Agenda – Council – October 29, 2020

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – July 13, 2020

Item No. 5 Proposed Lease Agreement between the City of Winnipeg and Winnipeg Goldeyes Baseball Club Inc. (Fort Rouge-East Fort Garry Ward)

On October 20, 2020, due to a lost vote, the Executive Policy Committee submitted the June 25, 2020 report of the Winnipeg Public Service to Council without recommendation.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – July 13, 2020

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 20, 2020, due to a lost vote, the Executive Policy Committee submitted the June 25, 2020 report of the Winnipeg Public Service to Council without recommendation.

EXECUTIVE POLICY COMMITTEE DECISION:

On October 20, 2020, the Executive Policy Committee received the report of the Winnipeg Public Service dated September 28, 2020 as information.

Regan Katz, Vice President & Chief Operating Officer, Winnipeg Goldeyes submitted the following documentation:

- Winnipeg Goldeyes and Shaw Park – A Community Economic Development Asset Contributing to Winnipeg's Downtown Development and Quality of Life, September 2020
- Ottawa City Lease Compared to Proposed Winnipeg City Lease
- Appendix B – Ballpark Leases
- Minor League Ballpark Comparables Report

COUNCIL DECISION:

On September 30, 2020 Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That in accordance with Section 56(4) of the Procedure By-law No. 50/2007, an extension of time of 30 days be granted for the Executive Policy Committee to submit a recommendation on the matter.

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, Heritage and Downtown Development – July 13, 2020

DECISION MAKING HISTORY (continued):

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On September 21, 2020, the Executive Policy Committee submitted the following to Council:

1. That in accordance with Section 56(4) of the Procedure By-law No. 50/2007, an extension of time of 30 be granted for the Executive Policy Committee to submit a recommendation on the matter.

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

Regan Katz, Assistant General Manager, Winnipeg Goldeyes, submitted the following documentation:

- Winnipeg Goldeyes and Shaw Park – A Community Economic Development Asset Contributing to Winnipeg's Downtown Development and Quality of Life
- Amateur Access Agreement
- Comparison of Private funds to rebate/grant as per the Amateur Access Agreement
- MNP, Independent Auditor's Report - Master lease land parking revenue
- MNP, Independent Auditor's Report - Schedule of Facility Expenses
- MNP, Independent Auditor's Report - Schedule of Sign Revenue

On July 15, 2020, the Executive Policy Committee laid the matter over to its September 2020 meeting and directed the Winnipeg Public Service to:

1. Work with the Winnipeg Goldeyes and Riverside Park Management to grant access to their 2018 and 2019 audited financial statements regarding revenue for review by the Chief Financial Officer of the City.

2. Report back to Executive Policy Committee on how the City of Winnipeg subsidy would be used going forward.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – July 13, 2020

DECISION MAKING HISTORY (continued):

STANDING COMMITTEE RECOMMENDATION:

On July 13, 2020, due to a tie vote, the Standing Policy Committee on Property and Development, Heritage and Downtown Development submitted the matter to the Executive Policy Committee and Council without recommendation.

On May 21, 2020, the Standing Policy Committee on Property and Development, Heritage and Downtown Development granted a further extension of time to its July 13, 2020 meeting for the Winnipeg Public Service to report back on the matter.

On March 2, 2020, the Standing Policy Committee on Property and Development, Heritage and Downtown Development granted an extension of time of 30 days for the Winnipeg Public Service to report back on the matter.

On October 28, 2019, the Standing Policy Committee on Property and Development, Heritage and Downtown Development further directed the Winnipeg Public Service to continue negotiations and report back within 120 days with the terms and conditions for a new lease which considers the following:

1. A rental fee of $10,000 per month for the building while it is being used for sports (5 months).

2. Splitting the parking revenue so that the City gains at least 10%.

3. Waiving the City of Winnipeg Sponsorship Policy as part of this Lease.

4. Entertainment tax rebates until the termination of the True North Agreement.

5. An Amateur Access Agreement that could allow for the granting back of entertainment taxes and the waiver of municipal taxes.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – July 13, 2020

DECISION MAKING HISTORY (continued):

STANDING COMMITTEE DECISION:

On October 28, 2019, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service and received the report as information.

Sam Katz, President and CEO, Winnipeg Goldeyes Baseball Club Inc., submitted the following documents with respect to the matter:

- Submission titled “History of Baseball in Winnipeg and the Creation of Shaw Park”
- Submission titled “Minor League Ballpark Comparables Report”
- Photos with respect to the ‘Community Zone’

ADMINISTRATIVE REPORT

Title: Proposed Lease Agreement between the City of Winnipeg and Winnipeg Goldeyes Baseball Club Inc.

Critical Path: Standing Policy Committee on Property and Development, Heritage and Downtown Development – Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
M. Pittet	J. Kiernan	P. Olafson, Interim CFO	M. Ruta, Interim CAO

EXECUTIVE SUMMARY

On October 22, 1997, Council approved the terms and conditions for a lease agreement (the "Master Lease Agreement") between the City of Winnipeg (the "City") and Riverside Park Management Inc. ("Riverside") for City-owned property located at 1 Portage Avenue East, for the purpose of constructing a multi-purpose sports and recreational facility, commonly known as Shaw Park.

The current Master Lease Agreement will expire on July 27, 2023.

Riverside would like to make capital improvements to the facility and has indicated that, in order to obtain financing, they will require an extension to the term of the Master Lease Agreement or a new lease agreement.

As there are no further extensions available in the Master Lease Agreement, the City and Riverside have been negotiating the proposed terms and conditions for a new lease.

On October 28, 2019, the Standing Policy Committee on Property and Development, Heritage and Downtown Development (the "Committee") directed the Public Service to continue negotiations and report back within 120 days with the terms and conditions for a new lease which considers the following:

1. A rental fee of $10,000 per month for the building while it is being used for sports (5 months);

2. Splitting the parking revenue so that the City gains at least 10%;

3. Waiving the City of Winnipeg Sponsorship Policy as part of this Lease;

4. Entertainment tax rebates until the termination of the True North Agreement;

5. An Amateur Access Agreement that could allow for the granting back of entertainment taxes and the waiver of municipal taxes.

The Public Service has continued negotiations with Riverside and recommends that the terms and conditions for a Proposed New Lease contained herein be approved. Riverside is in agreement with all of the proposed terms and conditions with the exception of the provisions for the extension option and termination.

A list of historical and future subsidies is included in the appendix of this report.

RECOMMENDATIONS

1. That the proposed Terms and Conditions (attached hereto as Schedule A) for a lease agreement in favour of Winnipeg Goldeyes Baseball Club Inc. for the City-owned property located at or near 1 Portage Avenue E, as shown on Misc. Plan No. 11140/11 (attached herein as Schedule B), be approved.

2. That, subject to the approval of Recommendation 1, the City of Winnipeg Sponsorship Policy (attached herein as Schedule E) be waived as a requirement for the Proposed New Lease.

3. That, subject to the approval of Recommendation 1, a grant be provided to the Winnipeg Goldeyes Baseball Club Inc. equal to the entertainment tax remitted to the City of Winnipeg each year, until the expiration of the TN Arena Limited Partnership Community Use and Access Agreement on November 14, 2029 and such grant shall be established in accordance with the intent of the existing Amateur Access Agreement (attached as Schedule F).

4. That, subject to approval of Recommendation 1, a grant be provided to the Winnipeg Goldeyes Baseball Club Inc. equal to the municipal portion of real property taxes paid on land which relates to the presentation of baseball games (i.e. the ballpark parcel itself) until the expiration of the TN Arena Limited Partnership Community Use and Access Agreement on November 14, 2029 and such grant shall be established in accordance with the intent of the existing Amateur Access Agreement (attached as Schedule F).

5. That the City enter into, execute and deliver a lease agreement with Winnipeg Goldeyes Baseball Club Inc. and such other agreements as determined necessary by the City Solicitor / Director of Legal Services to implement the intent of the foregoing (the “Ancillary Agreements”).

6. That authority be delegated to the Chief Administrative Officer to negotiate and approve the final terms and conditions of the lease agreement and the Ancillary Agreements, in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor / Director of Legal Services to protect the interests of the City.

7. 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

On October 28, 2019, the Standing Policy Committee on Property and Development, Heritage and Downtown Development directed the Public Service to continue negotiations and report back with terms and conditions for a new lease which considered five specific points.

The Public Service met with Riverside to continue negotiations and subsequently revised the terms and conditions of the Proposed New Lease agreement taking into consideration new information contained in a recent external appraisal report and the five points provided by the Committee.

Council approval is required to waive the City of Winnipeg Sponsorship Policy (attached as Schedule E) and approve monetary grants.

IMPLICATIONS OF THE RECOMMENDATIONS

There are no regulatory, environmental, operational, human resources or other implications associated with this report.

The Proposed New Lease is for an initial term of fifteen (15) years with an option to extend for a further two (2) five (5) year terms. The extension options will exclude the City-owned parking facility located at 41 Westbrook Avenue without further approval by the City.

The Proposed New Lease includes a provision that the City may amend the boundaries of 41 Westbrook Street during the term should a portion of the Subject Property be required for transit infrastructure purposes.

The Winnipeg Goldeyes Baseball Club Inc. (“Tenant”) will be responsible for all costs associated with the operation, repairs and maintenance of the Subject Property.

The Tenant will receive a grant equal to the entertainment tax remitted to the City of Winnipeg each year, until the expiration of the TN Arena Limited Partnership Community Use and Access Agreement on November 14, 2029.

The Tenant will receive a waiver of the municipal portion of real property taxes paid each year on land which relates to the presentation of baseball games (i.e.: the ballpark parcel itself) until the expiration of the TN Arena Limited Partnership Community Use and Access Agreement on November 14, 2029.

It is noted that the 2020 to 2023 multi-year budget includes a reduction to the entertainment tax funding and municipal taxes rebated to the Tenant in 2023. Extending the term of the aforementioned rebates into the new lease will have a budget impact in 2023.

HISTORY/DISCUSSION

On October 22, 1997, Council approved the terms and conditions for a lease agreement (the "Master Lease Agreement") between the City of Winnipeg (the "City") and Riverside Park Management Inc. ("Riverside") for City-owned property located at 1 Portage Avenue East, for the purpose of constructing a multi-purpose sports and recreational facility, commonly known as Shaw Park.

The Master Lease Agreement has a commencement date of July 28, 1998, is for a term of twenty-five years (expiring on July 27, 2023) and does not include a provision for extension or renewal. The Shaw Park site was leased to Riverside for a rate of $1.00 per annum.

Ownership of the improvements upon the City-owned leased land (i.e.: the ballpark facility) revert to the City upon expiration of the Master Lease Agreement.

Riverside would like to make capital improvements to the facility and has indicated that, in order to obtain financing, they will require a new lease agreement.

Since receiving this request, Riverside and the City have been negotiating in an effort to achieve terms and conditions for a new lease agreement.

On October 28, 2019, the Standing Policy Committee on Property and Development, Heritage and Downtown Development (the "Committee") directed the Public Service to continue negotiations and report back with terms and conditions for a new lease which considered five specific points:

1. A rental fee of $10,000 per month for the building while it is being used for sports (5 months);

2. Splitting the parking revenue so that the City gains at least 10%;

3. Waiving the City of Winnipeg Sponsorship Policy as part of this lease;

4. Entertainment tax rebates until the termination of the True North Agreement;

5. An Amateur Access Agreement that could allow for the granting back of entertainment taxes and the waiver of municipal taxes.

The Committee direction coincided with the receipt of a new external appraisal, which was prepared for the City and delivered in November 2019. The appraisal included a highest and best mixed use based on the location, size, configuration and zoning.

The appraiser researched other ball park stadium lease arrangements across Canada and the United States, while also meeting with Riverside to collect pertinent information related to the current site and leasing details. Based on this information, the appraisal suggested two scenarios for a lease agreement:

Scenario 1	Scenario 2
- base rental amount of $125,000 - 4% of gross annual revenues exceeding $1.5 million (any and all forms of revenue generated from the site, including commercial tenancies) - 5% of annual rent in administration / management fees.	- no base annual rental amount - 5% of all gross annual revenues (any and all forms of revenue generated from the site, including commercial tenancies) - 5% of annual rent in administration / management fees.

In both scenarios, the appraiser has determined that the Tenant should be exempt from all taxes as is common practice for comparable facilities.

In order to reduce lease administration, revenue disputes and manage business volatility, the Public Service recommends static base rent (with rental escalations) plus taxes. The rent in Schedule A slightly exceeds the projected figure included in the appraisal and the proposed rental escalations allow for future revenue growth.

The Public Service recommendation does not directly align with the previous consideration from the Committee wherein a $50,000 base rent per annum was suggested plus 10% parking revenue. The Committee's previous suggestion would likely yield a greater income over the first part of the lease, whereas the Public Service recommendation would yield a greater income over the latter portion of the lease. For the same reasons as noted above, a static rent is preferred.

The proposed terms and conditions are attached as Schedule A (the "Proposed New Lease") and Misc. Plan No. 11140/11 which shows the proposed lease area (the "Subject Property") is attached as Schedule B.

The Tenant has indicated that they are in agreement with the Proposed New Lease, with the exception of the provisions for the extension option and the termination provisions.

The City has proposed two (2) x five (5) year options to extend the agreement beyond the initial term. These extension options would be subject to a review of the rent and other fees being collected by the City. The Tenant does not agree with this section of the Proposed New Lease and would prefer the inclusion of a provision to proceed to arbitration for the extension options, if necessary.

Furthermore, the extension options will exclude the City-owned parking facility located at 41 Westbrook Avenue without further approval by Council. The Tenant is not agreeable to this section and has requested that the City-owned parking facility located at 41 Westbrook Avenue be included in all extension options.

The City's Urban Planning & Design Division has advised that downtown surface parking lots should be redeveloped into a higher and better use based on direct initiatives within OurWinnipeg and the Downtown Parking Strategy. As such, re-evaluation of this City-owned parking facility at 41 Westbrook Avenue is recommended at the end of the initial term and prior to being considered for inclusion in the lease extension options.

Furthermore, the City's Transit Department has suggested that there may be a requirement in the future for the 41 Westbrook Avenue parking facility as part of the Winnipeg Transit Master

Plan. The Proposed New Lease includes a provision that the City may amend the boundaries of the leased area during the duration of the term should a portion of 41 Westbrook Street be required for transit infrastructure purposes. The Tenant does not agree with this provision.

A chart outlining the terms and conditions of the Proposed New Lease that Riverside agrees/does not agree with is attached as Schedule C.

The Public Service recommends approval of the proposed terms and conditions as written and outlined in Schedule A, contrary to the Tenant's objections. If the proposed terms and conditions are approved by the Committee and accepted by the Tenant, it is anticipated that the lease agreement would be completed by June 2020.

The individual sections of the Proposed New Lease are discussed in more detail within the next segment of this report.

Proposed New Lease – Terms and Conditions:

Owner / Landlord:	The City of Winnipeg is the owner of the land and structures that are proposed to be leased to the Tenant. Both parties agree.
Tenant:	The original Master Lease Agreement was between the City of Winnipeg and Riverside Management Inc. ("Riverside)". Riverside is a registered non-profit organization, which was set up to manage the property matters associated with the ballpark. At the commencement of the Master Lease Agreement on July 28, 1998, the Master Lease Agreement was sub-leased to Winnipeg Goldeyes Baseball Club Inc. ("Goldeyes"). The Goldeyes are a registered for-profit share corporation in Manitoba. It has been determined that this type of sub-lease arrangement may limit the City's ability to enforce and monitor all aspects of the lease agreement. It is recommended that the City enter into the Proposed New Lease directly with the actual operator / tenant of the facility being the Goldeyes ("Tenant"). Both parties agree.
Location / Leased Area	The City has proposed minor amendments to the area to be leased to the Tenant as shown on Misc. Plan No. 11140/11, attached hereto as Schedule B (the "Subject Property"). These minor amendments are not considered significant in nature, and the proposed lease will include substantially the same areas as the original Master Lease Agreement. It is proposed however, that the City-owned parking facility located at 41 Westbrook Street will not be included in any extension options beyond the Initial Term without further approval at the sole discretion of the City. **The Tenant does not agree with this.**
Primary Use:	The Subject Property is intended for the use of operating a multi-purpose sports and recreational facility. Both parties agree.
Initial Term:	The City has proposed that the Initial Term of the Proposed New Lease will be for a period of fifteen (15) years. This falls within the

range of comparable sporting facilities in other jurisdictions. Both parties agree.

Extension Option: The City has proposed two (2) x five (5) year options to extend this agreement beyond the Initial Term. These extension options would be subject to a review of the rent and other fees being collected by the City. **The Tenant does not agree with this section and would seek the option to proceed to arbitration, if necessary.**

The extension options will exclude the City-owned parking facility located at 41 Westbrook Avenue without further approval by the City. **The Tenant is not agreeable to this section and has requested that the City-owned parking facility located at 41 Westbrook Avenue be included in all extension options.**

Rental Fee: The City has proposed a base Rental Fee of $75,000.00 per annum (Years 1 – 5), $85,000.00 per annum (Years 6 – 10), and $95,000.00 per annum (Years 11 – 15). Both parties agree.

A chart showing a summary of the annual Rental Fee and taxes has been included and attached as Schedule D.

Net Lease: The City has proposed that the Tenant will pay all costs and expenses of every nature relating to the Subject Property and that the City shall not be responsible for any costs for the duration of the Proposed New Lease. This is materially consistent with the current terms under the Master Lease Agreement. Both parties agree.

Taxes, Licenses and Other Fees: The City has proposed that the existing Amateur Access Agreement will remain in effect until the expiration of the TN Arena Limited Partnership Community Use and Access Agreement on November 14, 2029. This will result in the following municipal and entertainment tax implications:

1) The Tenant will receive a grant of the municipal portion of real property taxes paid each year on land which relates to the presentation of baseball games (i.e.: the ballpark parcel itself). This grant amounts to approximately $43,100.00 (2019).
2) The Tenant will receive a grant equal to the entertainment tax remitted to the City of Winnipeg each year. This grant amounts to approximately $325,000.00 (2019).

Both parties agree.

Insurance: The City has proposed that the Tenant will provide and maintain standard insurance coverages during the duration of the Proposed New Lease. Both parties agree.

Cancellation & Termination: The City has proposed that the Proposed New Lease may be terminated if the Winnipeg Goldeyes or a comparable baseball team ceases to occupy the Subject Property on a continuing basis for three (3) consecutive baseball seasons. Furthermore, the City may terminate the

	agreement if the Tenant is in default under the terms of the Proposed New Lease. Both parties agree. The City has proposed that the Proposed New Lease may be amended should any part or portion of 41 Westbrook Street be required for transit infrastructure purposes. **The Tenant is not agreeable to this section**.
Tenant Improvements:	The City has proposed that any / all improvements to the Subject Property will be completed at the Tenant's sole cost and expense. Both parties agree.
Development, Repairs and Maintenance:	The City has proposed that any / all development, repairs and maintenance to the Subject Property will be completed at the Tenant's sole cost and expense. Both parties agree.
Advertising / Signage:	The City has proposed that the Tenant may erect Advertising within the Subject Property, subject to certain restrictions (i.e.: no firearm, illicit drug ads, etc.). Both parties agree.
Sponsorship / Naming Rights:	The City has proposed that the Tenant be permitted to enter into sponsorship opportunities, subject to Council waiving the City of Winnipeg Sponsorship Policy. Both parties agree.
Assignment or Sub-let:	The City has proposed that the Tenant may not assign or sublet the Proposed New Lease without prior written consent of the City. Both parties agree but the Tenant has requested that all existing sublet leases are to remain in place.
Conditions:	The City has proposed that the intent of the existing Amateur Access Agreement will remain in effect until the expiration of the TN Arena Limited Partnership Community Use and Access Agreement on November 14, 2029. This will have implications to both municipal tax and entertainment tax revenue to the City, which have been further described above in the "Taxes, Licenses and Other Fees" section. Both parties agree. The City has proposed that the Proposed New Lease be subject to the City successfully extending the existing tri-party agreement between Riverside and 3346278 Manitoba Ltd. for CN property in close proximity of the Subject Property. Both parties agree. The City has proposed that the Tenant must agree to support and consent to DAOC 3A/2017 which relates to various right-of-way opening and closings in the vicinity of the Subject Property. Both parties agree.

Historical and future subsidies for the tenant are included in Schedule G, along with estimated revenue related to the parking facilities and billboard signage of the ballpark complex.

Schedule H indicates the subsidies provided to each major sports franchise in the City.

FINANCIAL IMPACT

Financial Impact Statement

Date: June 19, 2020

Project Name:

First Year of Program **2023**

Update - Proposed Lease Agreement between the City of Winnipeg and Winnipeg Goldeyes Baseball Club Inc.

	2023	2024	2025	2026	2027 to 2037
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	$ 380,000	$ 380,000	$ 380,000	$ 380,000	$ 4,180,000
Less: Incremental Revenue/Recovery	455,000	455,000	455,000	455,000	5,155,000
Net Cost/(Benefit)	$ (75,000)	$ (75,000)	$ (75,000)	$ (75,000)	$ (975,000)
Less: Existing Budget Amounts	-	-	-	-	-
Net Budget Adjustment Required	$ (75,000)	$ (75,000)	$ (75,000)	$ (75,000)	$ (975,000)

Additional Comments: Direct costs consist of estimated municipal realty and entertainment taxes to be granted back to Riverside. Incremental revenues consist of those same realty and entertainment tax amounts + annual base rent of $75,000, $85,000 and $95,000 respectively during each 5-year segment of the 15-year lease. The net budget adjustment required represents increased lease revenue (currently, the lease is $1/annum) under the proposed 15-year initial agreement. For the purposes of this analysis, the full amount of municipal realty and entertainment taxes and annual base rent amounts are assumed to be received, and applicable grants paid, within each calendar year from 2023 to 2037.

Mike McGinn June 19, 2020

Mike McGinn, CPA, CA
Manager of Finance

CONSULTATION

This Report has been prepared in consultation with:

Legal Services (as to legal issues)
Assessment & Taxation Department
Transit

OURWINNIPEG POLICY ALIGNMENT

01-1c – Key Directions for Specific City Areas

"*Support the expanded presence of arts, culture, sports, entertainment and leisure throughout Downtown"*

The Proposed New Lease aligns with this section of the OurWinnipeg Policy, as the Winnipeg Goldeyes and Shaw Park represent a valuable and important sport and entertainment asset to the City of Winnipeg. This facility and its operations draw more people and create more extended hour activity throughout the downtown area.

01-3 Direction 8 – Encourage Activities Beneficial to the Winnipeg Economy

"*Promote Winnipeg as a world-class venue for national and international events and Downtown in particular as a tourism destination."*

The Proposed New Lease aligns with this section of the OurWinnipeg Policy, as Shaw Park represents an important facility that can be used for hosting special events (formerly used for the Pan Am Games in 1999 and the Canada Summer Games in 2017, among others). The operations of the Winnipeg Goldeyes baseball organization also contribute to the downtown area by serving regular sporting entertainment and promoting tourism in the area.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: Julian Roberts, Senior Negotiator
Date: June 25, 2020

Attachments:

Attachments:
Schedule A – Proposed New Lease (Terms and Conditions)
Schedule B – Proposed Leased Area
Schedule C – Chart of Agreed to Terms vs. Non Agreed to Terms
Schedule D – Summary of Annual Rental Fee and Taxes

Schedule E – City of Winnipeg Sponsorship Policy
Schedule F – Amateur Access Agreement
Schedule G – Historical and Future Subsidies
Schedule H – Major Sports Franchise Subsidies

Schedule A

Proposed Terms & Conditions for a Lease Agreement between the City of Winnipeg and Winnipeg Goldeyes Baseball Club Inc.

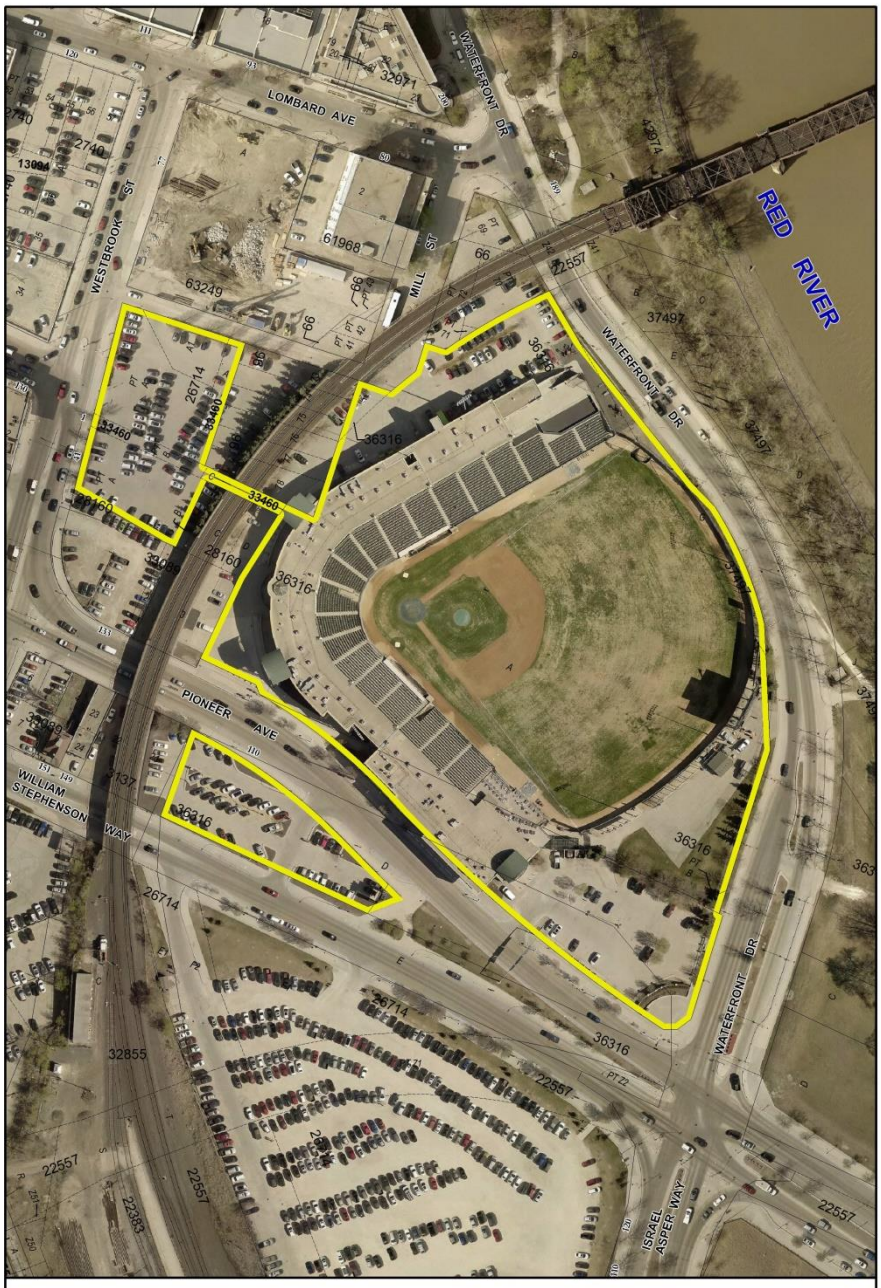
(Shown as "Subject Property" on attached Misc. Plan No. 11140/11)

Owner / Landlord:	The City of Winnipeg (the "City");
Tenant:	Winnipeg Goldeyes Baseball Club Inc. (the "Tenant");
Location / Leased Area:	1 Portage Avenue East, Winnipeg, Manitoba, and other such related properties;
Leased Area:	The land, buildings and fixtures located within the area shown on attached Misc. Plan No. 11140/11 (the "Subject Property);
Primary Use:	For the purpose of operating a multi-purpose sports and recreational facility;
Initial Term:	Fifteen (15) years, commencing on July 28, 2023 and expiring on July 27, 2038;
Extension Option:	Two (2) x Five (5) year options to extend; The Tenant will notify the City in writing a minimum of three hundred and sixty five (365) days prior to the expiration of the Term of its intention to exercise the option to extend, which shall apply to the ballpark parcel and Pioneer Avenue parking lot only. Any extension to the Westbrook parking lot shall be at the sole discretion of the City; Any option to extend will be subject to a review of the Rent and any other fees being collected by the City, all of which are subject to adjustment at the sole discretion and option of the City;
Rental Fee:	Years 1 – 5: $75,000.00 per annum Years 6 – 10: $85,000.00 per annum Years 11 – 15: $95,000.00 per annum Years 16 – 20: TBD Years 21 – 25: TBD;
Net Lease:	The Tenant shall pay all charges, impositions, costs and expenses of every nature and kind relating to the Subject Property during the duration of the Agreement. The City shall not be responsible during the Term for any costs, charges, expenses and outlays of any nature

	arising from or relating to the Subject Property; Unless otherwise specified herein, the Tenant is to pay all operating costs, including but not limited to the cost of any utilities, including but not limited to electricity, water and gas consumed on the Subject Property; the cost of cleaning, maintaining and servicing the Subject Property, including snow removal, garbage and waste collection and disposal, and the cost of security, policing and monitoring of the Subject Property;
Taxes, Licenses and Other Fees:	The Tenant shall pay all taxes, license fees and other applicable fees associated with the Subject Property, unless otherwise stated herein.
Insurance:	The Tenant agrees to provide and maintain standard insurance coverage, as determined by the City acting reasonably;
Cancellation & Termination:	The Agreement may be terminated by the City if the Winnipeg Goldeyes, or a comparable professional baseball team, ceases to occupy the Subject Property on a continuing basis for such purposes for three (3) consecutive baseball seasons; The Agreement may be by terminated by the City if the Tenant defaults under the terms of the Agreement; The Agreement may be amended at the sole discretion of the City should it be determined that any part or portion of the Subject Property is required for transit infrastructure purposes.
Tenant Improvements:	All Tenant Improvements are to be performed at the sole cost**,** expense and effort of the Tenant, subject to prior written approval by the City;
Development, Repairs and Maintenance:	All development and maintenance of the Subject Property will be performed at the sole cost, expense and effort of the Tenant, including, but not limited to, obtaining all permits required to develop, occupy and utilize the Subject Property for its intended use; In the event that the Subject Property requires repair, the Tenant shall perform at its sole cost, expense and effort required repairs within sixty (60) days of written notice provided by the City;
Advertising / Signage	The Tenant shall be entitled to erect Advertising within the Subject Property, subject to certain restrictions as determined by the Director of Planning, Property and Development, acting reasonably;
Sponsorship / Naming Rights	The Tenant shall be permitted to enter into sponsorship opportunities, subject to Council waiving the City of Winnipeg Sponsorship Policy;
Assignment or Sub-	The Tenant is not to assign or sub-let or part with possession of all or any part of the Subject Property without the Tenant first obtaining the

let:	prior written consent of the City. In such event, the City in its sole discretion may cancel this Agreement and enter into a new agreement;
Amateur Access:	The Amateur Access Agreement detailed in Section 27.01 of the original Master Lease Agreement will remain in effect until the expiration of the TN Arena Limited Partnership Community Use and Access Agreement on November 14, 2029;
Private Property / CNR Access:	The Tenant will ensure that any / all necessary agreements with respect to private property and / or C.N.R. Lands which materially impact the Subject Property are extended for the duration of the Term, and to the satisfaction of the City;
Road Openings / Closings	The Tenant agrees to support and consent to DAOC 3A/2017 which relates to various right-of-way openings and closings in the vicinity of the Subject Property.
Other:	The Tenant will enter into a formal Lease Agreement with the City embodying the terms and conditions contained herein using the City's Standard Form Agreement and such other terms and conditions as the City Solicitor/Director of Legal Services deems necessary;
	All terms and conditions contained herein, are subject to the approval of Council, or its delegated authority, and are not binding until such time as that approval is obtained.

Schedule B


LOMBARD AVE
WATERFRONT DR
RED RIVER
WESTBROOK ST
MILL ST
PIONEER AVE
WILLIAM STEPHENSON WAY
ISRAEL ASPER WAY
SUBJECT PROPERTY
Date: 2020-JAN-08
District: CC/LSWK
File: 7933
Scale: 1:1600
Requested by: JR
Drawn by: IP
Reference Dwg No.: Misc. Plan No. 11140/10 & 11072/4
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.
AERIAL (2018) METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPARTMENT
LAND INFORMATION SERVICES
MISC. PLAN NO. 11140/11

Schedule C

	Tenant Agrees	Tenant Does Not Agree
Owner / Landlord	**X**	
Tenant	**X**	
Location / Leased Area	**X**	
Primary Use	**X**	
Initial Term	**X**	
Extension Option		**X**
Rental Fee	**X**	
Net Lease	**X**	
Taxes, Licenses, and Other Fees	**X**	
Insurance	**X**	
Cancellation / Termination		**X**
Tenant Improvements	**X**	
Repairs & Maintenance	**X**	
Advertising / Signage	**X**	
Sponsorship	**X**	
Assignment or Sub-let	**X**	
Condition 1	**X**	
Condition 2	**X**	
Condition 3	**X**	
Condition 4 (Other)	**X**	

Schedule D

Year	Base Rent (per annum)	School and Municipal Property Taxes and Business Taxes (per annum)	Amateur Access (per annum)	Total (per annum)
1-5	$75,000	$348,220	-$43,071	**$380,148**
6-10	$85,000	$355,000 (est.)	-$44,000 (est.)	**$396,000**
11-15	$95,000	$365,000 (est.)	-$45,000 (est.)	**$415,000**
Extension No. 1	TBD	TBD	TBD	TBD
Extension No. 2	TBD	TBD	TBD	TBD

A further breakdown of the 2019 school and municipal taxes, plus the 2019 business taxes is listed below. It is noted that the tax revenue is collected from the Tenant and its sub-tenants.

Property	School Taxes	Municipal Taxes	Business Taxes	Total
Ballpark	$80,860	$47,981	$46,249	$175,090
Office Tenant	$15,196	$8,094	$6,067	$29,357
Restaurant Tenant	$18,228	$13,508	$7,920	$39,657
Westbrook Parking	$38,679	$21,962	$8,642	$69,283
Pioneer Parking	$18,926	$11,675	$4,232	$34,833
Total	**$171,889**	**$103,221**	**$73,111**	**$348,220**

Schedule E

The City of Winnipeg
City of Winnipeg Sponsorship Policy

Winnipeg

POLICY STATEMENT
In keeping with the City of Winnipeg's values, vision and mission, the City of Winnipeg welcomes sponsorships that enhance civic services and facilities.

PURPOSE
To establish a corporate sponsorship policy that supports the delivery of services to the public.

DEFINITION
A sponsorship is defined as a mutually beneficial business transaction in which an individual, business, corporation, foundation, or community group provides cash and/or in-kind services (or a combination thereof) to the City in return for access to the commercial marketing potential associated with the City service.

SCOPE
The Sponsorship Policy applies to all City programs (including equipment), services, projects, facilities, parks and park facilities, events or activities to ensure broadest possible appeal of the program

PRINCIPLES
The City of Winnipeg Sponsorship Policy is guided by the following principles:

Transparency – The City of Winnipeg Sponsorship Policy will be an open, fair and competitive process that will be managed through a Request for Sponsorship (RFS) process.

Integrity – The City of Winnipeg Sponsorship Policy will not accept sponsorships that may compromise the integrity of public services, may unduly commercialize public spaces or may promote activities which are contrary to Plan Winnipeg's vision for Winnipeg "To be a vibrant and healthy city which places its highest priority on quality of life for all its citizens."

Business Case – To ensure that the financial benefits to the City are in direct proportion to the marketing opportunity afforded to the sponsor, all sponsorships must demonstrate a mutually beneficial business case for both the City and the sponsoring partner.

- **Effectiveness** - Sponsorship opportunities must be shown to be in accord with the public interest and to have measurable outcomes to promote the transparency and integrity of the process.

PROCESS

Inventory

The City of Winnipeg will prepare a rolling inventory of assets, programs, services, events, activities or any other notion for which a sponsorship could be developed.

Request for Sponsorships

In order to ensure that the City of Winnipeg Sponsorship Policy is open, fair and competitive, the City will utilize a Request for Sponsorship (RFS) process.

Approvals

Council will approve the content of the RFS that proposes naming rights of a facility or asset prior to the release of an RFS.

The Chief Administrative Officer (or designate) will approve all other sponsorship agreements.

RESTRICTIONS

The City reserves the right to restrict sponsorships to certain services and to exclude products and industries which are inconsistent with the principles outlined in this policy. In general, the following will not be considered for the City of Winnipeg Sponsorship Policy:

1) Companies that promote the use of tobacco and weapons or the sale of alcohol to underage youth.
2) Sponsorship or marketing concepts that stereotype or otherwise denigrate individuals or groups.
3) Sponsorship or marketing concepts that unnecessarily promote the commercialization of public space.
4) Parties involved in a lawsuit, or otherwise debarred from doing business.

EXCLUSIONS

This policy does not apply to advertising opportunities sold by, or donations to, the City.

Schedule F

AMATEUR ACCESS AGREEMENT

27.01 In consideration of the benefit to the City by becoming owner of the Project upon termination of this Lease and in consideration of the Tenant agreeing to enter into an amateur access agreement to permit amateurs to have the use of the Project on such terms and conditions as are agreed upon and as are acceptable to the Landlord, the Landlord agrees to furnish yearly funding during each year of the Term to the Tenant in an amount equal to the:

(a) municipal portion of real property taxes (excluding any school taxes) paid on that portion of the Land and Project which relates to the presentation of baseball games, meaning the area of the Land and Project necessary for baseball games, such as the playing surface, dugouts, locker rooms, stands, bleachers and the like, as determined by the Landlord in its sole and absolute discretion; plus

(b) the amusement tax (or any tax imposed in replacement or substitution for amusement tax) remitted to the City of Winnipeg relating to the Winnipeg Goldeyes baseball games during such year.

Schedule G

	Years	Historical Total	Historical Grant
Business Taxes	1999-2019	$1,214,339.05	($101,858.78)
Property Taxes	1999-2019	$5,175,261.40	($2,011,716.54)
Entertainment Funding Tax	2001-2019	$5,066,192.07	($4,828,975.86)
Parking Revenue[1]	2005-2018	$5,218,959.00	N/A
Billboard Revenue[1]	2005-2019	$225,000.00	N/A

	Years	Future Total	Future Grant
Business Taxes[2]	2020-2038	$1,300,000.00	N/A
Property Taxes[2]	2020-2038	$5,100,000.00	($1,014,895.64)
Entertainment Funding Tax[2]	2020-2038	$5,255,000.00	($5,225,000.00)
Parking Revenue[1]	2019-2031	$11,324,000.00	N/A
Billboard Revenue[1]	2020-2038	$380,000.00	N/A

Notes:

[1] - The parking and billboard revenue (historical and future) is not available to the City and has been estimated

[2] – The future taxes and grants have been estimated

Schedule H

Listing of Grants/Payments

Organization / Program	Department	2019 Adopted Budget (Restated)	2020 Preliminary Budget	2021 Projection	2022 Projection	2023 Projection
Multi-Year Agreements - Operating Budget (continued)						
True North - Refund of Business Tax[3]	Assmt & Taxation	249,000	242,000	242,000	242,000	242,000
True North - Refund of Entertainment Funding Tax[2]	Assmt & Taxation	8,100,000	8,100,000	8,100,000	8,100,000	8,100,000
Winnipeg Football Club - Refund of Entertainment Funding Tax[2]	Assessment & Taxation	1,450,000	1,115,000	1,115,000	1,115,000	1,115,000
Winnipeg Goldeyes - Municipal Property Tax Rebate[3]	Assessment & Taxation	43,100	42,000	42,980	43,980	26,250
Winnipeg Goldeyes - Refund of Entertainment Funding Tax[2]	Assessment & Taxation	325,000	325,000	325,000	325,000	189,583

ADMINISTRATIVE REPORT

Title: Additional Information Requested on Revenues of Winnipeg Goldeyes Baseball Inc. and Riverside Park Management (in regards to Administrative Report *Proposed Lease Agreement between the City of Winnipeg and Winnipeg Goldeyes Baseball Club Inc.)*

Critical Path: Executive Policy Committee

AUTHORIZATION

Author	Department Head	CFO	CAO
P. Olafson	P. Olafson	P. Olafson, Interim CFO	M. Ruta, Interim CAO

EXECUTIVE SUMMARY

On September 14, 2020, the Winnipeg Goldeyes supplied select audited financial information to the Interim Chief Financial Officer. The financial information supplied to the City does not represent a full disclosure of the 2018 and 2019 audited financial statements of the Winnipeg Goldeyes and Riverside Park Management. It does not appear that financial information provided includes any financial disclosure concerning Riverside Park Management. As such, a complete review of the revenue of the Winnipeg Goldeyes and Riverside Park Management cannot be completed. Further, in the audited schedules supplied by the Winnipeg Goldeyes, no financial information has been supplied in respect of the financial support the City has provided the Winnipeg Goldeyes through the historical granting of municipal taxes and entertainment funding taxes under the Master Lease Agreement. As such, the Public Service is unable to comment on how this subsidy is being utilized on a go forward basis.

The audited financial statements will include information that is deemed proprietary to the businesses.

RECOMMENDATIONS

That this report be received as information.

REASON FOR THE REPORT

On July 15, 2020, the Executive Policy Committee laid over the report "*Proposed Lease Agreement between the City of Winnipeg and Winnipeg Goldeyes Baseball Club Inc*." to its September 2020 meeting and directed the Winnipeg Public Service to:

1. Work with the Winnipeg Goldeyes and Riverside Park Management to grant access to their 2018 and 2019 audited financial statements regarding revenue for review by the Chief Financial Officer of the City.

2. Report back to Executive Policy Committee on how the City of Winnipeg subsidy would be used going forward.

A subsequent extension was granted.

IMPLICATIONS OF THE RECOMMENDATIONS

There are no implications to the recommendations of this report as the report is to be received as information.

HISTORY/DISCUSSION

On October 22, 1997, Council approved the terms and conditions for a lease agreement (the Master Lease Agreement) between the City of Winnipeg (the City) and Riverside Park Management Inc. (Riverside) for City-owned property located at 1 Portage Avenue East, for the purpose of constructing a multi-purpose sports and recreational facility, commonly known as Shaw Park.

The Master Lease Agreement has a commencement date of July 28, 1998, is for a term of twenty-five years (expiring on July 27, 2023) and does not include a provision for extension or renewal.

In regards to the direction given to the Public Service by the Executive Policy Committee, the Public Service engaged in discussions with the Winnipeg Goldeyes (the Goldeyes) to obtain the information requested. Regularly engaging in discussions with them from that time, on September 14, the financial information provided, included as Attachment 1, 2 and 3, was received from the Goldeyes. It is the financial information the Goldeyes understood was of interest from the discussion at the Executive Policy Committee meeting of July 15, 2020.

Attachments 1 through 3 are schedules of select financial information prepared by the Goldeyes and audited by MNP, LLP. The audit reports, dated September 11, 2020, issued on financial information are unqualified which means that in the auditors' opinion, the financial information disclosed comply with generally accepted accounting principles and is fairly and appropriately presented.

The financial information supplied to the City does not represent a full disclosure of the 2018 and 2019 audited financial statements of the Goldeyes and Riverside. It does not appear that the financial information provided includes any financial disclosure concerning Riverside. As such, a complete review of the revenue of the Goldeyes and Riverside cannot be completed. Further, in the audited schedules supplied by the Goldeyes, no financial information has been supplied in respect of the financial support the City has provided the Goldeyes through the historical granting of municipal taxes and entertainment funding taxes under the Master Lease Agreement. As such, the Public Service is unable to comment on how this subsidy is being utilized on a go forward basis.

The audited financial statements will include information that is deemed proprietary to the businesses.

Attachment 1 is an audited schedule disclosing Adjusted Earnings Excluding Master Lease Lands Revenue for Winnipeg Goldeyes Baseball Club Inc. As disclosed in the schedule, the financial information is drawn from audited financial statements and represents parking revenue earned for One Portage Avenue East, 110 Pioneer Avenue and 41 Westbrook Street. The monthly revenue has been allocated to properties on a per stall basis. The schedule reports earnings before income taxes is $311,386 for 2019 and $153,813 for 2018 (years ending December 31). Included in those figures is master lease parking revenue of $330,912 in 2019 and $291,006 in 2018, as also disclosed in this schedule. As such, factoring out the master lease land parking revenue, the Winnipeg Goldeyes Baseball Club Inc. would be reporting losses of $19,526 in 2019 and $137,193 in 2018.

Attachment 2 is an audited schedule disclosing Facility Expenses for Winnipeg Goldeyes Baseball Club Inc. The expenses presented in this schedule total $741,892 in 2019 and $762,569 in 2018 and is largely comprised of utilities, facility maintenance and supplies and facility wages.

Attachment 3 is an audited schedule disclosing Sign Revenue for the Winnipeg Goldeyes Baseball Club Inc. As disclosed in the schedule, the revenue earned ($45,000 in each year) is from a sign located on the lands and premise located at 110 Pioneer Avenue.

Other Information

As noted in the administrative report titled *Proposed Lease Agreement between the City of Winnipeg and Winnipeg Goldeyes Baseball Club Inc*., the Public Service identified only two items within the lease that the tenant did not agree with. For clarification, a third item is disputed in part. The tenant agreed with the proposal to extend the Amateur Access Agreement (i.e. entertainment tax and municipal property tax rebates), but did not agree that the Amateur Access Agreement should terminate prior to the end of the proposed 15-year lease term. The proposed terms and conditions entitle the tenant to entertainment tax and municipal property tax rebates until 2029, at which point, further Council approval will be required to extend the subsidy.

Although not requested, the Goldeyes have also supplied a report prepared by GDAN Solutions Ltd. and R+W Richard Wintrup – *Winnipeg Goldeyes and Shaw Park A Community Economic Development Asset Contributing to Winnipeg's Downtown Development and Quality of Life.* This report is attached hereto as Attachment 4.

For additional information on the financial implications of this, please refer to the administrative report "*Proposed Lease Agreement between the City of Winnipeg and Winnipeg Goldeyes Baseball Club Inc.*" tabled at the Standing Policy Committee on Property and Development, Heritage and Downtown Development meeting on July 13, 2020.

FINANCIAL IMPACT

Financial Impact Statement **Date:** September 25, 2020

Project Name:

Additional Information Requested on Revenues of Winnipeg Goldeyes Baseball Inc. and Riverside Park Management (in regards to Administrative Report *Proposed Lease Agreement between the City of Winnipeg and Winnipeg Goldeyes Baseball Club Inc.*)

COMMENTS:

This administrative report is prepared for information only and the recommendation has no financial impact.

electronically signed by *T. Yanchishyn*
Tanis Yanchishyn
Manager of Finance & Administration
(Campus)

CONSULTATION

This Report has been prepared in consultation with:

Planning, Property and Development Department

OURWINNIPEG POLICY ALIGNMENT

01-1c – Key Directions for Specific City Areas “Support the expanded presence of arts, culture, sports, entertainment and leisure throughout Downtown”

The proposed new lease aligns with this section of the OurWinnipeg Policy, as the Winnipeg Goldeyes and Shaw Park represent a valuable and important sport and entertainment asset to the City of Winnipeg. This facility and its operations draw more people and create more extended hour activity throughout the downtown area.

01-3 Prosperity Direction 1 Provide Efficient and Focused Civic Administration and Governance.

This report supports demonstration of accountability by the City’s public service.

01-3 Direction 8 – Encourage Activities Beneficial to the Winnipeg Economy “Promote Winnipeg as a world-class venue for national and international events and Downtown in particular as a tourism destination.”

The proposed new lease aligns with this section of the OurWinnipeg Policy, as Shaw Park represents an important facility that can be used for hosting special events (formerly used for the Pan Am Games in 1999 and the Canada Summer Games in 2017, among others). The operations of the Winnipeg Goldeyes baseball organization also contribute to the downtown area by serving regular sporting entertainment and promoting tourism in the area.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

N/A

SUBMITTED BY

Department: Corporate Finance
Division:
Prepared by: Paul Olafson, CPA CA
Date: September 28, 2020
File No:

Attachments:

Attachment 1 – Audit Report – Schedule of Adjusted Earnings Excluding Master Lease Lands Revenue for Winnipeg Goldeyes Baseball Club Inc

Attachment 2 – Audit Report – Schedule of Facility Expenses for Winnipeg Goldeyes Baseball Club Inc.

Attachment 3 – Audit Report – Schedule of Sign Revenue for the Winnipeg Goldeyes Baseball Club Inc.

Attachment 4 – Report - *Winnipeg Goldeyes and Shaw Park A Community Economic Development Asset Contributing to Winnipeg's Downtown Development and Quality of Life*