

## COUNCIL ACTION FORM

### **SUBJECT: RENEWAL OF MUNICIPAL POOL JOINT-USE AGREEMENT**

#### **BACKGROUND:**

In May of 1965 the City and the Ames Community School District entered into two agreements involving a City owned pool to be attached to Ames High School. The Land Lease Agreement dealt with the pool being located on District land, and the Joint-Use Agreement addressed ongoing daily operations of the facility.

The Land Lease agreement will expire on April 1, 2015. The Joint-Use agreement has been revised twice – once in 1984 and again in 1994. The current agreement will expire on May 25, 2009.

City and District staffs met to review the existing Joint-Use Agreement and agreed upon an expiration date that will coincide with the Land Lease Agreement.

City staff questioned if the District would consider expanding the “Time Sharing” clause whereby the public could use the pool during the school day for 90 minutes, versus the existing 60 minutes. The District responded that they anticipate enrollment at Ames High to increase during the next few years and do not want to limit their ability to accommodate students within Physical Education (PE) classes. However, District staff stated that, as the PE schedule allows, they will make the pool available additional hours for the City’s aquatics program during the mid-day.

Other than date changes, the only other proposed change to agreement is as follows:

*Fiber Optic Line: The City will, at their expense install and maintain a fiber optic line between the ICN FOTS room located within Ames Sigh School and the Municipal Pool. It is understood that in the event the School requests this line to be relocated the City will, at their expense, relocate and continue the ongoing maintenance of said line.*

This fiber optic line is needed to allow the City’s recreation software program to operate at a faster speed.

Ames School Board members reviewed the attached Joint-Use Agreement at their May 4, 2009 meeting and it is anticipated they will approve the revised document at their May 19, 2009 meeting.

**ALTERNATIVES:**

1. Approve the revised Joint-Use Municipal Pool Agreement with an expiration date of April 30, 2015 and the addition of the fiber optic line language.
2. Do not approve the Joint-Use Municipal Pool Agreement and direct staff to re-negotiate the terms of the agreement.

**CITY MANAGER'S RECOMMENDED ACTION:**

The Joint-Use Agreement between the City and the Ames Community School District has changed very little since it was first signed in 1965, which is a tribute to the forty-four year partnership. However, it is recognized that the Municipal Pool cannot continue to meet the indoor swimming needs of our community over the long term. With the revision of the Joint-Use Agreement to establish a termination date to coincide with the Land Lease, it will be possible to focus attention on developing a strategy for addressing indoor swimming facilities in Ames past April 30, 2015.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative #1 and approve the proposed revised Joint-Use Agreement between the City and the School District.

## ATTACHMENT A

### MUNICIPAL POOL JOINT USE AGREEMENT (May 25, 2009 to April 30, 2015)

This Agreement, made and entered into effective the 25 day of May, 2009, by and between the CITY OF AMES, IOWA, hereinafter called "City" and the AMES COMMUNITY SCHOOL DISTRICT; hereinafter called "School".

#### WITNESSETH:

**WHEREAS**, the City has previously constructed, and is the owner of, an indoor swimming pool and building on land owned by the School (see attached lease) and used as the site of the Ames Senior High School, pursuant to the provisions of a prior agreement between the City and School under date of May 4, 1965; and

**WHEREAS**, the 1965 agreement was rescinded and superseded by agreements dated February 6, 1984 and May 24, 1994; and,

**WHEREAS**, it is now desired that the said 1994 agreement be rescinded and superseded by a new agreement for joint and cooperative efforts in operating the City's indoor swimming pool on the aforesaid School land;

**NOW, THEREFORE**, the parties hereto, pursuant to and in accordance with the provisions of Chapter 28E Code for joint exercise of governmental powers, have agreed and do agree as follows:

1. **Site-Access Parking:** The School will provide the site on the High School campus that is the location of the subject pool, together with rights of access for ingress and egress thereto for the duration of this agreement. The persons employed at the swimming pool and persons using the swimming pool shall have the right to use the High School parking lot.
2. **Pool Programs:** The task of planning and executing a mutually agreeable program for the joint and cooperative use of the subject pool and pool building by the City and School shall be and is hereby delegated to the administrative personnel that each shall designate, provided that the City's programs and use thereof shall be subject to the general and specific powers and responsibilities of the Ames Park and Recreation Commission as now or hereafter provided by ordinance.
3. **Administration:** The Superintendent of Schools or designee shall be responsible for administering the joint and cooperative undertaking represented by this agreement. By way of specification but not limitation the same person shall have sole responsibility for operation and maintenance of the physical plant of the subject pool and pool building. The responsibility for operation and maintenance shall include water quality, filtration, chlorination, and recirculation, with all attendant monitoring and record-keeping. In the discharge of the said administrative responsibility there shall be maintained and made available for inspection, detailed cost accounting records of all expenditures.

4. **Pool Staff:** The School will provide and pay for instructional staff and lifeguards when the School is using the pool, and the City will provide and pay for such staff and lifeguards when the City is using the pool.
5. **Time Sharing:** It is expressly agreed that in the scheduling and programming of the facilities the School shall have the exclusive use of the facilities during the school hours, until 5:15 PM, while school is in session. The City will be responsible for scheduling the programming the pool from 5:15 PM until 12:00 midnight on weekdays, all day on weekends, holidays and during vacation periods. During evening hours and vacation periods the School shall have the right to occasional use of the facilities on a schedule agreed to by both parties. Interscholastic swimming competition events shall preempt scheduled City recreation programs. The Superintendent of Schools shall give a two-week notice to the City Manager for any interscholastic swimming events that were not anticipated or planned at the time of said schedule. However, reasonable efforts to schedule events in advance will be made in order to allow for efficient operations on the part of the City.

The pool will be made available exclusively to the City for its noon swimming program for one hour each day, Monday through Friday, from approximately 11:45 AM to 12:45 PM.

6. **Cost Sharing:** All costs of capital improvements, operations, repair, replacement and maintenance at the subject pool and building, including by way of specification but not limitation, all costs of electricity, water, heat, chemicals, and custodial personnel, shall be shared on a basis of one-half (1/2) by the School and one-half (1/2) by the City. Capital items which are built-in or affixed to the pool or pool building in a manner intended to be permanent shall be shared unless used only by one party hereto. Costs for capital items which are used exclusively by one party for its programs only shall not be shared. The School, in conjunction with City staff, shall prepare a proposed operating budget and capital improvement plan and submit the same to the City not later than October 1 of each year for review and consideration. Should the City and the School be unable to agree on the amounts to be budgeted for the pool, they will utilize the service of an arbitrator. The decision of the arbitrator will be final and binding on the City and School.

Unbudgeted capital improvements and repairs pertaining to the swimming pool which are estimated to cost \$5,000 or more shall not be done without the prior written approval of duly authorized representatives of both the City and the School.

Every other year the School shall engage an appropriate consultant to inspect and report on the condition of: a) the pool building roof, b) the structural support members of the pool building, c) the electrical system pertaining to the municipal pool, d) the mechanical HVAC systems pertaining to the municipal pool and, e) the plumbing pertaining to the municipal pool to aid in planning and budgeting for proper maintenance and renewal expenditures pertaining to the pool facility. The cost of this consultant will be shared equally by the City and School.

Any and all building and construction work pertaining to the subject pool which is estimated to cost the City \$25,000 or more shall, by virtue of the statutory requirements, be done by the City in accordance with the contracting provisions and procedures of Sections 384.95 – 384.103 Code of Iowa. This shall include the emergency repair procedure of Subsection 384.103 (2). However, the City shall not proceed with any emergency repair or any other building or construction work pertaining to the pool facility without the prior written approval of the School.

7. **Insurance:** Each party shall purchase at their own expense such policies of insurance with respect to the subject pool and its use as they shall each deem prudent for their needs and interests. Insurance premiums shall not be a shared cost. In this regard it is expressly understood and agreed that the pool building, the pool, the pool heating boilers, the mechanical and electric system and all other built-in or attached fixtures pertaining to the pool facility are the property of the City.
  
8. **Fee and Rules:** The City may establish charge and retain reasonable fees and admission charges for use of the pool and pool building as a City recreation facility. The School may establish charge and retain reasonable fees and admission charges while the pool and pool building is in use by the School. The City shall establish written rules and policies for use of the pool as a City recreation facility, which shall be posted in a conspicuous place at the pool and otherwise made available to the public at all times. The School may establish and promulgate such pool rules for school programs as it deems appropriate.
  
9. **Duration:** This agreement shall be in full force and effect for a period of six (6) years from and after the date first above written to April 30, 2015.
  
10. **Public Telephone:** The City may maintain a telephone for use by the public participating in the City swimming programs.
  
11. **Fiber Optic Line:** The City will, at their expense install and maintain a fiber optic line between the ICN FOTS room located within Ames High School and the Municipal Pool. It is understood that in the event the School requests this line to be relocated the City will, at their expense, relocate and continue the ongoing maintenance of said line.
  
12. **Amendments:** During its term, the provisions of this agreement may be amended or made more specific by means of a signed and dated written addenda approved and executed by mutual agreement of the parties in the same manner as the basic agreement.

AMES COMMUNITY SCHOOL DISTRICT

CITY OF AMES, IOWA

\_\_\_\_\_  
Board President

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Mayor

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Board Secretary

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City Clerk