



City of Winnipeg
Planning, Property and Development Department

Invitation for Expressions of Interest for the Lease and/or
Operation of the City-Owned Public Golf Course
known as the Canoe Club Golf Course

(EOI #179-2009)

1. INTRODUCTION

- 1.1 The City of Winnipeg (City) invites Expressions of Interest (EOI) from Proponents, with respect to the lease and/or operation of the City-owned public golf course located on Dunkirk Drive as shown on the attached Miscellaneous Plan No. 4750/38. Winnipeg Golf Services (WGS) Special Operating Agency (SOA) is currently reviewing the future operation of municipal golf courses. In the interim, the SOA has requested the Planning, Property and Development Department (Real Estate Division) to conduct negotiations for a five (5) year agreement commencing in the 2009 season.
- 1.2 The term of the agreement may be extended, at the end of the five (5) year term, upon mutual agreement between the City and the Proponent.
- 1.3 Notwithstanding 1.1, in the event that operational changes result in the City requiring substantial changes to the agreement, the City reserves the right to alter the agreement, or to terminate the agreement, upon ninety (90) Calendar Days written notice. In such an event, no claim may be made for damages on the ground of loss of anticipated profit.
- 1.4 **The City expects that the Golf Course will be operating, under this agreement, no later than May 1, 2009.**

2. BACKGROUND

- 2.1 For the purposes of this EOI the "Property" is as shown as lands and buildings outlined on the attached Miscellaneous Plan No. 4750/38, attached hereto as Appendix "A", and municipally known as 56 Dunkirk Drive. The Canoe Club Golf Course is a 48.3 acre fully improved nine-hole golf course located along the east bank of the Red River, south of the St. Vital Bridge. The Course is comprised of three fairways and greens adjacent to the Red River and six treed fairways and greens east of Dunkirk Drive and a Clubhouse/Storage building.
- 2.2 Historical information of rounds played on other City of Winnipeg Golf Courses is attached as Appendix C for the convenience of Proponents.

3. ZONING AND SURROUNDING LAND USE

- 3.1 The site is currently zoned "PR2" and is located adjacent to two existing condominium complexes with shared road access to each respective parking area. Single family residential properties are located to the north and east of the Property.

4. LEASE OPTION

- 4.1 A sample of the City's standard form of lease agreement, which may be entered into by the Proponent with the City of Winnipeg, is attached to this EOI as Appendix "B", and contains terms and conditions of lease, excepting the lease term and rent. No significant amendments to this lease agreement will be considered.

5. OTHER OPTIONS

- 5.1 The City will consider submissions for other options such as a revenue sharing contract.

6. EOI SUBMISSION

- 6.1 The EOI Submission is for the entire 48.3 acre site and should include:
- (a) the proposed terms of lease, inclusive of rent, term, other financial terms, conditions, if any, related to the Property; and/or
 - (b) the proposed arrangements (eg. revenue sharing);

- (c) a full and detailed description of any proposed upgrades to the Property along with copies of maps and plans for consideration by the Evaluation Committee;
- (d) a description of the services to be provided from the Property including information relative to hours of operation, estimated fees and charges as may be applicable;
- (e) a description of any similar ventures or developments created, owned or operated by the Proponent or members representing the Proponent; and
- (f) a list of references.

6.2 Proponents are requested to provide all of the above information and commentary in a manner which will enable the Evaluation Committee to evaluate the EOI Submissions.

7. SUBMISSION REQUIREMENTS

7.1 Interested parties should submit their responses in a sealed envelope clearly marked "EOI 179-2009 - Canoe Club Golf Course" and the Proponent's name and address to:

Materials Management
City of Winnipeg
Main Floor, 185 King Street
Winnipeg, MB R3B 1J1

7.2 The EOI Deadline for EOI Submissions is 4:00 PM, March 23, 2009.

7.3 EOI Submissions received later than the EOI Deadline may not be accepted and will be returned upon request.

7.4 The City may extend the EOI Deadline by issuing an addendum at any time prior to the EOI Deadline.

7.5 EOI Submissions submitted by facsimile transmission (fax) or internet electronic mail (e-mail) will not be accepted.

7.6 EOI Submissions will not be opened publicly.

7.7 The City may at any time prior to the EOI Deadline, issue addenda correcting errors, discrepancies or omissions in the Invitation for Expressions of Interest, or clarifying the meaning or intent of any provisions therein.

7.8 The Proponent is responsible for ensuring that it has received all addenda and is advised to check the Bid Opportunity page at the City of Winnipeg, Corporate Finance, Materials Management Branch internet site at:
<http://www.Winnipeg.ca/matmgt/bidopp.asp> before the EOI Deadline.

7.9 The site may be viewed at 9:00 a.m. March 10th or March 17th, 2009.

8. EVALUATION

8.1 The City shall evaluate each EOI Submission on its own merit and price alone may not be the sole determining factor that the City considers in the evaluation of EOI Submissions. The City reserves the right to reject all or any EOI Submission(s).

8.2 Reference checks will not be restricted to only those submitted by the Proponent, and may include organizations and individuals known to have done business with the Proponent.

8.3 The Proponent is advised to present their best offer, not a starting point for negotiations in their EOI Submission. The City will only negotiate with the Proponent(s) submitting, in the City's opinion, the most advantageous and thorough submission(s).

8.4 If, after the review, the EOI Submission is deemed unacceptable, the Proponent will be notified and no further discussions will be held.

9. CAVEAT EMPTOR

- 9.1 The City makes no representations or warranty with respect to the quality, condition or sufficiency of the Property, which will be on an “as is, where is” basis.

10. NO CONTRACT

- 10.1 The EOI is an inquiry only. By responding to this EOI and participating in the process as outlined in this document, the Proponent expressly understands and agrees that no contract of any sort is implied or formed under, or arises from the EOI and that no legal obligations between parties has, or will be pre-determined. The City will have no obligation to enter into negotiations or a contract with any Proponent as a result of this EOI.

11. GOOD FAITH DECLARATION

- 11.1 The Proponent declares that, in submitting its EOI Submission, it does so in good faith and that to the best of its knowledge no member of Council or any officer or employee of the City would have any pecuniary interest, direct or indirect, should the Proponent enter into an agreement with the City for the Property.

12. CONFIDENTIALITY

- 12.1 Information provided to a Proponent by the City, or by a Proponent to the City, or acquired by any party by way of further enquiries or through investigation, is strictly confidential. Such information shall not be used or disclosed in any way without the prior written authorization of the City, or of the Proponent.
- 12.2 Proponents shall not make any statement of fact or opinion regarding any aspect of this EOI to the media or to any member of the public without the prior written authorization of the City. Participants in this process shall comply with all applicable privacy legislation, including but not limited to the Personal Information Protection and Electronic Documents Act (Canada).
- 12.3 Further, the City is subject to The Freedom of Information and Protection of Privacy Act (Manitoba). To the extent permitted, the City will treat all submissions to this EOI as confidential, however Proponents are advised that any information contained in any submission will be released if required by City policy or procedures, by The Freedom of Information and Protection of Privacy Act (Manitoba), by other authorities having jurisdiction, or by law. The City will have the right to make copies of the EOI Submissions for its internal review processes and to provide copies to its staff and external advisors.

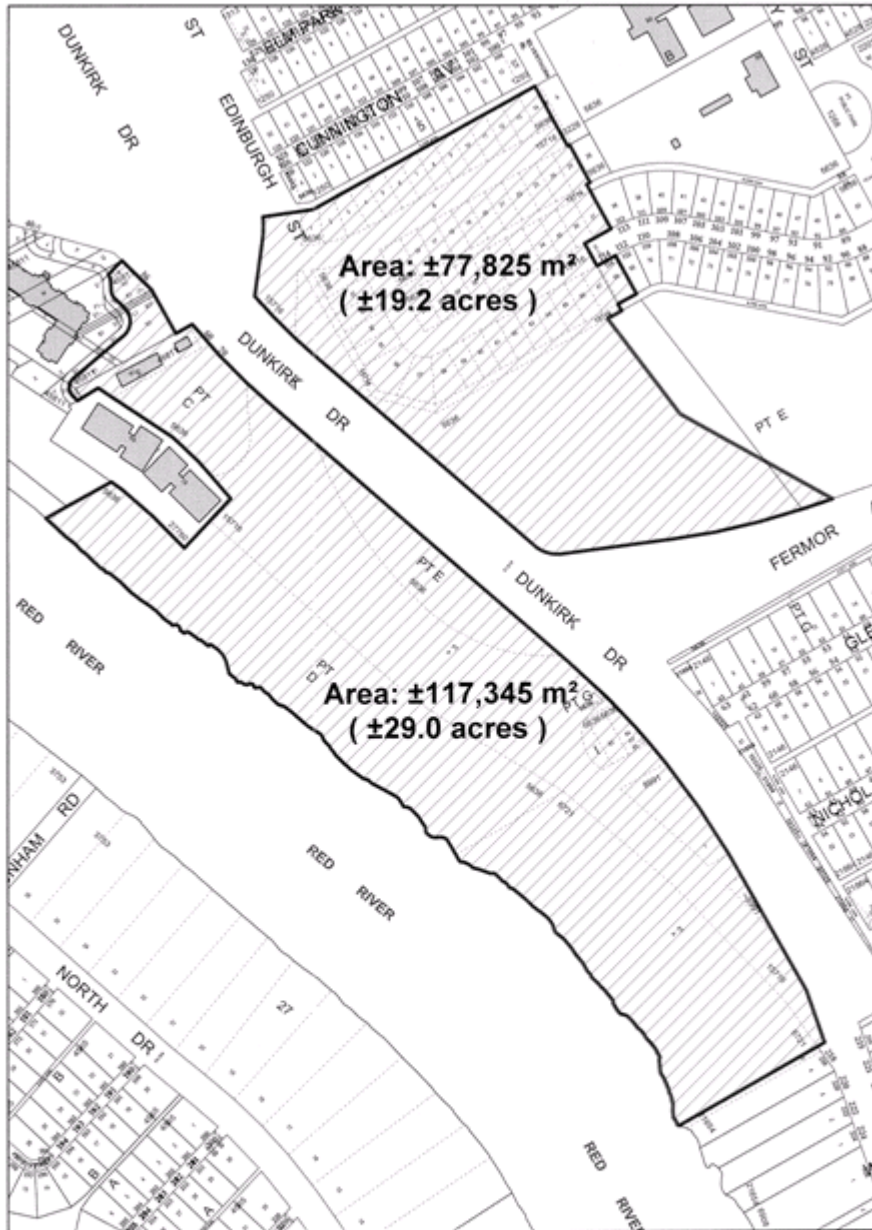
13. NO COMMISSION PAYABLE

- 13.1 There will be no commission payable by the City of Winnipeg.

14. ENQUIRIES

- 14.1 All enquiries should be directed to:
City of Winnipeg
Planning, Property and Development Department
2nd Floor, 65 Garry Street
Winnipeg, MB R3C 4K4
Attn: Wayne Bollman
Supervisor of Property Management
Phone: (204) 986-5056

APPENDIX A



METRIC



Date: 2008-MAY-14
 District: RIEL
 File: 7611 / J
 Scale: 1:3800

NOTE:
 Information displayed herein 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.



LEASED LANDS
 Total Area: ±195,173 m² (±48.2 acres)



Building Outlines

CITY OF WINNIPEG
PLANNING, PROPERTY AND DEVELOPMENT DEPT.
LAND INFORMATION & MAPPING SERVICES

MISC. PLAN NO. 4750 / 38

APPENDIX B

THIS LEASE made as of the of .

BETWEEN:

THE CITY OF WINNIPEG,

(hereinafter called the ***“Landlord”***),

OF THE FIRST PART,

- and -

(hereinafter called the ***“Tenant”***),

OF THE SECOND PART.

WHEREAS the City of Winnipeg is the registered owner of the land and buildings commonly known as the Winnipeg Canoe Club Golf Course shown shaded and identified as “Golf Course” on Misc. Plan No. Riel 4750/38 attached hereto as Schedule “A”, and hereinafter referred to as the “Leased Lands”;

AND WHEREAS the Landlord has agreed to lease to the Tenant the Land and the Tenant has agreed to lease the Land from the Landlord on the terms and conditions hereinafter set forth;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the rents, covenants and agreements herein contained, the Landlord and the Tenant agree as follows:

**ARTICLE I
DEFINITIONS**

1.01 In this Lease (including this Article) unless there is something in the context inconsistent therewith, the parties hereto agree that:

(a) **“Commencement Date”** means the 1st day of ;

- (b) **“Lease Year”** means the twelve (12) calendar months from and including the Commencement Date up to the day before the first anniversary of the Commencement Date and each twelve (12) calendar months thereafter if the Commencement Date is the first day of a calendar month. If the Commencement Date is not the first day of a calendar month, then the first Lease Year shall commence on the Commencement Date and end on the day before the first anniversary of the Commencement Date;
- (c) **“Leasehold Improvements”** means all landscaping, fixtures, improvements, installations, alterations and additions from time to time made, erected or installed by or on behalf of the Tenant in the Leased Lands;
- (d) **“Operating Costs”** means all amounts paid or payable by the Tenant or on behalf of the Tenant for maintenance, operation and repair of the Leased Lands, including, without limitation, (a) the cost of all utilities, including electricity, water and gas, consumed on the Leased Lands; (b) the cost of cleaning, maintaining and servicing the Leased Lands, including snow removal, garbage and waste collection and disposal; and (c) the cost of policing and supervising the Leased Lands;
- (e) **“Rent”** means all monies payable by the Tenant pursuant to the terms of this Lease;
- (f) **“Tenant”** means _____ ;
- (g) **“Term”** means the period from May 1, 2009 to April 30, 2010

ARTICLE II DEMISE AND TERM

2.01 In consideration of the rents, covenants and agreements contained herein, which rents, covenants and agreements are to be paid, reserved and performed by the Tenant, the Landlord hereby demises and leases unto the Tenant and the Tenant hereby leases and takes from the Landlord the Leased Lands for the Term commencing on the Commencement Date and ending on the April 30, 2010 , unless the Term shall be sooner terminated as provided herein.

ARTICLE III RENT

Rental

3.01 The Tenant shall pay, without deduction, set-off or abatement, to the Landlord at the address of the Landlord stipulated in paragraph 7.01(a) hereof, or at such other address as the Landlord may from time-to-time designate in lawful money of Canada, during the Term the annual Rent of \$ _____ plus GST payable in accordance with the following:

Operating Costs

3.02 The Tenant covenants and agrees that it shall pay all operating costs relating to the Leased Lands.

Taxes

3.03 Each year during the Term the Tenant shall pay to the taxing authority or any authority having jurisdiction when the same become due and payable, all taxes, including real property tax, rates, duties and assessments and other charges that may be levied, rated, charged, or assessed against or in respect of the Leased Land and all improvements, equipment and facilities of the Tenant on the Leased Land or any part or parts thereof and every tax and license fee in respect of any and every business carried on thereon in respect of the use or occupancy thereof by the Tenant (and any and every sub-tenant or licensee) including, without limitation, any business transfer tax, value-added tax, goods and services tax, sales tax or any other tax levied, assessed or imposed in respect of rent payable by the Tenant under this Lease or in respect of the rental of space by the Tenant under this Lease, whether characterized as a business transfer tax, value-added tax, goods and services tax, sales tax or otherwise, whether any such taxes, assessment or license fees are charged by any municipal, parliamentary, school or other body and the Tenant will indemnify and keep indemnified the Landlord from and against payment for all loss, costs, charges and expenses, occasioned by, or arising from any and all such taxes, rates, duties, assessments, license fees, franchise fees and any and all taxes which may in future be levied in lieu of such taxes, whether foreseen or unforeseen, and any loss, costs, charges and expenses suffered by the Landlord may be collected by the Landlord as rent with all rights of distress and otherwise as reserved to the Landlord in respect of rent in arrears.

ARTICLE IV TENANTS COVENANTS

Absolute Net Lease

4.01 Except as provided herein, the Tenant acknowledges and agrees that it is intended that this Lease shall be an absolutely net and carefree lease to the Landlord, and that the Landlord shall to be responsible during the Term of the Lease for any costs, charges, expenses and outlays of any nature whatsoever arising from or relating to the Leased Lands, or the contents thereof and the Tenant shall pay all charges, impositions, costs and expenses of every nature and kind relating to the Leased Lands and Tenant covenants with the Landlord accordingly.

Rent

- 4.02 (a) The Tenant covenants with the Landlord to pay to the Landlord all Rent as comprised, provided for and determined in this Lease, in the manner and at the times in this Lease set out, without deduction whatsoever.
- (b) The Tenant further covenants and agrees that upon written request of the Landlord, the Tenant will promptly deliver to it for inspection receipts for payment of all business and other taxes, rates, duties, assessments and other charges in respect of all improvements, equipment and facilities of the Tenant on the Leased Lands which were due and payable up to one month prior to such request, and in any event, will furnish to the Landlord if requested by the Landlord, evidence of payment satisfactory to the Landlord before the 21st day of January in each year covering payments for the immediately preceding year.

Tenant's Repairs

- 4.03 (a) The Tenant agrees to maintain the Leased Lands in accordance with Schedules "B" and "C" and any Leasehold Improvements located thereon for public golf course purposes and Chattels herein described, in good and operating condition and to a standard at least equal to that which has existed in recent years. Should the Tenant fail to meet such standard, then, subject to thirty (30) days written notice given to the Tenant setting forth specifics of such failure and requiring the Tenant to remedy such failure, and subject to arbitration in the event of disagreement as hereinafter set forth, the Landlord shall be permitted at all times during this Lease to enter upon the Leased Lands, by itself or its servants and agents, with all proper tools, implements and machines required to maintain a public golf course for the purpose of completing such work as is required to meet such standard of maintenance for the Leased Lands, any Leasehold Improvements located thereon and all Chattels. The cost of such work shall be charged to the Tenant as additional rent. In the event of disagreement between the Landlord and the Tenant as to whether the Tenant has failed to meet such standards, the matter shall be referred to arbitration as hereinafter set forth.

For greater certainty, the following Schedules have been attached and form part of this Agreement, in order to set out, in detail, these minimum requirements:

Schedule A	Misc. Plan No. RIEL 4750/38
Schedule B	Seasonal Maintenance Requirements
Schedule C	Annual Winterization Requirements

- (b) The Tenant shall maintain the Leased Lands and any Leasehold Improvements located thereon in a clean and tidy condition, and prevent waste paper, garbage and objectionable material from accumulating thereon.
- (c) Any and all damage done to the Leased Lands by reason of or arising out of forcible entry into any structures located on the Leased Land by any person for an unlawful purpose, including without limitation, forcible entry by any person in the course of theft or attempted theft or burglary or attempted burglary, shall be the sole responsibility of the Tenant and shall be made good by the Tenant at its own expense.

Assigning, Subletting, Parting with Possession

- 4.04 (a) The Tenant shall not permit any part of the Leased Lands to be used or occupied by any persons other than the Tenant, any sub-tenants permitted under paragraph 4.04(d) hereof and the employees of the Tenant and any such permitted sub-tenant, or permit any part of the Leased Lands to be used or occupied by any licensee or concessionaire or permit any persons to be upon the Leased Lands other than the Tenant or such permitted sub-tenants and their respective employees, customers and others having lawful business with them.

- (b) The Tenant shall not assign, transfer or set over its rights or interest in this Lease, or any part thereof, without the prior consent in writing of the Landlord, which consent may be arbitrarily or unreasonably withheld by the Landlord. Provided, however, such consent to any such assignment shall not relieve the Tenant of its obligations for the payment of Rent and for the full and faithful observance and performance of the covenants, terms and conditions herein contained. Any change in the effective control of the Tenant shall be deemed for the purposes hereof to be an assignment of this Lease requiring the prior written consent of the Landlord.
- (c) No assignment shall be valid unless, within ten (10) days after the execution thereof, the Tenant shall deliver to the Landlord:
 - (i) Duplicate original of such assignment duly executed by the Tenant; and
 - (ii) Instrument duly executed by the assignee, in form satisfactory to the Landlord wherein such assignee covenants to assume the Tenant's obligations for the payment of Rent and for the full and faithful observance and performance of the covenants, terms and conditions herein contained.
- (d) Subject to the express written approval of the Landlord, the Tenant may sub-let portions of the Leased Lands to any corporation, individual or group for operation of associated uses to a public golf course, limited to, pro shops, restaurants and beverage rooms.

Signs

4.05 The Tenant shall not paint, display, inscribe, place or affix any sign, symbol, notice or lettering of any kind anywhere on the Leased Lands unrelated to the operation of a public golf course, without the approval of the Landlord as to design, size and location, which approval the Landlord may in its absolute, sole and uncontrolled discretion withhold.

Leasehold Improvements

- 4.06 (a) The Tenant may erect and fix in or upon the Leased Lands any stiles, bridges, flag posts, fences, posts, parking lot or lots, movable rain shelters, movable sheds and movable pavilions, electrical lighting and light poles to be used exclusively for the purposes of the Tenant or any sub-tenant permitted under paragraph 4.04(d), and shall remove them at or before the termination of this Lease if required by the Landlord, making good all damage done thereby.
- (b) The Tenant shall not make, erect, install or alter any leasehold improvements or trade fixtures in the Leased Lands without having requested and obtained the Landlord's prior written approval which the Landlord shall not unreasonably withhold provided it shall not be unreasonable of the Landlord as a condition of such approval to require the Tenant to post a performance bond in the full amount of the contract price of the work to be done.

(c) The Tenant shall not suffer or permit any claim, lien or charge under The Builders' Liens Act or any like statute to be made, filed or registered against the Landlord or against the Leased Lands or any fixtures or improvements thereto by reason of work, labour, services or materials supplied or claimed to have been supplied to the Tenant. If any such claims, liens or charges shall at any time be made, filed or registered or otherwise be alleged or deemed to exist, the Tenant shall indemnify and save harmless the Landlord from any and all loss, claims, costs, (including Court costs), expenses and professional fees paid or incurred by the Landlord arising out of or related to any duty or obligation imposed on the Landlord by The Builders' Liens Act in respect of any work carried out by or on behalf of the Tenant as may be permitted under this Lease, and the Tenant shall procure registration of a discharge within thirty (30) days after any claim, lien or charge has come to the notice or knowledge of the Tenant provided, however, should the Tenant desire to contest in good faith the amount or the validity of any claim, lien or charge and shall have informed the Landlord, and if the Tenant shall have deposited with the Landlord or paid into Court to the credit of any such action then the Tenant may defer payment of such claim for a period of time sufficient for the Tenant to contest the claim with due diligence, provided always, that the Tenant shall not allow the Leased Lands or any fixtures or improvements thereto nor any part thereof, nor the Tenant's leasehold interest therein to become liable to forfeiture or sale. The Landlord may, but shall not be obliged to, discharge any lien or claim filed or registered at any time if in the Landlord's judgment the Leased Lands or any fixtures or improvements thereto or any part thereof of the Tenant's interest therein becomes liable to any forfeiture or sale or otherwise in jeopardy and any amount paid by the Landlord in so doing together with all reasonable costs and expenses of the Landlord shall be reimbursed to the Landlord by the Tenant on demand.

(d) All Leasehold Improvements upon the Leased Lands shall immediately upon the expiration or earlier termination of the Term be and become the Landlord's property. Except to the extent otherwise expressly agreed by the Landlord, in writing, no leasehold improvements, trade fixtures or equipment shall be removed by the Tenant from the Leased Lands either during or at the expiration or sooner termination of the Term except that:

(i) The Tenant may at the end of the Term remove its trade fixtures; and

(ii) The Tenant shall at the end of the Term remove such of its Leasehold Improvements and trade fixtures as the Landlord shall require to be removed; and

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

- (e) The Tenant, after having first obtained the express written consent of the Landlord, may at its own expense, erect, in or upon the Leased Lands, such buildings or structures as may be required for the purpose of the Tenant, title to all of which hereafter so erected shall vest in the Landlord upon termination of this Agreement, subject to the terms of this Lease and subject to the option of the Landlord to demand removal of the same from the Leased Lands at the termination of this Lease.

Tenant's Insurance

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

- (i) Commercial general liability insurance, in the amount of at least two million dollars (\$2,000,000.00) inclusive, with The City of Winnipeg added as an additional insured; such liability policy to also contain a cross-liability clause, tenant's legal liability and products and completed operations cover;
- (ii) An All Risk property insurance policy, for the full replacement cost insuring contents, equipment and Tenant's Improvements;
- (iii) If required, Automobile liability insurance for owned and non-owned automobiles used for or in connection with the Lease in the amount of at least two million dollars (\$2,000,000.00) to remain in place at all times during the full term of the Lease Agreement; such insurance may be met through the commercial general liability cover where applicable;

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

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

Loss, if any, shall be payable to The City of Winnipeg, as their interests may appear;

All Deductibles shall be borne by the Lessee;

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

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

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

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

Increase in Insurance Premiums

4.08 In the event the Tenant's occupancy or conduct of business in or on the Leased Lands, whether or not the Landlord has consented to the same, results in any increase in premiums for the insurance carried from time-to-time by the Landlord in respect of the Leased Lands, the Tenant shall pay any such increase in premiums as additional rent with ten (10) days after bills for such additional premiums shall be rendered by the Landlord. The Tenant shall promptly comply with all reasonable requirements of the insurance authority or of any insurer now or hereafter in effect relating to the Leased Lands.

Cancellation of Insurance

4.09 If any insurance policy upon the Leased Lands or any part thereof shall be cancelled or shall be threatened by the insurer to be cancelled or the coverage there under reduced in any way by reason of the use or occupation of the Leased Lands or any part thereof by the Tenant or by any permitted assignee or sub-tenant of the Tenant, or by anyone permitted by the Tenant to be upon the Leased Lands, and if the Tenant fails to remedy the condition giving rise to cancellation, threatened cancellation or reduction of coverage within forty-eight (48) hours after notice thereof, the Landlord may, at its option, enter upon the Leased Lands and attempt to remedy such condition and the Tenant shall forthwith pay the cost thereof to the Landlord as additional rent. The Landlord shall not be liable for any damage or injury caused to any property of the Tenant or others located on the Leased Lands as a result of such entry. In the event that the Landlord shall be unable to remedy such condition, the Landlord shall be entitled to re-enter the Leased Lands forthwith by leaving upon the Leased Lands notice in writing of its intention so to do and thereupon the provisions of paragraph 6.08 hereof shall apply.

Use of Leased Lands

4.10 The Leased Lands shall not be used for any purpose other than the purpose of a public golf course. The Tenant shall not use the Leased Lands or permit them to be used for any other purpose except with the prior written consent of the Landlord.

Management of Leased Lands

4.11 The Tenant shall have exclusive authority to operate and manage the Leased Lands as a public golf course including within limiting the generality of the foregoing, setting of fees, hours of operation, control of the course, without interference by the Landlord except as provided hereinafter.

Observance of Law

4.12 The Tenant shall comply with all provisions of law including without limitation, federal and provincial legislative enactments, building by-laws, and any other governmental or municipal regulations which relate to the partitioning, equipment, operation or use of the Leased Lands, and to the making of any repairs, replacements, alterations, additions, changes, substitutions or improvements of or to the Leased Lands. The Tenant shall further comply with all police, fire and sanitary regulations imposed by any federal, provincial or municipal authorities, or made by fire insurance underwriters and observe and obey all governmental and municipal regulations and other requirements governing the conduct of any business conducted in the Leased Lands.

Waste and Nuisance

- 4.13 (a) The Tenant shall not cause, permit or suffer anything to be done or continued in or upon the Leased Lands or any part thereof which may be or become a nuisance or annoyance or cause damage or inconvenience to the Landlord or to the owners, users or occupiers of neighbouring land or lands.
- (b) The Tenant shall not do or suffer any waste or damage or disfiguration or injury to the Leased Lands.
- (c) The Tenant shall not, except so far as may be reasonably necessary for maintaining the Leased Lands for a public golf course as hereinbefore provided, commit any waste thereon, or sell or take off the Leased Lands any clay, soil or turf of any kind.

Environmental Concerns

- 4.14 (a) The Tenant shall not create or permit any condition on the Leased Lands that could present a threat to human health or to the environment. The Tenant shall indemnify and hold harmless the Landlord from any suit or claim growing out of any damages alleged to have been caused, in whole or in part, by an unhealthy, hazardous or dangerous condition caused by, contributed to, or aggravated by the Tenant's or subtenant's violation of any laws, ordinances, regulations or requirements pertaining to solid or other wastes, chemicals, oil and gas, toxic, corrosive, or hazardous materials, air, water, (surface or ground water) or noise pollution, and the storage, handling, use or disposal of any such material. The Tenant shall bear the expense of all practices of work, preventative or remedial, which may be required because of any condition of the Leased Lands caused by the Tenant or use of the Leased Lands by the Tenant or those claiming by, through or under the Tenant, during the Tenant's period of occupancy or during the Tenant's ownership or use prior to the date of this Lease. The Tenant expressly agrees that the indemnification and hold harmless obligations it hereby assumes shall survive cancellation of this Lease. The Tenant agrees that statutory limitation periods on actions to enforce these obligations shall not be deemed to commence until the Landlord discovers any such health or environmental impairment, and the Tenant hereby knowingly and voluntarily waives the benefits of any shorter limitation period.
- (b) The Landlord shall have the right, but not the duty, to enter upon the Leased Lands from time-to-time to inspect the Leased Lands for environmental contamination and in the course thereof to conduct soil and ground water testing. The Landlord may enter the Leased Lands during regular business hours of the Tenant without prior notice, and may enter the Leased Lands during periods other than regular business hours either with prior written consent of the Tenant or without if the Landlord reasonably believes that an emergency exists on the Leased lands. The Landlord shall conduct any such inspections or testing so as to minimize interference with the Tenant's business operations. The Landlord's entry on to the Leased Lands pursuant to this clause shall not relieve the Tenant's obligation to pay rent under this Lease.

Testing Provision

4.15 At the request of the Landlord, upon termination of this Lease, or during the Term hereof, the Tenant shall pay for the service of an approved contractor to sample what appears to be any visibly-contaminated areas of the Leased Lands. For any contaminated areas the Tenant's contractor shall provide remediation recommendations to the Landlord, and shall perform remediation to the satisfaction of the Landlord. Copies of the results shall be forwarded to the Landlord by the Tenant to ensure that the Leased Lands are returned to the Landlord reasonably free of pollution and in compliance with all applicable federal, provincial or municipal laws and regulations. The provision of this paragraph shall survive the termination of this Lease.

Inspection and Access

4.16 The Tenant shall permit the Landlord and its servants, agents and employees to enter upon the Leased Lands at any time and from time-to-time for the purpose of inspection, maintenance, repairs, making alterations or improvements to the Leased Lands, or to have access to utilities and services therein, and the Tenant shall provide free and unhampered access for such purposes and shall not be entitled to compensation for any inconvenience, nuisance or discomfort caused thereby, but the Landlord in exercising its rights hereunder shall proceed to the extent reasonably possible so as to minimize interference with the Tenant's use and enjoyment of the Leased Lands and return the site to its condition prior to construction or work, as close as is reasonably possible. The Landlord, its servants, agents, and employees may at any time and from time-to-time enter upon the Leased Lands to remove any article or remedy any condition which would be likely to lead to cancellation of any policy of insurance and such entry by the Landlord shall not be deemed to be re-entry.

Indemnity of the Landlord

4.17 The Tenant will indemnify and save harmless the Landlord against all actions, causes of action, liabilities, damages, suits, claims, demands, judgments, costs and expenses of every nature and kind whatsoever which may in any way be suffered by or arise or be occasioned to or be maintained or recovered against the Landlord in consequence of the granting of this Lease or by reason of or in any way arising out of the installation, maintenance or use of the said public golf course, parking lot or lots or by reason of the removal thereof or otherwise howsoever in connection therewith, including (without limiting the generality of the foregoing) all claims or damages to person or property whether on or off the Leased Lands by reason of being struck by any golf ball, golf club, or otherwise arising directly or indirectly from the playing of golf under this Lease or the use of the Leased Lands as a public golf course and parking lot or lots.

Exhibiting Lands

4.18 The Landlord and its authorized agents and employees after consultations with the Tenant as to intent shall be permitted entry to the Leased Lands during:

- (a) The last six (6) months of the Term of this Lease for the purpose of exhibiting them to prospective tenants;
- (b) The Term of this Lease for the purpose of exhibiting the Leased Lands to prospective purchasers and developers;

Acceptance of Lands

4.19 The Tenant accepts the Leased Lands on an “as is” basis and acknowledges that the Landlord is under no obligation to improve the Leased Lands or to remedy them in any manner for use or occupation by the Tenant.

Subordination

4.20 The Tenant agrees that this Lease and all rights of the Tenant hereunder are subject and subordinate to all mortgages now or hereafter existing (including any deed of trust and all instruments supplemental thereto) which may now or hereafter affect any portion of the lands upon which the Leased Lands is situated whether any such mortgage or deed of trust shall affect such lands or shall be a blanket mortgage or deed of trust affecting other property as well and to all renewals, modifications, consolidations, replacements and extensions thereof. The Tenant agrees to execute promptly whenever requested by the Landlord or by any such mortgagee an instrument of subordination or attornment, as the case may be, as may be required by it.

Certificates

4.21 The Tenant shall promptly whenever requested by the Landlord from time to time execute and deliver to the Landlord (and if required by the Landlord, to any mortgagee [including any trustee under deed of trust and mortgage] designated by the Landlord) a certificate in writing as to the then status of the Lease, including as to whether it is in full force and effect, is modified or unmodified, confirming the rental payable hereunder and the state of accounts between the Landlord and the Tenant, the existence or non-existence of defaults, and any other matters pertaining to this Lease as to which the Landlord shall request a certificate.

Interference with Use of Leased Lands

4.22 The Tenant acknowledges and agrees that it shall not be entitled to an abatement or reduction in Rent as a result of any nuisance, disruption to or interference with the Tenant’s use and enjoyment of the Leased Lands where such nuisance, disruption to or interference is caused by the construction by the Landlord or others of improvements, alterations, additions or repairs to the Leased Lands. The Tenant further agrees not to make any claim against the Landlord for such nuisance, disruption to or interference with the use of the Leased Lands.

Delivery of Lands

4.23 The Tenant shall yield up the Leased Lands at the expiration of the Term, as the same may have been renewed, or other termination thereof, together with such Leasehold Improvements and trade fixtures as the Tenant may upon approval by the Landlord leave, if any, to the Landlord, in good repair, reasonable wear and tear, damage from fire, storm, tempest and other casualty only excepted, and, subject only to the provisions herein contained.

Audit Provisions

4.24 The Tenant shall set up and maintain such books and records as are necessary for the proper financial management of the leased land, including and without restricting the generality of the foregoing:

- (a) A record of all revenues and their application including a record of the number of rounds of golf played; and
- (b) A record of all expenditures together with supporting documentation, including but not restricted to invoices, payroll records and bank records including cancelled cheques.

The City shall have the right to a full operational audit of the records of the revenues and expenditures at any time during regular working hours and shall be provided with all documentation, records and explanations required by it. Notwithstanding the foregoing, the Tenant shall, within ninety (90) days of each fiscal year end, provide the City with an audited financial statement in respect of the operation of the leased land.

Irrigation Pump and Parking Lot Lighting

- 4.25 (a) The Tenant shall be permitted to install an irrigation pump upon adjacent City-owned riverbank lands at a location to be approved by the Golf Course Services Chief Operating Offices.
- (b) The Tenant shall implement a noise abatement strategy to ameliorate the pump sound to the adjacent Condominium Owners at 48 Dunkirk Drive to the satisfaction of the Golf Course Services Chief Operating Officer.
- (c) The tenant shall provide hydro power to electrify three outdoor lighting fixtures situated within the new parking lot at all times during the term.
- (d) The Tenant shall be reimbursed for the cost of providing hydro power as set out in clause 4.25(c) in an amount to be determined by the Landlord based on use and cost estimates to be supplied by Manitoba Hydro.

ARTICLE V LANDLORDS COVENANTS

Quiet Enjoyment

5.01 Subject to the provisions of this Lease, so long as the Tenant pays the Rent hereby reserved and performs and observes the covenants and conditions herein on its part contained, the Tenant shall and may peaceably possess and enjoy the Leased Lands for the Term hereby granted without any interruption or disturbance from the Landlord or any other person lawfully claiming by, from or under it.

ARTICLE VI MUTUAL COVENANTS

Landlord's Disclaimer

- 6.01 The Landlord shall not be liable or responsible in any way:
- (a) For any death or injury arising from or out of any occurrence in, upon or at the Leased Lands or for damage to property of the Tenant or others located on the Leased Lands, nor shall it be responsible in the event of damage to any property of the Tenant or others from any cause whatsoever, unless such damage, loss, injury or death results from the negligence of the Landlord, its agents, servants or employees or other for whom it may be responsible. The Landlord shall not be liable for any

damage whatsoever caused by any occupant or user of adjacent property thereto, or the public, or construction of any private, public or quasi-public work. All property of the Tenant kept or stored on the Leased Lands shall be so kept or stored at the risk of the Tenant only and the Tenant shall indemnify the Landlord in the event of any claims arising out of damages to the same;

- (b) For any act or omission (including theft, malfeasance or negligence) on the part of any agent, contractor or person from time-to-time employed by it on or about the Leased Lands provided the Landlord shall use its best efforts to ensure such agents, contractors or persons not a direct employee of the Landlord shall have in force sufficient insurance on its operations and shall not enter into any agreement which would negate the Tenant's right to recourse for damages against such agent, contractor or persons; or
- (c) For loss or damage however caused to money, securities, negotiable instruments, papers or other valuables of the Tenant.

Total Destruction

6.02 In the event of the total destruction (as hereinafter defined) of the Leased Lands and any Leasehold Improvements located thereon by fire, explosion, lightning, flood, windstorm or hail or Act of God, then in such event this Lease shall terminate with effect from the date upon which such total destruction occurs. Thereupon the Tenant shall immediately surrender the Leased Lands and all its interest therein to the Landlord and the Tenant shall pay rent only to the time of such total destruction and the Landlord may re-enter and repossess the Leased Lands discharged of this Lease. Upon such termination the Tenant shall remain liable to the Landlord for all sums accrued and due to the Landlord pursuant to the terms hereof to the date of such total destruction. "Total Destruction" shall mean such damage to the Leased Lands and any Leasehold Improvements located thereon as renders the same unfit for use by the Tenant for the operation of a public golf course and which cannot reasonably be repaired within twelve (12) months of the date of the destruction to the state wherein the Tenant could use substantially all of the Leased Lands and any Leasehold Improvements located thereon for the operation of a public golf course. The certificate of the Landlord's architect certifying that "Total Destruction" has occurred shall be binding and conclusive upon both the Landlord and the Tenant for the purpose hereof.

Partial Destruction

6.03 In the event of partial destruction (as hereinafter defined) of the Leased Lands and any Leasehold Improvements located thereon by fire, explosion, lightning, flood, windstorm or hail or Act of God, then in such event, if the destruction is such that in the opinion of two architects, one appointed by each of the Landlord and the Tenant, the Leased Lands may be partially used for the operation of a public golf course while the repairs are being made, then the rent shall abate the proportion that the part of the Leased Lands rendered unusable bears to the whole of the Leased Lands. Should such architects fail to agree as to such use then in that event the matter of partial use shall be decided by arbitration as hereinafter set forth. "Partial Destruction" shall mean any damage to the Leased Lands and any Leasehold Improvements located thereon less than total destruction, but which renders all or any part of the Leased Lands and any Leasehold Improvements located thereon temporarily unfit for use by the Tenant for the operation of a public golf course. The joint certificate completed by the Landlord's architect and the Tenant's architect shall be binding as to whether the whole or part of the Leased Lands is rendered unusable, shall be binding and compulsive upon both the Landlord and the Tenant for the purposes hereof. Notwithstanding anything in this paragraph contained, if in fact the partial destruction is repaired within thirty (30) days of the date of destruction there shall be no abatement of rent.

Failure to Operate

6.04 If the Tenant shall fail to operate the Leased Lands as a public golf course in accordance with the terms of this Lease, the Landlord shall have the right (but shall not be obligated) to hire the necessary personnel, including, but not limited to, a manager and support staff and to operate the Leased Lands as a public golf course and all payments, expenses, charges, fees, disbursements and any and all costs of every nature and kind howsoever incurred or paid by the Landlord in respect thereof shall be paid by the Tenant on demand to the Landlord and the costs payable by the Tenant shall be reduced only by any revenue derived by the Landlord directly from such operation. In the event that the Landlord exercises such right, the Landlord shall not be deemed to have re-entered and taken possession of the Leased Lands in accordance with Clause 6.07 hereof, nor shall there be an abatement of rent.

Remedying of Default

- 6.05 (a) In addition to all rights and remedies of the Landlord available to it in the event of any default hereunder by the Tenant either by any other provision of this Lease or by statute or the general law, the Landlord:
- (i) Shall have the right at all times to remedy or attempt to remedy any default of the Tenant, and in so doing may make any payments due or alleged to be due by the Tenant to third parties and may enter upon the Leased Lands to do any work or other things therein, and in such event all expenses of the Landlord in remedying or attempting to remedy such default shall be payable by the Tenant to the Landlord forthwith upon demand; and
 - (ii) If the Tenant shall fail to pay any Rent or other amount from time-to-time payable by it to the Landlord hereunder promptly when due, shall be entitled, if it shall demand it, to interest thereon at the then going rate charged by the City for tax arrears or such other rate as may be in force by the Landlord from time-to-time from the

date upon which the same was due until actual payment thereof but nothing in this Lease suspends or delays the payment of any amount of money when it becomes due and payable, or limits any other remedy of the Landlord.

- (b) The Landlord may from time-to-time resort to any or all of the rights and remedies available to it in the event of any default hereunder by the Tenant, either by any provision of this Lease or by statute or the general law, all of which rights and remedies are intended to be cumulative and not alternative, and the express provisions hereunder as to certain rights and remedies are not to be interpreted as excluding any other or additional rights and remedies available to the Landlord by statute or the general law.
- (c) If the Tenant shall be in default of any of its covenants excepting the payment of Rent hereunder, the Landlord shall give notice to the Tenant of such default specifying with reasonable particularity the nature of such default and requiring the same to be remedied and the Tenant shall have thirty (30) days (or such longer period as may be reasonably required to cure such default considering the nature thereof and agreed to by the Landlord) to cure or remedy such default.

Termination of Lease

6.06 Should the Leased Lands be used by any other persons than the Tenant or its permitted assigns or sub-tenants or for any purpose other than for which they were leased or occupied by any persons whose occupancy is prohibited by this Lease, or if the Leased Lands shall be vacated or abandoned or remain unoccupied for fifteen (15) days or more while capable of being occupied considering the seasonal use or if the Term or any of the goods and chattels of the Tenant shall at any time be seized in execution or attachment, or if the Tenant shall make any assignment for the benefit of any statute now or hereafter in force for bankrupt or insolvent debtors or (if a corporation) shall take steps or suffer any order to be made for its winding up or other termination or (of) its corporate existence or cease to operate in the City of Winnipeg then in any such case the Landlord may at its option terminate this Lease by leaving upon the Leased Lands notice in writing of such termination and thereupon, in addition to the payment by the Tenant of Rent and other payments for which the Tenant is liable under this Lease, Rent for the current month and next ensuing three (3) months Rent shall immediately become due and be paid by the Tenant.

Right of Re-Entry

6.07 If and whenever the Rent hereby reserved or other monies payable by the Tenant or any part thereof shall not be paid on the day appointed for payment thereof, whether lawfully demanded or not, and the Tenant shall have failed to pay such Rent or

other monies within five (5) business days after the Landlord shall have given to the Tenant notice requiring such payment, or if the Tenant shall breach or fail to observe and perform any of the covenants, agreements, provisos, conditions, rules or regulations and other obligations on the part of the Tenant to be kept, observed or performed hereunder, or if this Lease shall have become terminated pursuant to any provision hereof, or if the Landlord shall have become entitled to terminate this Lease and shall have given notice terminating it pursuant to any provision hereof, then and in every such case it shall be lawful for the Landlord thereafter to enter into and upon the Leased Lands or any part thereof in the name of the whole and the same to have again, repossess and enjoy as of its former state, anything in this Lease contained to the contrary notwithstanding.

Rights on Re-Entry

- 6.08 (a) The Tenant further covenants and agrees that on the Landlord becoming entitled to re-enter upon the Leased Lands under any of the provisions of this Lease, the Landlord in addition to all other rights shall have the right to enter the Leased Lands at any time as the agent of the Tenant either by force or otherwise, without being liable for any prosecution therefor and to re-let the Leased Lands as the agent of the Tenant, and to receive the Rent therefor, and as agent of the Tenant to take possession of the Tenant's property, trade fixtures and chattels on the Leased Lands, and to sell the same at public or private sale without notice and to apply the proceeds of such sale and any rent derived from re-letting the Leased Lands, after deducting its costs of conducting such sale and its costs of re-letting on account of the Rent under this Lease, and the Tenant shall be liable to the Landlord for the deficiency, if any. Should the Rent derived from such re-letting exceed the Rent payable hereunder, such excess shall belong to the Landlord and the Landlord shall not be accountable therefor to the Tenant. Notwithstanding such re-letting, the Landlord shall have the right, at any time after becoming entitled to re-enter upon the Leased Lands under the provision of this Lease, to terminate this Lease and the Term hereby granted, by giving notice in writing addressed to the Tenant of its intention to do so and this Lease shall terminate as of the date of such notice, provided the Tenant shall remain liable for any deficiencies in Rent or rental arrears accruing up to the date of termination.
- (b) The Tenant further covenants and agrees that on the Landlord becoming entitled to re-enter upon the Leased Lands under any of the provisions of this lease, the Landlord in addition to all other rights, shall have the right to terminate forthwith this Lease and the Term by giving notice in writing addressed to the Tenant of its intention so to do, and thereupon Rent shall be computed, apportioned and paid in full to the date of such termination of this Lease and the Tenant shall forthwith deliver up possession of the Leased Lands to the Landlord and the Landlord may re-enter and take possession of the same.
- (c) The Tenant shall pay and indemnify the Landlord against all legal costs and charges, including counsel fees, lawfully and reasonably incurred in enforcing payment thereof and in obtaining possession of the Leased Lands after default of the Tenant, or upon expiration or earlier termination of the Term of this Lease or in enforcing any covenant, proviso or agreement of the Tenant herein contained.

Obligations upon Termination

6.09 Notwithstanding the termination of this Lease in any manner herein provided for, the Tenant shall be and remain liable to the Landlord for all payments due and obligations and liabilities incurred hereunder up to the date of such termination and for the fulfilment of all obligations herein contained on the part of the Tenant to be observed and performed upon or after such termination.

Distress

6.10 The Tenant waives and renounces the benefit of any present or future statute taking away or limiting the Landlord's right of distress and covenants and agrees that notwithstanding any such statute none of the goods and chattels of the Tenant on the Leased Lands at any time during the Term shall be exempt from levy by distress for Rent in arrears. The Tenant further acknowledges that the Landlord shall have the right, at its option, to record this Lease under The Personal Property Security Act of the Province of Manitoba.

Relationship of Landlord and Tenant

6.11 Nothing contained herein shall be deemed or construed by the parties hereto, nor by any third party, as creating the relationship of principal and agent or of partnership or joint venture between the parties hereto, it being understood and agreed that neither the method of computation of Rent nor any other provision contained herein nor any acts of the parties herein shall be deemed to create any relationship between the parties other than the relationship of Landlord and Tenant.

Non-Waiver by the Landlord

6.12 No condoning, excusing or overlooking by the Landlord of any default, breach or non-observance by the Tenant at any time or times in respect of any covenants, provisions or conditions herein contained shall operate as a waiver of the Landlord's rights hereunder in respect of any continuing or subsequent default, breach or non-observance, or so as to defeat or affect such continuing or subsequent default or breach, and no waiver shall be inferred from or implied by anything done or omitted by the Landlord save only express waiver in writing.

Overholding

6.13 If the Tenant shall continue to occupy the Leased Lands after the expiration of this Lease with or without the consent of the Landlord, and without any further written agreement, the Tenant shall be construed as a monthly tenant at the Rent herein mentioned prorated in relation to the periods of time during which the Tenant is an overholding tenant, and on the terms and conditions herein set out except as to length of tenancy.

Accrual of Rent

6.14 Rent shall be considered as accruing from day to day, and where it becomes necessary for any reason to calculate such Rent for an irregular period of less than one (1) year an appropriate apportionment and adjustment shall be made. Where the calculation of any additional rental is not made until after the termination of this Lease, the obligation of the Tenant to pay such additional rental shall survive the termination of this Lease and such amounts shall be payable by the Tenant upon demand by the Landlord.

Transfer by the Landlord

6.15 In the event of a sale, transfer or lease by the Landlord of the Leased Lands or a portion thereof or the assignment by the Landlord of this Lease or any interest of the Landlord hereunder, the Landlord shall without further written agreement, to the extent that such purchaser, transferee or Tenant has become bound by the covenants and obligations of the Landlord hereunder, be freed, released and relieved of all liability or obligations under this Lease. The Tenant shall from time-to-time at the request of the Landlord, promptly provide the Landlord or any purchaser, transferee, Tenant, assignee or mortgagee, a certificate of acknowledgment as to the then status and validity of this Lease and the state of the Landlord's and the Tenant's accounts hereunder.

ARTICLE VII GENERAL

Notices

7.01 (a) Any notice, request, statement or other writing pursuant to this Lease shall be deemed to have been given if sent by prepaid post or personal delivery as follows:

TO LANDLORD:

Director, Planning, Property and Development Department
The City of Winnipeg
2nd Floor - 65 Garry Street
Winnipeg, Manitoba
R3C 4K4

TO TENANT:

If delivered, notice shall be deemed duly given and received when delivered. If mailed, such notice shall be deemed to have been received by the Landlord or the Tenant as the case may be, on the fourth (4th) business day after the date on which it shall have been so mailed.

(b) Either party may, by notice to the other, from time-to-time designate another address in Canada to which notices mailed more than ten (10) days thereafter shall be addressed.

Caveats

- 7.02 (a) The Landlord agrees that the Tenant may file a caveat under The Real Property Act of Manitoba against the Leased Lands in respect of this Lease provided that this Lease shall not be attached to such caveat and shall not be filed in any form in the Land Titles Office.
- (b) The Tenant, simultaneously with the execution of this Lease, shall execute, in blank, a discharge of caveat in form satisfactory to the Landlord with respect to any caveat registered or to be registered by the Tenant against the Landlord's property. The Tenant shall deliver the said discharge of caveat to the Landlord, who shall hold it in trust until the Term of this Lease expires or this Lease is otherwise terminated. Upon such termination, the Landlord shall have the right to date the discharge of caveat as of the date of termination to file in the appropriate Land Titles Office.

Payments Deemed Rent

7.03 Each and every sum of money arising to be paid by the Tenant to the Landlord pursuant to any provision hereof, whether by way of indemnity or otherwise howsoever shall, from and after the past due date for payment thereof, be deemed to be and construed as Rent and all rights and remedies available to the Landlord for the collection of Rent in arrears may be restored to the Landlord for the collection thereof with interest and costs as herein provided. The Landlord may draw a sight draft against the Tenant for any sum past due under the provisions of this Lease.

Arbitration

7.04 In the event a dispute shall arise between the Landlord and the Tenant as to any matter herein contained, excepting a matter herein provided to be determined solely by the Landlord or its consultants and excepting a dispute as to Rent payable, then such dispute shall be resolved by arbitration in accordance with the provisions of The Arbitration Act of Manitoba.

Entire Agreement

7.05 The Tenant acknowledges that there are no covenants, representations, warranties, agreements or conditions expressed or implied, collateral or otherwise forming part of or in any way affecting or relating to this Lease or the schedules attached, which constitute the entire agreement between the Landlord and the Tenant and may not be modified except as herein explicitly provided or except by subsequent agreement in writing of equal formality hereto executed by the Landlord and the Tenant.

Binding Effect

7.06 This Lease and everything herein contained shall enure to the benefit of and be binding upon the successors and assigns of the Landlord and the heirs, executors and administrators and the permitted successors and assigns of the Tenant.

Number and Gender

7.07 Reference to the Tenant shall be read with such changes in gender as may be appropriate, depending upon whether the Tenant is a male or female person or a firm or corporation.

Joint and Several

7.08 If the Tenant is more than one person or entity, the covenants of the Tenant shall be deemed joint and several.

Governing Law

7.09 This Lease shall be interpreted according to the laws of the Province of Manitoba.

Time of the Essence

7.10 Time shall be of the essence.

Severability

7.11 The Landlord and the Tenant agree that all of the provisions of this Lease are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate paragraph hereof. Should any provision or provisions of this Lease be illegal or not enforceable, it or they shall be considered separate and several from this Lease and its remaining provisions shall remain in force and be binding upon the parties hereto as though the said provision or provisions had never been included.

Captions

7.12 The captions appearing within the body of this Lease have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope or meaning of this Lease or of any provision hereof.

Schedules

7.13 Schedules A, B and C attached hereto, form an integral part of this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this Lease the day and year first above written.

THE CITY OF WINNIPEG

Per:

Director, Planning, Property and
Development Department

Per: _____

Per: _____

Approved:

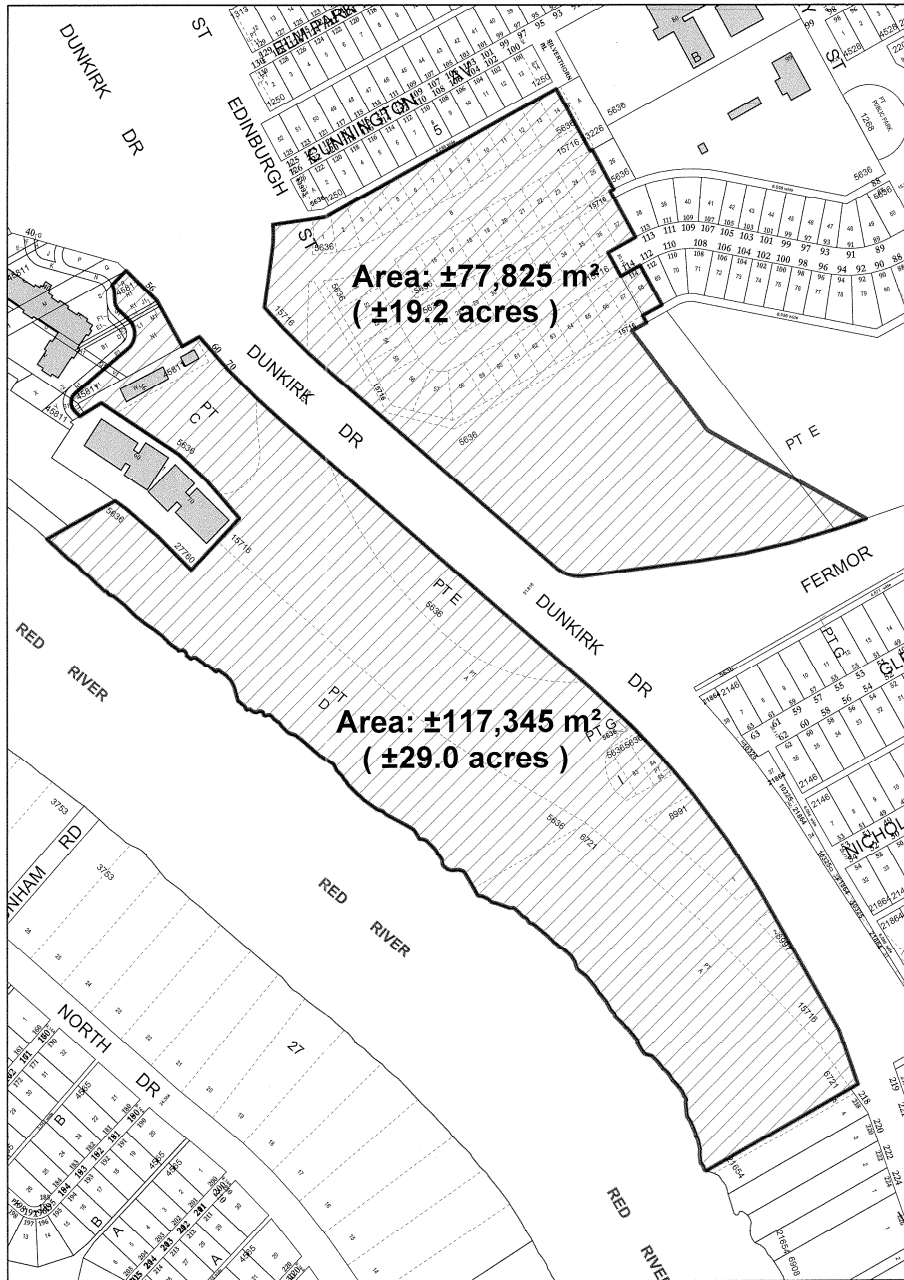
Planning, Property and Development

Certified as to form:

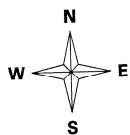
for City Solicitor/Manager of
Legal Services

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Schedule "A"



METRIC



Date: 2008-MAY-14
 District: RIEL
 File: 7611 / J
 Scale: 1:3800

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.



LEASED LANDS
 Total Area: ±195,173 m² (±48.2 acres)



Building Outlines

**CITY OF WINNIPEG
 PLANNING, PROPERTY AND DEVELOPMENT DEPT.
 LAND INFORMATION & MAPPING SERVICES**

MISC. PLAN NO. 4750 / 38

Schedule "B"

<u>Activity</u>	<u>Location</u>	<u>Frequency</u>
a) Mowing Cycles:		
1. Greens (1/4")	Greens	Daily
2. Tees (1/2")	Tees	3 times/week
3. Fairways (5/8")	Fairways	3 times/week
4. Primary rough (1-2")	Fairways, greens	2 times/week
5. Second rough (2-3")	Fairways	2 times/week
6. Trim mowing	All courses	2 times/week
b) Tee Maintenance:		
1. Changing tee markers		Daily
2. Collect garbage		Daily
3. Fill ball washers		4 times/week
4. Aeration		2 times/season
5. Topdressing		3 times/season
6. Seeding		Every second week
7. Fertilizing		As required
c) Green Maintenance:		
1. Changing cups		Daily
2. Aeration		2 times/season
3. Topdressing		3 times/season
4. Seeding		Monthly
5. Fertilizing		As required
6. Fungicide application		As required
7. Topdressing		3 times/season
8. Sand bunkers		Raked daily
d) Fairway, Grounds Maintenance:		
1. Seeding		Monthly or as required
2. Fertilizing		Monthly or as required
3. Litter pick-up		Weekly or as required
e) Watering Cycles:		
1. Greens		Min. of 2"/week, or as required
2. Tees		Min. of 1½"/week, or as required
3. Fairways		Min. of 1½"/week, or as required
4. Trees		Every second week
5. Shrub, flower beds, etc.		Weekly or as required

Schedule "B"

<u>Activity</u>	<u>Location</u>	<u>Frequency</u>
D) Other:		
1. Sand bunker mtce.	Add sand, cut edges	As required
2. Flower bed mtce.	Weeding, general mtce.	As required
3. Irrigation mtce.	Spring and fall	As required
4. Washrooms mtce.	Clubhouse, course	Daily
5. Leaf blowing	All courses and grds.	As required
6. Parking lot mtce.	Parking lot	As required
7. Pathway mtce.	Pathways, roads, etc.	As required
8. Equipment servicing		Daily
9. Equipment mtce.	Spring and fall	As required
10. Markers, signs, benches, etc.		As required
11. Tree pruning	All courses and grds.	As required
12. Soil testing	Greens, tees, fairways	Once/year

General Activities

1. Ordering of parts, supplies and materials		As required
2. Irrigation system	Start up, shut down	Spring, fall
3. Inventory checks	Spring and fall	Twice/season
4. Equipment servicing	All equipment	Daily
5. Equipment storage	End of season	Once
6. Record keeping	Of all mtce. activities	Daily
7. Timekeeping	Staff working hours	Daily
8. Staff scheduling	Employee shifts	Weekly
9. Capital projects	As required	Fall
10. Mtce. building	Cleaning, painting, etc.	As required

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Schedule "C"

Winterization Requirements

The following activities are performed at the end of the normal golf season in preparation for winter:

i) Aeration of Greens

Aeration of greens should take place a minimum of twice per year (spring and fall) or on an as required basis. This operation involves the removal of cores/plugs for the green in order to soften up the playing surface, allowing air, water, fertilizers and new soil to be introduced to the root layer of the greens. This operation requires the use of an aeration machine and normally takes 2 to 3 days for 9 holes.

ii) Topdressing of the Greens

Topdressing of greens is normally performed several times a season and preferably in late fall. This operation involves the spreading of top soil over each green to a depth of approximately $\frac{1}{8}$ " to $\frac{1}{4}$ ". This will require approximately 20 yards of top soil consistent with the soil mix used in the past on the greens.

iii) Winterization of the Irrigation System for the Golf Course and Tennis Courts

Winterization of the irrigation system normally occurs in mid-October before frost appears on a regular basis. This will involve the use of an air compressor in order to force pressurized air through the system so as to remove all possible water in the lines. This includes the securing of the pump. The pump should be stored in a secure facility for the winter months and should be serviced as required.

iv) Application of Winter Chemicals

The spreading of a dry chemical mix of fertilizers and fungicides on the greens is an important work activity which normally requires two applications immediately before snow fall. Once the greens are treated, no golfer should be allowed on the greens for the balance of the season.

v) Green Cover

Snow fence should be placed around each green and/or tree branches or brush should be placed on each green to trap and retain an insulation blanket of snow.

DRAFT

APPENDIX C

WINNIPEG GOLF SERVICES: ANNUAL ROUNDS PLAYED

	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>
Kildonan	40,023	45,896	43,306	42,624	39,416	48,100	48,332	49,180
Windsor	32,571	41,544	41,966	36,570	35,112	44,470	46,892	45,929
Crescent Drive	36,185	44,414	44,364	39,317	33,575	45,589	41,961	40,877
Annual Totals	143,528	170,414	168,842	154,375	146,983	180,545	173,006	173,443
	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
Kildonan	48,278	41,336	45,203	37,378	34,875	38,021	34,718	30,407
Windsor	42,462	37,327	42,596	33,621	26,150	32,018	30,500	30,953
Crescent Drive	37,862	31,527	33,719	26,622	19,910	28,585	23,936	21,733
Annual Totals	164,094	138,308	151,505	122,040	107,389	125,373	110,375	102,580