

COUNCIL ACTION FORM

SUBJECT: EXTENSION OF MUNICIPAL POOL AGREEMENT WITH THE AMES COMMUNITY SCHOOL DISTRICT

BACKGROUND:

In May 2015, the City and Ames School District extended the existing agreement to manage and finance the Municipal Pool which is a city-owned building situated on Ames School District property. This unique intergovernmental partnership has served the citizens of Ames and the students of the school district well for almost 50 years.

Now that the facility has reached the end of its useful life, both parties are exploring options for accommodating their aquatic needs into the future. The City is focused on recreational opportunities (lap swimming, swim classes, water aerobics, free swim, water walking, etc.), while the Ames School District is committed to providing a new competitive venue for its athletic teams. **Since it is highly unlikely that a new aquatic facility can be completed any sooner than FY 2019/20, it is imperative that the existing agreement (see attached) be extended.**

On July 17, 2017, the Ames Community School District approved the amendment to the existing agreement as proposed by the City staff.

ALTERNATIVES:

1. The City Council can decide to approve the attached amendment to the Municipal Pool agreement with the Ames School District which extends the existing terms and conditions until June 30, 2020.
2. The City Council can decide to not approve the attached amendment to the Municipal Pool agreement with the Ames School District and thereby not extend the existing agreement.

Support of this alternative begs the question regarding how to proceed until a new aquatic facility or facilities are completed. Lacking permission to enter onto school property to occupy the Municipal Pool, the City could close the facility or turn the facility over to the School District. Either option would require more in depth legal analysis before any final action is taken.

MANAGER’S RECOMMENDED ACTION:

The partnership with the Ames School District regarding the operation of the City’s indoor pool which is situated on school district property is one of many cooperative intergovernmental ventures that benefit the citizens of Ames. Until a final strategy is adopted by the City and Ames School District regarding how to proceed in the future to address their unique aquatic needs, it would seem preferable to maintain the status quo. **Therefore, it is the recommendation of the City Manager that the City Council approve the attached amendment and extend the existing Municipal Pool agreement with the Ames Community School District until June 30, 2020.**

It should be noted that under Section 9 of the existing agreement, either party may opt out of the agreement by giving a three month notice, if that party begins operation of a new pool facility.

**MUNICIPAL POOL
JOINT USE AGREEMENT**
May 1, 2015 to June 30, 2017

This Agreement, made and entered into effective the 1st day of May, 2015, 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, May 25, 2009; and,

WHEREAS, it is now desired that the said 2009 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 or designee shall give a two-week notice to the City Manager or designee 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 daytime lap swimming program for a minimum of 1.5 hours each day, Monday through Friday, for a time and duration as agreed upon in writing by both parties.

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.

When agreed upon by both parties, 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 two (2) years and two months from and after the date first above written to June 30, 2017.

If either party begins operation of a new pool facility, that party may opt out of this agreement given a written notice three months prior to the opt out date.

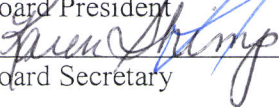
10. **Public Telephone:** The City may maintain a telephone for use by the public participating in the City swimming programs.

11. **Fiber Optic Line:** The City will, at their expense, maintain the existing 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


Board President


Board Secretary

CITY OF AMES, IOWA


Mayor


City Clerk

1/21/15; 5:00 p.m.

Email to Keith, approving agreement.

Keith,

To follow up on our telephone conversation this afternoon, I have reviewed the agreement with the Ames Community School District regarding the pool, and I am fine with the wording, have no issues with the substance, and see no problems with it.

The agreement is approved by the Legal Department.

Mark

AMENDMENT TO THE MUNICIPAL POOL JOINT USE AGREEMENT

On May 1, 2015, the City of Ames and the Ames Community School District entered into a Joint Use Agreement regarding the Municipal Pool. Section 9 states that the Agreement shall remain in full force and effect until June 30, 2017.

Realizing that this facility has reached the end of its useful life, both parties have been exploring options for replacing this structure. It is now apparent the neither party will have a replacement pool constructed before the expiration date of this Agreement. Therefore, the parties agree to amend the Agreement as follows:

1. Strike in the first paragraph of Section 9: Duration, "This agreement shall be in full force and effect for a period of two (2) years and two months from and after the date first above written to June 30, 2017" and replace with "This agreement shall remain in full force and effect until June 30, 2020."
2. Except as specifically modified in this Amendment, the remaining provisions of the Agreement shall remain in full force and effect.

Dated this 17th day of July, 2017.

AMES COMMUNITY SCHOOL DISTRICT

CITY OF AMES, IOWA


Board President

Mayor


Board Secretary

City Clerk