Agenda – Council – July 22, 2021

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – July 6, 2021

Item No. 5 Lease Agreement between Toba Centre for Children & Youth Inc. and the City of Winnipeg at 700 Assiniboine Park Drive (Charleswood – Tuxedo – Westwood Ward)

STANDING COMMITTEE RECOMMENDATION:

On July 14, 2021, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the following to Council:

1. That, subject to approval of two-thirds of all Council members (pursuant to Subsection 205(2) of the City of Winnipeg Charter Act), the proposed terms and conditions for a Lease Agreement, attached hereto as Schedule A, in favour of Toba Center for Children & Youth Inc. at 700 Assiniboine Park Drive (identified as "Leased Area" on the attached Misc. Plan No. 15601/3), be approved.

2. That the City enter into, execute and deliver a Lease Agreement with Toba Centre for Children & Youth Inc. and other such agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

3. That the authority be delegated to the Chief Administrative Officer to negotiate and approve the 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.

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

Pursuant to Council Policy, leases of parkland over five years in length require approval by two-thirds of all Members of Council.

Report – Standing Policy Committee on Property and Development, Heritage and Downtown Development – July 6, 2021

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 14, 2021, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, Heritage and Downtown Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On July 6, 2021, the Standing Policy Committee on Property and Development, Heritage and Downtown Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

Title: Lease Agreement between Toba Centre for Children & Youth Inc. and the City of Winnipeg at 700 Assiniboine Park Drive

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	C. Kloepfer	M. Ruta, Interim CAO

EXECUTIVE SUMMARY

The Public Service has negotiated terms and conditions for a Lease Agreement in favour of Toba Centre for Children & Youth Inc. ("Toba") to lease a portion of the building at 700 Assiniboine Park Drive shown as "Leased Area" on Misc. Plan No. 15601/3 which is attached as Schedule B to this report.

Toba (previously Snowflake Place) intends to renovate and occupy floors 1-3 on the south side of the building for the purpose of a centralized interview center for young victims as part of an alleged child abuse investigation. Toba works directly with the Winnipeg Police Service, Royal Canadian Mounted Police and the Justice Department.

The lease has a proposed rent of $1.00 per annum on the basis that all leasehold improvement costs ("Tenant's Work") are the responsibility of Toba. The current estimate of the Tenant's Work is +/- $6,000,000.00. Should the value of the Tenant's Work fall below the $6,000,000 threshold, the initial term of the 20-year lease will be shortened accordingly.

RECOMMENDATIONS

1. That, subject to approval of two-thirds of all Council members (pursuant to Subsection 205(2) of the City of Winnipeg Charter Act), the proposed terms and conditions for a Lease Agreement, attached hereto as Schedule A, in favour of Toba Center for Children & Youth Inc. at 700 Assiniboine Park Drive (identified as "Leased Area" on the attached Misc. Plan No. 15601/3), be approved.

2. That the City enter into, execute and deliver a Lease Agreement with Toba Centre for Children & Youth Inc. and other such agreements as determined necessary by the City Solicitor/Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

3. That the authority be delegated to the Chief Administrative Officer to negotiate and approve the 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.

4. 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 January 28, 2009, Council authorized the Chief Administrative Officer ("CAO") to approve all leases of City-owned property where:

I. the value of the lease is based on market value;
II. the term of the lease is 5 years or less;
III. the lease includes cancellation clauses; and
IV. the gross value of the lease (excluding realty taxes) is $500,000 or less over the term of the lease.

The proposed lease does not comply with conditions II and IV of the CAO's delegated authority.

The Leased Area is considered to be park land as it lies within the boundaries of Assiniboine Park. In accordance with subsection 205(2) of The City of Winnipeg Charter, all dispositions of property used or acquired for park or cemetery purposes require approval of at least two-thirds of all members of Council. A lease term in excess of five years is considered to be a disposition of property.

IMPLICATIONS OF THE RECOMMENDATIONS

The proposed lease is for an initial term of twenty (20) years, in which the net present value of the lease is estimated to be $6,000,000 based on market rent. Should the cost of the Tenant's Work not exceed the net present value market rent, then the initial term will be adjusted so that the length of the amended term equals the cost of Toba's improvements. For example, a $5.4M investment by Toba will result in an 18-year lease (i.e. $5.4M/$6.0M = 0.9 x 20 years = 18 year amended term).

The lease cannot be terminated during the initial term unless Toba is in default of its obligations. The lease also includes one 10-year renewal option at market rent which when exercised, can be terminated with one year's notice.

The Winnipeg Police Service reserves the right to occupy the first and third floors in case of an operational need. If this occurs, the initial term will be extended by the amount of days of the Winnipeg Police Service occupancy.

Toba will be responsible for all costs associated with the improvements, operation and maintenance of the Leased Area. There will be no expenses incurred by the City as a result of this agreement.

HISTORY/DISCUSSION

The City owns and maintains the building located at 700 Assiniboine Park Drive within the Assiniboine Park. The building was excluded from the Assiniboine Park Conservancy Management Agreement and is partially occupied by the Winnipeg Police Service and Winnipeg Fire Paramedic Service. The southern portion of the building is unoccupied and has not been updated to meet current building code requirements. As a result, the south portion of the building requires significant investment to become functional space.

In 2019, Toba Centre for Children & Youth Inc. ("Toba" and formerly known as Snowflake Place) approached the Public Service about occupying 700 Assiniboine Park Drive. Toba is a non-profit organization created in 2013 that is Manitoba's only child advocacy centre. Their mandate is focused on providing a safe, neutral, family-friendly setting to conduct child abuse investigations/interviews with children and youth.

Toba's offices are currently located at 225 Portage Avenue. In 2019/20, Toba conducted 399 interviews, representing almost 10% of the estimated investigations conducted in the Province annually. Toba intends to expand their operation by improving the three floors on the south side of 700 Assiniboine Park Drive (the "Leased Area"). The proposed lease will enable the organization's growth into a fully functioning, co-located centre for the services they provide in conjunction with participating government agencies, including the Winnipeg Police Service.

The lease request was circulated to applicable City departments for consideration and comments. No objections to the lease were received, nor were any suitable civic functions identified. Conditions provided by the Winnipeg Police Service, Risk Management, and Legal Services have been incorporated into the agreement.

In accordance with the Real Estate Transaction Management Framework, the Public Service completed an appraisal to determine an estimate of the net present rental value of the Leased Area. The appraisal determined an office use to be the highest and best use based on its location and physical characteristics. The appraisal indicated a market rental value of $6,000,000 over the 20-year term.

The Leased Area is very dated and does not comply with the current building code. In order to obtain occupancy, the building requires approximately $1,000,000 in code upgrades, a possible electrical system redundancy and modern office finishes. Toba is prepared to assume all costs, including traditional landlord costs (e.g. code upgrades).

Toba's initial improvement costs are estimated to be +/- $6,000,000 to enable occupancy of the Leased Area. The proposed rent is $1.00 per annum on the basis that the tenant is making a substantial investment in the City asset to ensure its long-term viability. Should Toba's investment be less than the market rental value, the lease length will be shortened. At the end of the initial term, the Leased Area will be rented at the prevailing market rent. If not for Toba's investment, the Leased Area would remain vacant until a civic tenant, or other suitable tenant, were able to undertake the required upgrades.

Toba is closely aligned with the Winnipeg Police Service, who has been instrumental in coordinating the proposed lease. There is a symbiotic relationship between the two groups that makes the co-location an ideal scenario. Due to the operational needs of the Winnipeg Police Service, a general marketing of the Leased Area is not possible.

The Ward Councillor is in support of the proposed lease.

The Public Service recommends approval of the proposed lease Terms and Conditions as negotiated. If the lease is approved, the agreement will commence the first month after approval (August 2021).

FINANCIAL IMPACT

Financial Impact Statement

Date: May 28, 2021

Project Name:

First Year of Program **2021**

Lease Agreement between Toba Centre for Children & Youth Inc. and the City of Winnipeg at 700 Assiniboine Park Drive

	2021	2022	2023	2024	2025-2040
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	7,297	2,567	2,567	2,567	41,078
Net Cost/(Benefit)	$ (7,297)	$ (2,567)	$ (2,567)	$ (2,567)	$ (41,078)
Less: Existing Budget Amounts	(7,297)	(2,567)	(2,567)	(2,567)	(41,078)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments: Incremental revenue in 2021 consists of the $1 nominal rent, the one-time document preparation fee of $4,730 and estimated municipal property taxes of $2,566. The latter amount is based on an assumed annual rental value of $300,000 (i.e. $6,000,000 / 20 years), a portioning rate of 65% and mill rate of 0.013161, all assumed to remain constant over the 20-year lease term.

Mike McGinn May 28, 2021

Mike McGinn, CPA, CA
Manager of Finance

CONSULTATION

This Report has been prepared in consultation with:

Legal Services (as to legal issues)
Risk Management (as to insurance requirements)
Winnipeg Police Service
Winnipeg Fire Paramedic Service
Assets and Project Management Department - Municipal Accommodations

OURWINNIPEG POLICY ALIGNMENT

Quality of Life Direction 2: Deliver a coordinated, integrated and seamless service response to address community needs and priorities that contribute to building healthy communities:

- Deliver services in community-based facilities using partnerships to facilitate both access and the range of services delivered.

Sustainability - Leading by Example Direction 4: Establish partnerships with communities, businesses and other public sector agencies to achieve joint goals towards a sustainable Winnipeg.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

4.4 Support Redevelopment of Former Commercial and Industrial Lands into Active Use.

5.1 Increase Energy Performance of Existing Buildings.

SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: Bridget Peterson, Property Administrator
Date: June 3, 2021
File No: 18/2

Attachments:

Schedule A – Proposed Terms and Conditions
Schedule B – Misc. Plan No. 15601/3

SCHEDULE A

PROPOSED TERMS AND CONDITIONS FOR A LEASE AT 700 Assiniboine Park Drive

Landlord:	1. The City of Winnipeg (hereinafter called the "City").
Tenant:	2. Toba Centre for Children & Youth Inc. (hereinafter called the "Tenant").
Location:	3. 700 Assiniboine Park Drive, Winnipeg, Manitoba (hereinafter called the "Building").
Proposed Leased Premises:	4. Identified as "Leased Area" on Misc. Plan No. 15601/3 attached hereto as Schedule "B" (hereinafter called the "Proposed Leased Premises").
Primary Use:	5. For the sole purpose of operating as a centralized interview centre for the purpose of interviewing young victims as part of a formal investigation into allegations of child abuse and office space and not for any other purpose except with the prior written consent of the City of Winnipeg's Director of Planning, Property & Development and the City of Winnipeg's Chief of Police, or their designates (hereinafter called the "Directors"), such consent not to be unreasonably withheld, delayed or conditioned.
Initial Term:	6. Twenty (20) year term commencing the first day of the month following approval from the City's Standing Committees and Council or such other date as mutually agreed upon and approved by the Directors (the "Commencement Date") (hereinafter called the "Term").
Initial Term Adjustment:	7. The Proposed Leased Premises has a net present value market rent of $6,000,000 ("Total Market Rent") over the proposed 20 year period. Should the cost of the Tenant's Work not exceed the Total Market Rent, then the initial term shall be adjusted so that the length of the amended term (in years) equals the cost of the Tenant's Work divided by the Total Market Rent multiplied by 20.
Fixturing Period:	8. For a period of twelve (12) months commencing on the Commencement Date (the "Fixturing Period") the Tenant shall occupy the Proposed Leased Premises for the purpose of performing and completing the Tenant's Work in the Proposed Leased Premises for the Tenant's Primary Use. During the Fixturing Period, no Rent, Additional Rent or taxes shall be payable by the Tenant and no Rent to be Credited (as hereinafter defined) shall be applied. However, the Tenant agrees to pay all utilities consumed and observe and abide by all other applicable terms and conditions as are contained in the Lease Agreement.
Rent:	9. One Dollar ($1.00) plus GST per annum, Payable on the Commencement Date and each One (1) year anniversary of the Commencement Date during the Initial Term.

Renewal Option(s):

10. One (1) Ten (10) year option to renew on the same terms and conditions except rent, which will be determined based on market rates prevailing at the time of the exercise of the option to renew, which rent shall not, in any case be less than the annual rent calculated in the initial Term. The option to extend shall be exercised 6 months prior to the expiry of the initial Term.

Parking:

11. The number of parking stalls and the location of same is to be determined by the parties. The City acknowledges that the Tenant is requesting exclusive use of 30 parking stalls and will make best efforts to accommodate.

Document Preparation Fee:

12. A one-time Document Preparation Fee in the amount of Four Thousand Seven Hundred Thirty Dollars ($4,730) plus GST payable within 30 days of the Commencement Date.

Municipal Taxes:

13. The Tenant shall pay to the local taxing authority all municipal taxes, realty taxes, school taxes, local improvements taxes, etc. which may be charged in respect of the use and occupation of the Proposed Leased Premises and which shall be billed directly to the Tenant.

14. The Tenant is entitled to make application to the City pursuant to the provisions of *The Municipal Assessment Act of Manitoba*, C.C.S.M. c. M226 and the City's *Community Groups Occupying City-Owned Facilities By-law No. 89/2005*. If the application is granted and the resulting amendment to the by-law is approved, the Leased Premises will be exempt from real property taxes and school taxes as of the date of such by-law approval.

Other Fees, Licenses, Taxes etc.:

15. The Tenant shall be responsible for all license fees and business tax, etc. which may be charged in respect of the use and occupation of the Proposed Leased Premises.

Operating Costs:

16. Unless otherwise specified herein, the Tenant is to pay all operating costs, including but not limited to identification and directional signage, the cost of any utilities, including but not limited to electricity, water, telephone services and gas consumed in the Proposed Leased Premises; the cost of cleaning, ice and snow removal, maintaining and servicing the Proposed Leased Premises, including garbage and waste collection and disposal including but not limited to hazardous waste; and the cost of security, policing and supervising the Proposed Leased Premises (hereinafter referred to as the "Utilities" and the "Operating Costs");

17. Without obligating the Landlord to undertake, complete or carry out any of the matters below, Operating Costs and Utilities shall not include the following:

    a. any repairs or replacement as a result of faulty construction or inferior or deficient materials or workmanship or inherent structural defects or weaknesses in the Building unless the repairs and replacement are as a result of the Tenant's default under this Agreement or the Tenant's abuse, misuse or damage to the Proposed Leased Premises / the Building;

b. net recoveries by the Landlord in respect of warranties or guarantees and insurance claims to the extent (but only to the extent) that the repair costs in respect of the work covered by such warranties or guarantees or insurance claims have been charged as Operating Costs unless the warranties, guarantee or insurance claim relates to the Tenant's default under this Agreement or the Tenant's abuse, misuse or damage to the Proposed Leased Premises/ the Building;

c. Depreciation on the Building and the structure of the Building unless the depreciation is caused by the Tenant's default under this Agreement, negligence or the Tenant's abuse, misuse or damage to the Proposed Leased Premises / the Building;

d. the cost of all repairs and replacement to the structure of the Building, (including, without limitation the foundations, exterior wall assemblies, floors, roofs and roof membrane) exterior windows and doors due to structural failure, bearing walls and structural columns, beams and elements of the Building or any part thereof unless the damage is caused by the Tenant's default under this Agreement, negligence or the Tenant's abuse, misuse or damage to the Proposed Leased Premises/the Building;

e. all fines, suits, claims, demands, costs, charges and expenses of any kind or nature for which the Landlord is or may become liable by reason of negligent or willful acts or omissions to act on the part of the Landlord or those for whom it is in law responsible or by reason of any breach or violation or non-performance by the Landlord of any covenant, term or provision contained in the leases or other agreements entered into by it in respect to the Building;

f. all work to the Proposed Leased Premises or the Building or any part thereof made necessary by the Landlord's non-compliance with applicable laws including (without limitation) governing codes, by-laws, regulations and ordinances relating to the construction of the Building or of the Proposed Leased Premises;

g. the cost of all improvements, additions, alterations and/or expansion to the Building or any part thereof;

h. any cost or expense which is normally treated in accordance with generally accepted accounting principles as being of a capital nature;

i. Reserves for bad debts or for future improvements, repairs, additions or replacements subject to Tenant debts and/or damage caused by the Tenant's default under this Agreement, negligence or the Tenant's abuse, misuse or damage to the Proposed Leased Premises/the Building;

j. Any and all costs arising from the Landlord's breach of its covenants or obligations, as set out herein;

k. Costs arising from any mandatory or voluntary special assessment on the Building or the Land by any governmental entity having the authority to impose such assessment in connection with the construction of the Building, subject to improvements undertaken by the Tenant or mandatory or voluntary special assessments on the Building or the Land by any governmental entity based on the Tenant's use of the Proposed Leased Premises, wherein such cases the costs shall be for the Tenant's account;

l. Costs (including in connection therewith all attorneys' fees and costs of settlement judgments and payments in lieu thereof) arising from claims, disputes or potential disputes in connection with potential or actual claims, litigation or arbitration not involving the Tenant and pertaining to the Landlord, the Building or the land;

m. Costs associated with the operation of the business of the entity which constitutes the Landlord as the same are distinguished from the costs of operation of the Building, including the Landlord's general corporate overhead and general and administrative expenses, costs of any disputes between Landlord and its employees; and

n. In-house legal and/or accounting fees unless caused by the Tenant's default under this Agreement, negligence or the Tenant's abuse, misuse or damage to the Proposed Leased Premises/the Building.

18. Operating Costs, Utilities and realty taxes as set out herein shall be paid to the Landlord monthly on the first day of the month in addition to Rent ("Additional Rent"). In the event that the following utilities are separately metered to the Proposed Leased Premises and/or the services are obtained directly by the Tenant, the Tenant shall pay directly to the suppliers for:

    a. the consumption of gas, hydro, sewer, water and any other utilities servicing the Proposed Leased Premises, which utility costs shall be separately metered and billed to the Tenant;

b. janitorial services and supplies provided to the Proposed Leased Premises;

c. the removal of medical waste including but not limited to any hazardous (medical) waste, sharps and needles from the Proposed Leased Premises, which the Tenant shall contract for directly;

d. any other costs relating to the operation and maintenance of the Proposed Leased Premises except where in this Agreement such costs are specifically detailed as the Landlord's accounts; and

e. all insurance costs, charges and premiums for its use of the Proposed Leased Premises.

19. Provided that to the extent such items are charged to and paid separately by the Tenant pursuant to this Agreement then the costs of any such items attributable to other leasable premises shall be excluded.

20. Additional Rent shall be calculated on the basis of the Landlord's reasonable estimate, of the Tenant's proportionate share of the Operating Costs for the current Lease Year and for each successive Lease Year thereafter. The Landlord shall provide the Tenant with such reasonable estimate in advance of the first of every month.

21. Within Ninety (90) days of the end of any Lease Year during the Term, the City shall provide to the Tenant a reconciliation statement calculating the Tenant's proportionate share of the Operating Costs for that Lease Year and the Tenant shall forthwith pay to the Landlord its Proportionate Share of the Operating Costs for that Lease Year less the payments made by the Tenant to the Landlord during that Lease Year, or if the Tenant had overpaid its Proportionate Share, the Landlord shall refund to the Tenant any excess paid.

Termination:

22. The Lease Agreement may be terminated upon
    a. Written notice by either party indicating termination upon expiry of the Initial Term, and One (1) Years' notice in each renewal term; or
    b. If the Tenant is in default of the terms and conditions of the Lease Agreement and such default is not cured by the Tenant within Thirty (30) business days of notice of such default provided in writing by the City (or such longer period as may be reasonably required to cure such default considering the nature thereof and as agreed to by the City).

23. Upon termination or cancellation of the Lease Agreement, the Tenant shall remove its property from the Proposed Leased

Premises and leave the Proposed Leased Premises in good condition satisfactory to the Directors. Should the Tenant default in so doing the City may remove the Tenant's property and restore the Proposed Leased Premises at the sole risk and expense of the Tenant.

24. Notwithstanding the forfeiture or termination of the Lease Agreement in any manner herein provided for, the Tenant shall be and remain liable to the City for all payments due and obligations and liabilities incurred hereunder up to the date of such forfeitures or termination and for the fulfillment of all obligations on the part of the Tenant to be observed and performed upon or after the said termination.

Insurance Requirements:

25. The Tenant shall provide and maintain the following insurance;

    a. Commercial general liability policy including, but not limited to, the following provisions:

        i. The City to be included as an additional insured;
        ii. The policy to contain a cross liability clause or severability of interest clause;
        iii. Protection for claims of bodily injury and property damage, contractual liability, employees as additional insured, products and completed operations liability, tenant's legal liability for a limit commensurate with the space occupied in the inclusive amount of at least two million dollars ($2,000,000) per occurrence with a minimum of five million dollars ($5,000,000) general aggregate, and
        iv. Shall not contain any special limitations on the scope of coverage afforded the City, its officers, officials, employees, agents or volunteers;

    b. A broad form property insurance policy for the full replacement cost insuring all contents, equipment, and tenant improvements;

    c. Automobile liability insurance, for owned and non-owned automobiles used for or in connection with the Lease/License Agreement in the amount of at least two million dollars ($2,000,000.00) to remain in place at all times during the Term; such insurance may be met through the commercial general liability coverage where applicable.

26. Subject to approval by the Directors, acting reasonably, if the Tenant performs any repair, maintenance, renovation, or construction work in/to/on/under the Proposed Leased Premises, the Tenant shall:

a. Provide and maintain (or ensure that the contractor provides and maintains) commercial general liability and automobile liability insurance coverage in the amount of at least two million dollars ($2,000,000.00) and worker's compensation to the satisfaction of the City's Supervisor of Insurance based on the works that are taking place (and can include, but is not limited to, Builder's Risk insurance or installation floater and wrap up liability) for all contractors or sub-contractors hired to perform such repair work, maintenance, renovation or construction work. Such insurance to add the City as an additional insured and to remain in place at all times during the performance of the work until total performance;

b. File with the City a certificate of insurance in a form satisfactory to the City's Supervisor of Insurance at least five (5) business days prior to the commencement of any work on the Proposed Leased Premises.

All deductibles shall be entirely borne by the Tenant.

The Tenant shall ensure that all property and commercial general liability policies written on behalf of the Tenant 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 or by those for whom the City, is in law, responsible.

The Tenant shall take all policies out with insurers licensed to and carrying on business in the Province of Manitoba.

The Tenant shall not cancel, materially alter, or cause any such policy or policies to lapse without a minimum of thirty (30) days' prior written notice to the City.

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

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 or any subsequent extensions thereof, provided that the City shall give the Tenant reasonable notice and shall request reasonable change.

The Tenant shall file with the City an annual Certificate of Insurance in a form satisfactory to the City's Supervisor of Insurance. All certificates of insurance are to be sent to:

The City of Winnipeg
Risk Management Division

3rd Floor - 185 King Street, Winnipeg, Manitoba, R3B 1J1
Attention: Supervisor of Insurance
Fax: 204-986-6132
Email: insurance@winnipeg.ca

Development:

27. Unless otherwise specified herein, all improvements, development, code updates, construction and maintenance of the Proposed Leased Premises 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 Proposed Leased Premises for its intended use. All improvements, development and construction are subject to the prior written approval of the Directors. The Tenant acknowledges and agrees that any upgrades to the Building required as a consequence of its use and occupation of the Proposed Leased Premises shall be at the expense of the Tenant.

28. The Tenant is advised that no permanent structures are permitted above public utilities.

29. Unless otherwise specified herein, title to all buildings and structures currently existing, as well as those hereafter erected, shall vest in the City upon termination, cancellation or expiration of the Lease Agreement.

30. The Tenant shall, in case of every installation and removal of improvements, either during or at the end of the Term, make good any damage caused to the Proposed Leased Premises by the installation and removal, provided, however, that in the event that the Tenant fails to make good any such damage as aforesaid, the City may so repair the Proposed Leased Premises and the Tenant shall, immediately upon demand of the City, reimburse the City for all expenses incurred with respect to such repair. Such a claim by the City shall survive the termination of the Lease Agreement.

Repairs and Maintenance:

31. The Tenant shall, at its sole cost, effort and expense, subject to as otherwise provided for herein:

    a. Maintain and repair the Proposed Leased Premises in a safe, clean and tidy condition to the satisfaction of the Directors;

    b. Assume responsibility for any and all damage done to the Proposed Leased Premises by reason of, or arising out of, forcible entry into any structures located on the Proposed Leased Premises by any person for an unlawful purpose such as, but not limited to, theft, attempted theft, burglary, or attempted burglary; and

    c. Comply with any written notice from the City to repair the Proposed Leased Premises at the Tenant's sole cost,

expense and effort within thirty (30) days of receiving such notice.

32. The Tenant shall reimburse the City for any and all costs incurred by the City in making good any loss or damage to the Proposed Leased Premises, City's property and/ or utilities caused as a result of the Tenant's use and occupancy of the Proposed Leased Premises or, without limiting the generality of the foregoing, caused as a result of any negligent or willful act of the Tenant, its contractors, agents, servants or employees.

Signage:

33. The Tenant shall not paint, display, inscribe, place or affix any sign, symbol, notice or lettering of any kind, including affixing items in the form of resources to the walls, if any, without the prior written approval of the City as to design, size and location, such approval not to be unreasonably withheld, delayed or conditioned.

Assignment or Sub-let:

34. The Tenant will not assign or sub-let or part with possession of all or any part of the Proposed Leased Premises without the Tenant first obtaining the prior written consent of the Directors. In the event the Tenant receives the consent of the City to assign or sub-let the Proposed Leased Premises, the City in its sole discretion may cancel this Agreement and enter into a new Agreement

    a. For clarity, any employee of a signatory to the Memorandum of Understanding ("MOU") entered into between the Landlord, the Tenant and others who is Perching at the Proposed Leased Premises, as defined by that MOU, will not be considered a sub-lessee

35. Upon its making application for such consent by the City, the Tenant shall pay to the City a non-refundable administrative fee of Six Hundred and Five dollars ($605.00), plus applicable Goods and Services Tax, or such amount as may from time to time be determined by the City in its sole discretion acting reasonably.

36. Any consent by the City to an assignment shall not relieve the Tenant of its obligation for the payment of rents hereby reserved and the performance of the terms and conditions herein contained.

Conditions:

37. The Tenant takes the Proposed Leased Premises on an "as is" basis.
38. The Tenant is to comply with all laws, by-laws and regulations of any federal, provincial or municipal or other applicable authority.

39. The Tenant acknowledges and agrees that the City has made no representation, warranties or guarantees of any nature or kind whatsoever as to the quality, conditions or suitability of the Proposed Leased Premises for any use or purpose, nor as to any environmental conditions which may exist.

40. The Tenant shall indemnify and save the City harmless from and against any and all claims for damages or injuries, including death, which may arise from the use of the Proposed Leased Premises by the Tenant. This provision shall survive any termination or expiration of this Agreement.

41. The Tenant shall be responsible for the evacuation of all volunteers, staff and invitees during any emergency. This responsibility shall extend to all persons Perching or Co-locating per the terms of the above-mentioned MOU.

42. Notwithstanding anything to the contrary contained in the Lease Agreement, if either party hereto is bona fide delayed or hindered in or prevented from the performance of any term, covenant or act required hereunder by reason of a force majeure event (or other reason which is not the fault of the party delayed in performing work or doing acts required under the terms of the Lease Agreement), then performance of such term, covenant or act shall be excused for the period of the delay and the party so delayed shall be entitled to perform such term, covenant or act within the appropriate time period after the expiration of the period of such delay. This provision shall not operate to excuse the Tenant from the payment of Rent/Fees in the amounts and at the times specified in the Lease Agreement nor shall they apply so as to extend the period of time for the Tenant to complete Tenant's work or to extend the fixturing period, if any, nor shall they entitle the Tenant to compensation for any inconvenience, nuisance or discomfort thereby occasioned.

43. The City shall have the right of access to the Proposed Leased Premises at any time during an emergency (24 hours a day, seven days a week) but otherwise upon 48 hours written notice to the Tenant by its employees or other persons acting with authorization, with or without equipment for any reasonable purpose whatsoever, including, but not limited to, those purposes related to viewing the state of repair, safety, protection, preservation or improvement of the property, and for doing any work to maintain, operate, repair, inspect or rehabilitate its existing water mains, sewer lines and appurtenances in or near to the property, without being responsible for any damage occasioned thereby.

44. The City reserves the right for Bell MTS Communications Inc. and Manitoba Hydro-Electric Board or other public utilities (hereinafter referred to as "Public Utilities") to enter upon the Proposed Leased Premises for maintenance and/or repair of their utilities without the City and/or the Public Utilities being responsible for any damage occasioned thereby.

45. In the event that ensuring the business continuity of Winnipeg Police Services requires it, the City will have complete and dedicated use of the Proposed Leased Premises. The WPS will not need access to any of the Tenant's IT resources or other

infrastructure other than desks, chairs and elements to support a generic office environment (cubicles, lighting, etc.). The Tenant will be responsible to vacate certain areas of the Proposed Leased Premises (including all volunteers, staff, invitees and Perching or Co-located persons) upon notice by WPS as follows:

i) Access to the first floor within twelve hours' notice
ii) Access to the third floor within twenty-four hours' notice
iii) Parking lot access within one hours' notice

The duration of access would be at the sole discretion of the WPS. Commander of Division 41 would be the liaison to ensure regular communications to the Tenant. The City will not be responsible for any property or any lack of access to items and information left behind. It will be the responsibility of the Tenant to take anything they need with them.

Once WPS is able to vacate the Proposed Leased Premises, the City will tabulate the number of days of occupancy and the Term shall be extended by an equivalent number of days. The amended final date of the Term will be communicated to the Tenant in writing.

Other:

46. All terms and conditions contained herein, are subject to the approval of the City's Council, or its delegated authority, and are not binding until such time as that approval is obtained.

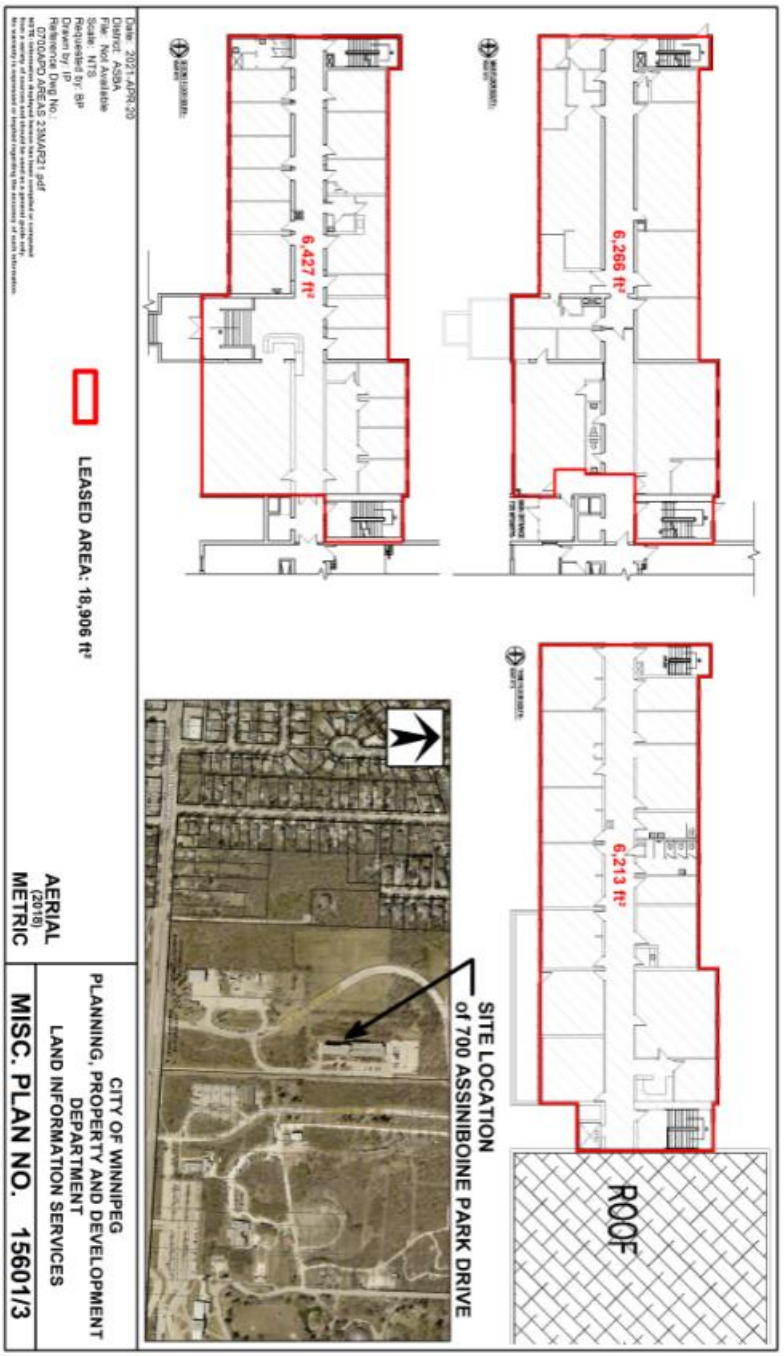
47. The City shall prepare and forward to the Tenant, within thirty (30) business days of the date these terms and conditions are approved, the Landlord's standard form of lease with those amendments necessary to incorporate all of the terms contained herein (the "Lease Agreement"). The Tenant shall use reasonable efforts to execute and return the Lease Agreement to the Landlord within ten (10) business days after receiving said Lease Agreement subject to any request for changes by it or its counsel.

Toba Centre for Children and Youth Inc. hereby agree(s) to enter into a Lease Agreement with the City of Winnipeg for the use of the property identified as "**Leased Area"** on the attached Misc. Plan No. and in accordance with the terms and conditions as outlined herein.

Signed in the City of Winnipeg, in the Province of Manitoba, this 21st Day of May, 2021

Original documents signed by the Tenant
Per: _____
Name: Don Smith, Board Chair, Toba Centre for Children and Youth Inc.

SCHEDULE B


6,266 ft²
6,427 ft²
6,213 ft²
ROOF
SITE LOCATION
of 700 ASSINIBOINE PARK DRIVE
LEASED AREA: 18,906 ft²
AERIAL
(2018)
METRIC
CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT
DEPARTMENT
LAND INFORMATION SERVICES
MISC. PLAN NO. 15601/3