City and APC for no longer than two years to December 31, 2011. Municipal Accommodations Division facility maintenance functions for Assiniboine Park will transfer to APC no later than January 1, 2012. No staff transfer is anticipated at this time as Municipal Accommodations Division does not dedicate any particular maintenance staff to Assiniboine Park.

Participating Employer Status with Employee Benefits Program

The Assiniboine Park Conservancy will become a 'participating employer' in the Winnipeg Civic Employees' Benefits Program, allowing City of Winnipeg staff transferring to APC, continuing enjoyment of participation and benefits of the City's pension plan, long term disability benefits and group life insurance.

New CUPE and WAPSO employees will be covered under the Plan as members retire and as new employees are hired.

The Conservancy has created a separate benefits and pension plan for non-union employees.

The City of Winnipeg and APC will work with Manitoba Blue Cross to ensure continuation of all health, dental, vision care and other benefits as presently provided for under Collective Agreements with CUPE and WAPSO. Should costs of Blue Cross benefits payable by APC for CUPE and WAPSO personnel exceed that paid by the City for these same benefits, the City will fund the additional employer funded costs which are beyond the control of APC.

Should APC negotiate changes to its benefits plan in future, APC will be responsible for incremental cost changes within its control.

Indemnity

APC shall at all times indemnify and save harmless the City, its employees and any others for whom it may be responsible in law, from and against all claims, including claims made by APC's personnel under Workers Compensation Legislation, demands, awards, judgments, actions and proceedings by whomsoever made, brought or prosecuted in respect of loss of, damage to or destruction of property (including loss or damage sustained by APC) or personal injury including death and from and against any and all loss or, damage to or destruction of property, expenses and cost (including legal fees and disbursements) suffered or incurred by the City, its employees and others for whom it may be responsible in law, arising out of the terms of an Agreement and arising

out of any occurrence at the Park or the occupancy or use of the Park or occasioned wholly or in part by an act of omission of APC, its officers, employees, agents, customers, contractors, or other invitees, licensees or concessionaires or by anyone permitted by APC at the Park.

Executed by the City of Winnipeg on the day of , A.D. 2010

Executed by the Assiniboine Park Conservancy on the day of , A.D. 2010

Appendix 1

City of Winnipeg / Assiniboine Park Conservancy

Agreement Guiding Principles

1) **Public interests will be safeguarded**

    a. Free public access will be protected for the greenspace (not intended to preclude potential charges for vehicle parking, attractions / event admissions, etc)

    b. Security of the essential character of Assiniboine Park as an open 'English Landscape' style park with large open spaces for passive recreation and leisure, and athletic fields for organized sport

    c. All major development would require City Council approval

    d. Public participation in the Park's future

    e. Stewardship of taxpayer monies

    f. APC will maintain the Park to mutually agreed-upon standards of park upkeep

2) **City of Winnipeg will retain ownership of all Park property, buildings and facilities**

    a. Certain moveable assets (e.g. art) may be an exception to the principle of City ownership

3) **Assiniboine Park Conservancy must be able to act independently and with maximum control and flexibility within the framework of the Agreement**

    a. Agreement with and funding commitments from the City of Winnipeg must be long term.

    b. Following City Council approval of APC's strategic, business and development plans. APC would have to obtain all approvals, licenses and permits that would normally be required for the implementation of such plans and the development and operations in the park.

        i. Plan approval timeframes and frequencies to be determined

    c. APC will develop and adhere to conflict of interest guidelines, procurement, contracting and tendering guidelines that are consistent with the City of Winnipeg standards, policies and procedures.

    d. APC must have the independence to be able to be a proper steward of donor monies

4) APC requires a steady, committed workforce with full accountability to APC

5) All revenues derived from Assiniboine Park , other than municipal taxes payable by a third party, will be retained by APC for Park operations and improvements

a. The City will consider, as an addition to the annual Baseline Grant, the value of municipal taxes paid by third party operators or tenants in Assiniboine Park. Any municipal property taxes payable will be returned by way of an offsetting grant

b. Existing revenues sources and contracts (e.g. park rentals, steam train contract) will be transferred to APC

c. City may charge APC or reduce operating grant for contracted City services provided by Agreement

d. All new revenue sources that APC proposes to implement shall be included in the Council approved development plan

6) APC must be adequately funded

a. City of Winnipeg acknowledges infrastructure and operating deficits in Assiniboine Park that will take some years to address and bring the Park to a desired state. As such:

   i. City operating grant should provide adequate funding that will maintain an acceptable, mutually agreed-upon state of operations, including facility maintenance standards

   ii. Subject to the City's annual budget process, the City will provide capital funds as indicated in the Council approved *2009 Capital Budget, 2010 – 2014 Five Year Forecast* for building repair and renovation in order to achieve a mutually acceptable (defined) level of existing facility condition

b. Increases in operating grants required for new facilities would be dealt with on a case-by-case basis under the general principle that development will build in sustainable practices and revenue sources

c. City responsible for underground infrastructure, roads and bridges

d. City responsible for all costs associated with termination of current operating agreements

e. APC will report to Council annually on performance targets.