Minutes – Executive Policy Committee – June 12, 2023

Report – Standing Policy Committee on Property and Development – June 1, 2023

Item No. 6 Amendment to the Proposed Lease Agreement between the City of Winnipeg and Winnipeg Goldeyes Baseball Club Inc.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

The Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development, as amended, and submitted the following to Council:

1. That the Terms and Conditions approved by Council on October 29, 2020, outlined in Schedule A, be replaced with the amended Terms and Conditions outlined in Schedule B.

2. That the Council Decision of October 29, 2020 be amended in order to change the lessee from the Winnipeg Goldeyes Baseball Club Inc. to Riverside Park Management Inc.

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

Minutes – Executive Policy Committee – June 12, 2023

Report – Standing Policy Committee on Property and Development – June 1, 2023

DECISION MAKING HISTORY:

Moved by Councillor Mayes,

That the following new Recommendation 2 be added and the remaining recommendation be renumbered accordingly:

"2. That the Council Decision of October 29, 2020 be amended in order to change the lessee from the Winnipeg Goldeyes Baseball Club Inc. to Riverside Park Management Inc."

Carried

Councillor Rollins asked to be recorded as having voted against the above motion, in accordance with Rule 47(7) of The Procedure By-law No. 50/2007.

Moved by Councillor Mayes,

That the recommendation of the Standing Policy Committee on Property and Development be concurred in, as amended, and forwarded to Council.

Carried

STANDING COMMITTEE RECOMMENDATION:

On June 1, 2023, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

ADMINISTRATIVE REPORT

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

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

AUTHORIZATION

Author	Department Head	CFO	CAO
G. Chappell (Acting)	M. Pittet (Acting)	C. Kloepfer	M. Jack

EXECUTIVE SUMMARY

On October 29, 2020, Council approved a 15-year lease with the Winnipeg Goldeyes Baseball Club Inc. ("Goldeyes") for the City-owned land located at 1 Portage Avenue East (Shaw Park). The lease is to start on July 28, 2023, when the previous 25-year lease expires.

When Council approved the lease, several amendments were adopted including an adjustment to the rent and a slight extension to the term (so that the lease would not end in the middle of the baseball season). These amendments inadvertently created contradictions with a few of the approved Terms and Conditions. The Public Service had also included an incorrect description of the property use and the Amateur Access Agreement in the proposed Terms and Conditions – resulting in a use and Agreement which were inconsistent with the intent.

The Public Service recommends amending the 2020 Council approval in an effort to clarify and correct the Terms and Conditions. Should Council approve the recommendations, the City and the Goldeyes will be able to sign off on a 15-year Lease Agreement.

RECOMMENDATIONS

1. That the Terms and Conditions approved by Council on October 29, 2020, outlined in Schedule A, be replaced with the amended Terms and Conditions outlined in Schedule B.

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

REASON FOR THE REPORT

The Public Service requires clarifications to the previously-approved Terms and Conditions. Council approval is required to amend a monetary grant (the Amateur Access Agreement).

IMPLICATIONS OF THE RECOMMENDATIONS

If the recommendations of this report are approved, the City and the Goldeyes will be able to sign off on a new 15-year Lease Agreement, ensuring no disruption during the baseball season.

HISTORY/DISCUSSION

On October 29, 2020, Council approved an amended version of the Terms and Conditions for a Lease Agreement with the Goldeyes. The two parties have collaborated in finalizing the formal Lease Agreement but identified four Terms and Conditions which required further clarification and/or correction.

Amendment #1 – Primary Use

The Goldeyes present both sports and entertainment events during the year. The approved Terms and Conditions only cited sports events within its Primary Use and should have noted entertainment events. Amending the Primary Use to include entertainment events is consistent with the existing lease and the intent of the parties.

Amendment #2 – Rental Fee

Extending the term until December 31, 2038, rather than the end date of July 28, 2038, avoids ending the lease during the baseball season; however, the dates of the rental payments associated with the term did not receive the associated adjustment. As a result, the final period of the rental fee should be revised to “Years 11 – 15.427”, meaning the final years’ rental payment extends to December 31, 2038.

Amendment #3 – Amateur Access Agreement

The 2020 Terms and Conditions identified that the Amateur Access Agreement will align with the original Lease Agreement but failed to capture the 2002 Council Amendment which authorized a rebate of entertainment tax to non-baseball events. Entertainment tax rebates were specifically approved by Council but the Terms and Conditions included a contradictory statement. For greater clarity, the proposed amendment to the Amateur Access Agreement will grant back the City’s portion of property taxes to the Goldeyes (municipal property taxes and frontage levies) on the ballpark property and rebate entertainment taxes for baseball and non-baseball events.

Amendment #4 – 41 Westbrook Street

When the Goldeyes lease was circulated by the Public Service, Transit identified a possible need for 41 Westbrook Street for future infrastructure purposes. The City need was identified in the administrative report but the 2020 Terms and Conditions inadvertently identified the entire City property as required for Transit’s needs. The proposed amendment in Schedule B clarifies which property is possibly required by Transit and identifies a rental adjustment should the City land be removed from the lease.

FINANCIAL IMPACT

Financial Impact Statement

Date: May 18, 2023

Project Name:

Amendment to the Proposed Lease Agreement between the City of Winnipeg and Winnipeg Goldeyes Baseball Club Inc.

COMMENTS:

Transit identified a possible need for 41 Westbrook Street. The proposed amendment in Schedule B clarifies which property is possibly required by Transit and identifies a rental adjustment should the City land be removed from the lease. As such, in the event the City requires 41 Westbrook Street for transit, the rent shall be reduced by the following amounts:

$50 per lost stall/per annum – Years 1 – 5
$100 per lot stall/per annum – Years 6 – 10
$150 per lot stall/per annum – Years 11 – 15.427

Given the contingent nature of this rent adjustment, for the purposes of this analysis, there are no financial implications associated with this report.

Mike McGinn May 18, 2023
Mike McGinn, CPA, CA
Manager of Finance

CONSULTATION

This Report has been prepared in consultation with:

- Legal Services (as to legal issues)

OURWINNIPEG POLICY ALIGNMENT

OurWinnipeg 2045 states the following:

Economic Prosperity
3.6 Downtown Economic Investment
Prioritize the Downtown by leveraging private and public investments, including housing, entrepreneurship, arts, entertainment, and tourism, that advance its status as an economic driver.

3.16 Optimize Facility Access
Maximize the use of existing municipal assets to promote recreation, community development, and social interaction, while optimizing equitable access, infrastructure reinvestments, service delivery methods and resource management.

City Building
6.17 Downtown Economic Investment
Support development that reflects the Downtown's designation as a Transformative Area and preeminent complete community, as detailed in Complete Communities.

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

Strategic Opportunity #3
Advancing Sustainable Transportation – Increasing Mobility Options and Shift to Zero Emission Vehicles

Shaw Park and the surrounding area allows for a variety of forms of transportation to access the facility.

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

Consideration was given as to whether this report connects to the Winnipeg Poverty Reduction Strategy (PRS) and its Goals and Objectives, and it was determined that the PRS is not applicable to this specific report.

SUBMITTED BY

Department: Planning, Property and Development
Division: Real Estate and Land Development
Prepared by: Gord Chappell, Acting Manager of Real Estate and Land Development
Date: May 18, 2023File No: 7933/A V10

Attachments:

Schedule A – 2020 Selected Terms & Conditions
Schedule B – Amended Terms & Conditions

Schedule A

2020 Selected Terms & Conditions

Primary Use:	For the purpose of operating a multi-purpose sports and recreational facility;
Rental Fee:	Years 1 – 5: $25,000.00 per annum Years 6 – 10: $50,000.00 per annum Years 11 – 15: $75,000.00 per annum
Amateur Access:	A grant be provided to the Winnipeg Goldeyes Baseball Club Inc. equal to the entertainment tax remitted to the City of Winnipeg each year and a grant 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 term on December 31, 2038 and such grants shall be established in accordance with the intent of the existing Amateur Access Agreement;
Cancellation & Termination:	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.

Schedule B
Amended Terms & Conditions

Primary Use:	For the purposes of operating a multi-purpose sports and recreational facility which may also present entertainment events
Rental Fee:	Years 1 – 5: $25,000.00 per annum Years 6 – 10: $50,000.00 per annum Years 11 – 15.427: $75,000.00 per annum
Amateur Access:	That the intent of Amateur Access Agreement remain similar with the prior Lease Agreement and amendments, providing a grant of municipal taxes and frontage levies on the baseball stadium property (i.e. excludes non-accessory parking) and a grant for entertainment taxes related to all baseball and non-baseball events
Cancellation & Termination:	The Agreement may be amended at the sole discretion of the City should it be determined that any part or portion of 41 Westbrook Street is required for transit infrastructure purposes. In the event the City requires 41 Westbrook Street for transit, the rent shall be reduced by the following amounts: $50 per lot stall/per annum – Years 1 – 5 $100 per lot stall/per annum – Years 6 – 10 $150 per lot stall/per annum – Years 11 – 15.427