Agenda - Council – March 23, 2011

Report - Standing Policy Committee on Property and Development – March 10, 2011

Item No. 8 Lease Agreement - Portion of Adsum Park - Seven Oaks School Division
(Mynarski Ward)

STANDING COMMITTEE RECOMMENDATION:

On March 16, 2011, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submits the following to Council:

1. That the Lease Agreement in favour of the Seven Oaks School Division for the use of a portion of Adsum Park as identified on Misc. Plan No. 12641/3 be approved in accordance with the terms and conditions as contained in the Winnipeg Public Service report dated February 14, 2011.

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

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.

Report - Standing Policy Committee on Property and Development – March 10, 2011

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On March 16, 2011, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On March 10, 2011, 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

ISSUE: **Proposed Lease Agreement between the City and the Seven Oaks School Division for the use of a portion of Adsum Park for running track and football field.**

Critical Path: Standing Policy Committee on Property and Development

AUTHORIZATION

Author	Department Head	CFO	CAO
B. Thorgrimson	D. Joshi	n/a	P. Sheegl, Deputy CAO

RECOMMENDATIONS

1. That the proposed Lease Agreement in favour of the Seven Oaks School Division for the use of a portion of Adsum Park as identified on Misc. Plan No. 12641/3 be approved in accordance with the proposed terms and conditions as stated herein.

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

REASON FOR THE REPORT

In accordance with the Council Order of July 18, 1979, the Standing Policy Committee on Property and Development shall authorize the leasing or rental of City properties for which the Director of Planning, Property and Development Department has no authority. In this regard, the Planning, Property and Development Department, has negotiated proposed terms and conditions of a lease in favor of the Seven Oaks School Division for the use of City-owned property, shown as “Leased Area” on Misc. Plan No. 12641/3. This report seeks the Committee’s approval of the lease as negotiated.

IMPLICATIONS OF THE RECOMMENDATIONS

- The Department has determined that there is no general policy, regulatory, environmental, human resource or financial implications to the lease of this land as described on the attached Misc. Plan. No. 12641/3.

- The facility is under the jurisdiction of Public Works Department and is used by the Seven Oaks School Division and the Maples Recreation Association Inc.

- The Corporate Finance Department, Risk Management Branch, has reviewed the insurance requirements for this proposed access agreement and their comments have been incorporated into the proposed terms and conditions.

- The proposed Lease agreement will formalize the terms and conditions for the use of City-owned property shown as “Leased Area” on Misc. Plan No. 12641/3 with the Seven Oaks School Division.

HISTORY

The Maples Collegiate is located adjacent to Adsum Park and shown as “Seven Oaks School Division” on Misc. Plan No. 12641/3.

The City and the Seven Oaks School Division entered into a 10 year lease agreement with a 10 year renewal option, for the development of a running track and football field, part of which is located on the subject City property for high school programming purposes. The Seven Oaks School Division advised it is interested in redeveloping the site and making a capital investment of approximately $617,569.00. The Seven Oaks School Division has requested to enter into a new lease agreement with the City, to justify their capital investment.

The school division will continue to have use of the running track and football field during school days from 8:30 a.m. to 6:00 p.m. and until 7:30 p.m. when league sanctioned football games are scheduled. The City of Winnipeg will have priority use on evening and weekends and when school is not normally in session.

The Public Works and Community Services Department(s) support the Seven Oaks School Division request to lease a portion of Adsum Park.

A proposed lease agreement with the Seven Oaks School Division is recommended for approval in accordance with the proposed terms and conditions as outlined herein.

FINANCIAL IMPACT

Financial Impact Statement Date:

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

Proposed Lease Agreement between the City and the Seven Oaks School Division for the use of a portion of Adsum Park for a running track and football field.

	2010	2011	2012	2013	2014
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Incremental Revenue/Recovery	251	251	251	251	251
Net Cost/(Benefit)	$ (251)	$ (251)	$ (251)	$ (251)	$ (251)
Less: Existing Budget Amounts	(251)	(251)	(251)	(251)	(251)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Revenues consist of the nominal rental amount of $1/year plus the annual admin fee of $250. Municipal property taxes have been excluded from this analysis as the amount is not material.

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

CONSULTATION

In preparing this Report there was consultation with:

Legal Services as to legal issues

Corporate Finance, Risk Management

Public Works Department

Assessment and Taxation Department

Community Services

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Real Estate
Prepared by:	P. Johannsson, Real Estate Officer
Date:	February 14, 2011
File No.:	5099/99

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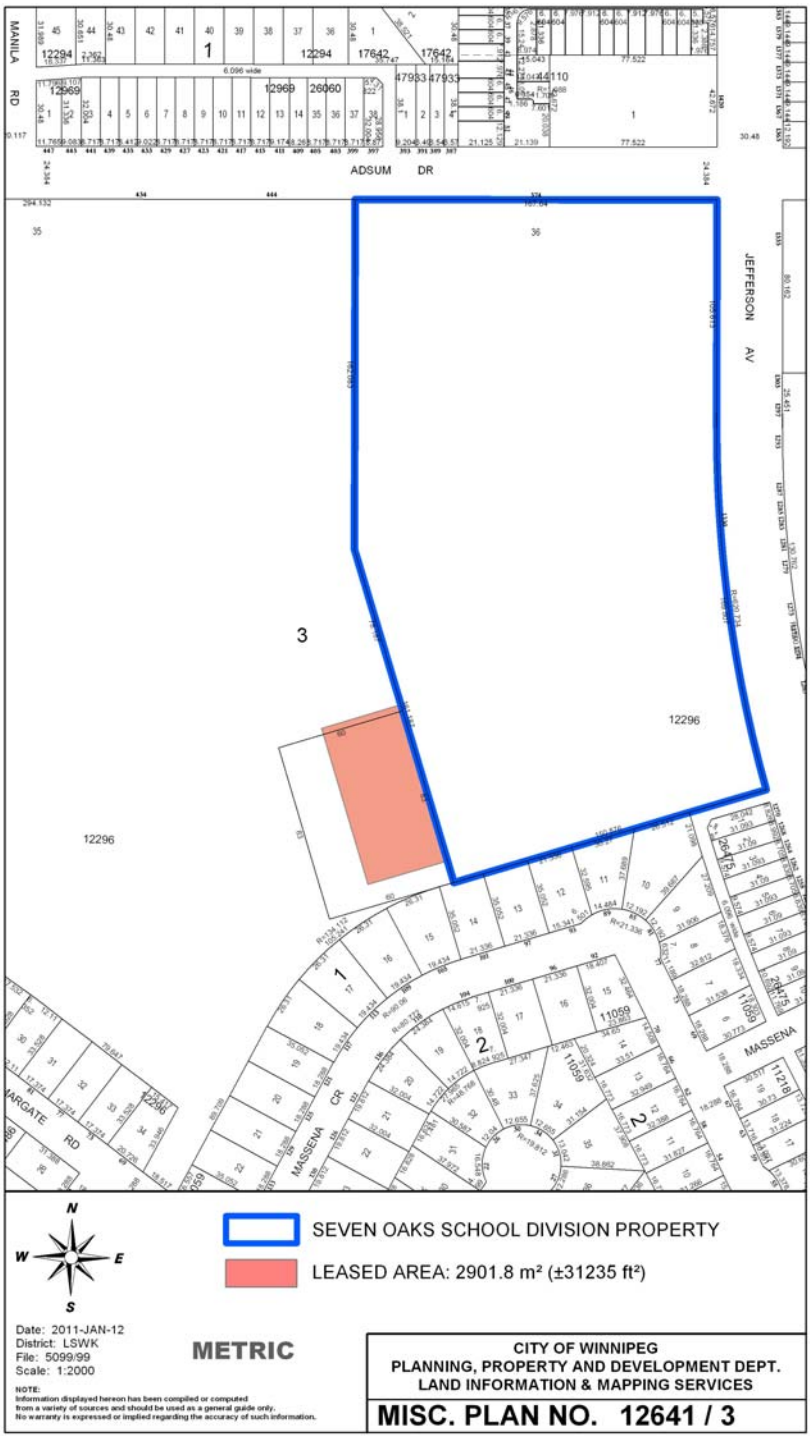
MANILA RD
ADSUM DR
JEFFERSON AV
MASSENA CR
MASSENA
MARGATE RD
12294
12969
26060
17642
47933
44110
11059
12296
3
1
2
N
W
E
S
SEVEN OAKS SCHOOL DIVISION PROPERTY
LEASED AREA: 2901.8 m² (±31235 ft²)
Date: 2011-JAN-12
District: LSWK
File: 5099/99
Scale: 1:2000
METRIC
NOTE:
Information displayed hereon has been compiled or computed from a variety of sources and should be used as a general guide only. No warranty is expressed or implied regarding the accuracy of such information.
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 12641 / 3


MANILA RD
ADSUM DR
JEFFERSON AV
MASSEY
MARGATE RD
12296
3
SEVEN OAKS SCHOOL DIVISION PROPERTY
LEASED AREA: 2901.8 m² (±31235 ft²)
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Geo-corrected Air Photo
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CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES
MISC. PLAN NO. 12641 / 3

Schedule "A"

Proposed Terms and Conditions for a Lease Agreement between the City and Seven Oaks School Division, for a portion of Adsum Park for running a track and football field.

Landlord:	City of Winnipeg;
Lessee:	Seven Oaks School Division;
Leased Area:	Shown as "Leased Area" on the attached Misc. Plan. No. 12641/3;
Use:	To use a portion of City-owned property (hereinafter referred to as the "Leased Area") for running a track and football/soccer field in conjunction with Maples Collegiate and not to use or permit the Leased Area or any part thereof to be used for any other purpose without the written permission of the Director of Planning, Property and Development (hereinafter referred to as Director);
Term:	Ten years commencing January 1, 2010;
Renewal	Lessee has the option to renew this Lease Agreement on the same terms and conditions for an additional ten (10) year term, except for this right of renewal;
Rent:	Annual rent in the sum of $1.00 plus GST;
Realty Taxes:	Lessee 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 Leased Area;
Admin Fee:	An annual administration fee of $250.00 plus GST;
Cancellation:	This agreement is subject to cancellation by either party, for any reason by giving 365 days written notice; Should the Leased Area not be used for school purposes, this lease shall terminate immediately; At the termination or cancellation of the agreement the Lessee shall remove its property and any and all improvements at its sole cost, to a condition satisfactory to the Director, and in the event the Lessee defaults in so doing, the City may remove the Lessee's property and restore the Leased Area at the sole risk and expense of the Lessee; Not withstanding the forfeiture or termination of this agreement in any manner herein provided for, the Lessee

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shall be and remain liable 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 Lessee to be observed and performed upon after the said termination;

Insurance:

The Lessee shall provide and maintain the following insurance coverage at all times during the duration of the contract;

Commercial General Liability insurance including but not limited to protection for claims of bodily injury and property damage, personal and advertising injury and product and completed operations liability in the inclusive amount of at least five million dollars ($5,000,000) per occurrence with a minimum of five million dollars ($5,000,000) general aggregate. The City of Winnipeg shall be covered as an additional insured. Such liability policy must also contain a cross-liability or severability of interest clause, contractual liability, employees as additional insured's, tenant's legal liability for a limited commensurate with the space occupied, and shall not contain any special limitations on the scope of coverage afforded the City, its officers, officials, employees, agents or volunteers;

A broad form property insurance policy for the full replacement cost insuring all equipment and Lessee's improvements;

If required, Automobile liability insurance for owned and non-owned automobiles used for or in connection with the Lease in the amount of at least two million ($2,000,000.00) to remain in place at all times during the full term of the Lease Agreement; such insurance may be meet through the commercial general liability cover where applicable;

All property policies written on behalf of the Lessee shall contain a waiver of any subrogation right which the Tenant's insurers may have against the City and against those for whom the City is, in law, responsible, whether any such damage is caused by the act, omission or fault of the City by those for whom the City, is in law, responsible.

All polices shall be taken out with insurers licensed to and carrying on business in the Province of Manitoba;

Deductibles shall be borne by the Lessee;

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Schedule "A"

The Lessee shall not cancel, or cause any such policy or policies to lapse without a minimum thirty (30) days prior written notice to the City of Winnipeg;

The Lessee shall provide written notice to the City of Winnipeg of any material changes to their policies within thirty (30) days of the change taking effect;

The Lessee shall file with the City an annual Certificate of Insurance in a form satisfactory to the City Solicitor;

The City shall have the right to alter the limits and/or coverages as reasonably required from time to time during the continuance of the Lease Agreement and for any subsequent renewals thereof, provided that the City shall give the Lessee reasonable notice and shall request reasonable change;

Lessee Responsibilities:

The Lessee agrees to use the Leased Area for the purpose as a running track, football/soccer field or related activities only and for no other purposes whatsoever;

The Lessee agrees to be responsible for all costs incurred in the development and future maintenance of the running track and football/soccer field within the "Leased Area" and as outlined on the attached Misc. Plan No. 12641/3;

Lessee agrees not to erect or permit the erection of any buildings or additional structures within the Leased Area, without the prior written approval from the Director;

Lessee will maintain the Leased Area in a neat and tidy condition satisfactory to the Director;

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

Lessee 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 Lessee.

The Lessee agrees to not allow or permit or carry on, in or upon the Leased Area or any part thereof, any noxious, noisome or offensive art, or anything whatsoever which shall or may grow to the annoyance, nuisance, damage or disturbance of the City or the owners or occupiers of neighbouring properties;

Initials

Schedule "A"

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

Lessee to comply with all applicable by-laws, statutes, regulations, etc. pertaining to the use and occupancy of the Leased Area and shall obtain all necessary permits;

The City shall have the right of access to enter upon the City's Property, including without limitation, the Leased Area, with or without equipment:

a) to view the state of repair of the Leased Area and the Lessee shall within ten (10) days of the City giving to the Lessee notice to repair the Leased Area in accordance with such notice. In the event the Lessee fails to repair in accordance with such notice as foresaid, the City may do such work at the sole cost and expense of the Lessee;
b) for the purpose of maintaining and/or repairing its utilities in or near the City's Property;
c) For any other purpose;

Without being responsible for any damages to the Leased Lands or the Lessee's property;

Lessee shall not file any caveat or other encumbrance against the Leased Area;

Lessee 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;

In the event of the Lessee 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;

Special Conditions:

The Lessee will have the use of the track /field during school days from 8:30 a.m. to 6:00 p.m. and until 7:30 p.m. when league sanctioned football games are scheduled. The City of Winnipeg will have priority use on evenings, weekends and when school is not normally in session.

Initials

Schedule "A"

Lessee 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;

The proposed terms and conditions are subject to the approval of the Standing Policy Committee on Property and Development and to the City Solicitor's approval as to form and content.

MR. WAYNE SHIMIZU, SECRETARY TREASURER, Seven Oaks School Division, hereby acknowledge and agree to enter into a Lease Agreement with the City of Winnipeg for the use of the area identified as "Leased Area " on Misc. Plan No. 12641/3 attached in accordance with the proposed terms and conditions as outlined herein on this Schedule "A".

SEVEN OAKS SCHOOL DIVISION **Date** Dec 1, 2011

.V:\Peter Johannsson\5099-99 Maples Athletic Field Lease\Schedule A Terms - Seven Oaks (Final).doc

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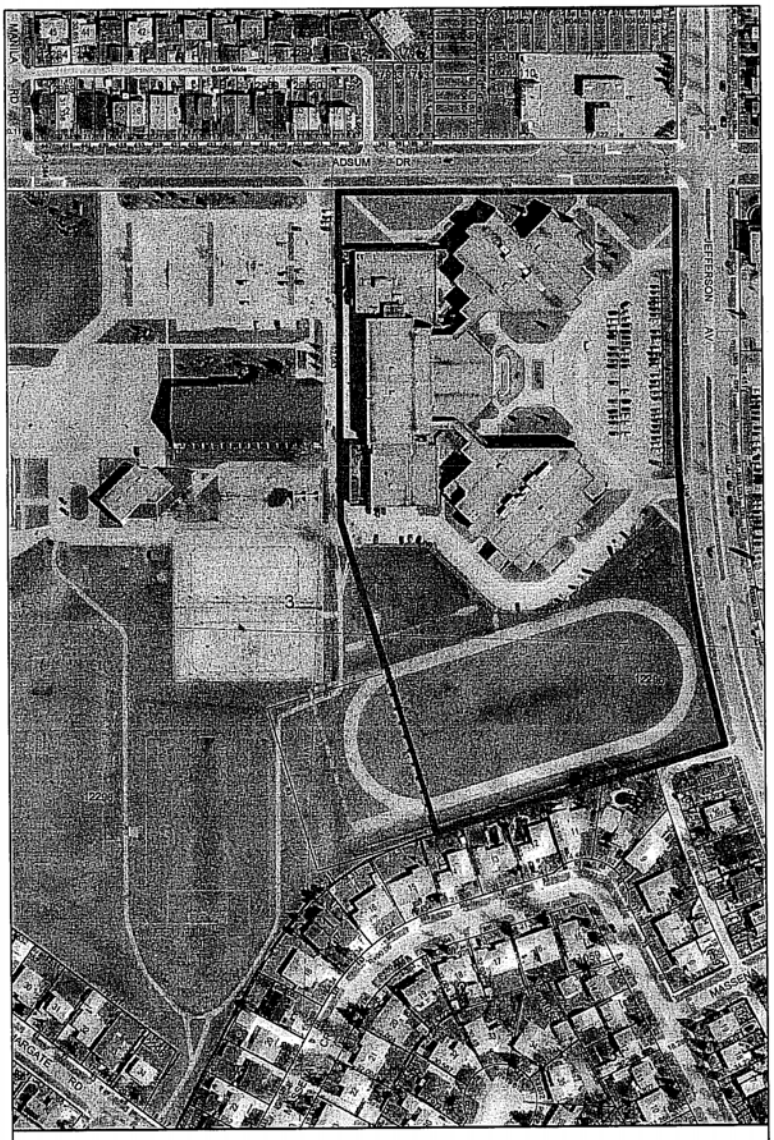
Schedule "A"



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SEVEN OAKS SCHOOL DIVISION PROPERTY

LEASED AREA: 2901.8 m² (±31235 ft²)

METRIC

Date: 2011-JAN-12
District: LSWK
File: 5099/99
Scale: 1:2000

Geo-corrected Air Photo
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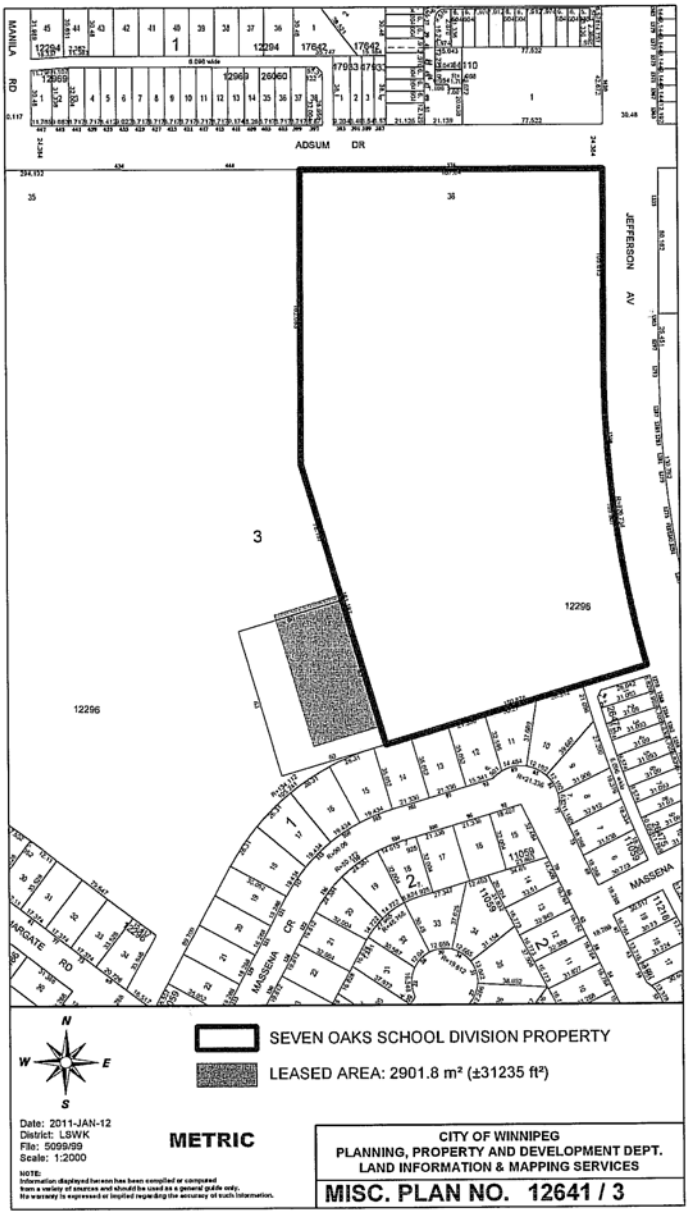
Schedule "A"



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