Agenda – Executive Policy Committee – December 5, 2023

Report – Standing Policy Committee on Community Services – November 20, 2023

Item No. 4 Pan Am Training Tank Agreement with Swim Natation Manitoba

STANDING COMMITTEE RECOMMENDATION:

On November 20, 2023, the Standing Policy Committee on Community Services did not concur in the recommendation of the Winnipeg Public Service and submitted the following to Council:

1. That the Winnipeg Public Service be directed to negotiate the terms and conditions with Swim Natation Manitoba for a 20-year agreement effective as of 2023 for near exclusive use of the facility with rates increasing by CPI, plus a phased in approach over 20 years to bring fees in line with the Council approved Fees and Charges Schedule, with the intent to accommodate as much as possible, but also reflecting the historic capital and operating contributions made by Swim Natation Manitoba to the facility.

2. That the canteen operated by Swim Natation Manitoba, from time to time, be formalized in the agreement for the purpose to secure use and operation of the canteen to assist the organization and to promote the facility.

3. That Swim Natation shall retain scheduling abilities to facilitate their own operations.

4. That the agreement contain assurances that the City of Winnipeg receive branding opportunities at international swim meets, including the Olympics.

5. That the Winnipeg Public Service report back to the Standing Policy Committee on Community Services with the terms and conditions of the agreement in 120 days.

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

Agenda – Executive Policy Committee – December 5, 2023

Report – Standing Policy Committee on Community Services – November 20, 2023

DECISION MAKING HISTORY:

STANDING COMMITTEE RECOMMENDATION:

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1. That the Winnipeg Public Service be directed to negotiate the terms and conditions with Swim Natation Manitoba for a 20-year agreement effective as of 2023 for near exclusive use of the facility with rates increasing by CPI, plus a phased in approach over 20 years to bring fees in line with the Council approved Fees and Charges Schedule, with the intent to accommodate as much as possible, but also reflecting the historic capital and operating contributions made by Swim Natation Manitoba to the facility.

2. That the canteen operated by Swim Natation Manitoba, from time to time, be formalized in the agreement for the purpose to secure use and operation of the canteen to assist the organization and to promote the facility.

3. That Swim Natation shall retain scheduling abilities to facilitate their own operations.

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

On October 31, 2023, the Standing Policy Committee on Community Services laid the matter over to its meeting on November 20, 2023.

Lainie Wintrup, Swim Natation Manitoba, submitted a communication with respect to the matter.

ADMINISTRATIVE REPORT

Title: Pan Am Training Tank Agreement with Swim Natation Manitoba

Critical Path: Standing Policy Committee on Community Services – Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
J. Sarna	C. Fernandes	N/A	M. Jack

EXECUTIVE SUMMARY

The User Agreement between the City of Winnipeg and "The Canadian Amateur Swimming Association (Manitoba Section) Inc." (now known as Swim Natation Manitoba or "SNMB"), signed on April 16, 1993, has exceeded its 20-year term and is continuing in overholding state until a new updated agreement is established and approved.

SNMB is a not-for-profit Provincial Sport Organization who, under the original User Agreement, operates near-exclusive use of the Pan Am Pool training tank directly supporting the swim clubs who book training tank time from SNMB at a price or rate determined by SNMB. The original agreement reflects the Provincial/Municipal and Manitoba Sports Federation capital contribution of nearly $3 million in 1993 towards the development of the training tank addition in the late 1990s and required SNMB to pay an annual user fee as a contribution towards operating costs.

Since September 2022, SNMB has paid a monthly fee of $11,619 over 12 months ($139,428 annually), with near-exclusive use access of the training tank from September – June each year. In this situation, near-exclusive refers to use of the training tank for the purposes of SNMB using the lanes during defined times and days of the week from September to June. It does not qualify under the same conditions where a lease would apply.

Community Services has received SNMB's intent to negotiate a new agreement under similar terms and fees to the original 1993 agreement. The Public Service is seeking authority to negotiate a new agreement with the intent to continue to provide near-exclusive use of the training tank area for SNMB member swim clubs during the negotiated times, but with the City of Winnipeg assuming full reservation responsibility of the training tank, in accordance with the City of Winnipeg Fees and Charges Schedule. SNMB would no longer pay a set monthly fee; instead, they would pay for use of the training tank at the rates established in the Fees and Charges Schedule.

If it is determined that a new FTE is needed to administer the new reservation responsibilities, a request will be made through the regular budget process (with all costs anticipated to be offset through increased revenue).

In addition to specified times of exclusive use, the proposed agreement will address shared-use of certain equipment and use of the video board adjacent to the training tank.

RECOMMENDATIONS

1. That the City enter into, execute, and deliver a User Agreement with Swim Natation Manitoba for near-exclusive use of the Pan Am Pool training tank in accordance with City of Winnipeg Fees and Charges, and such other agreements as determined necessary by the City Solicitor / Director of Legal Services to implement the intent of the foregoing (the "Ancillary Agreements").

2. That authority be delegated to the Chief Administrative Office to negotiate and approve the terms and conditions of the User Agreement and the Ancillary Agreements in accordance with this report and such other terms and conditions deemed necessary by the City Solicitor / Director of Legal Services to protect the interests of the City.

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

REASON FOR THE REPORT

Council approval is required to negotiate a long-term agreement with SNMB.

IMPLICATIONS OF THE RECOMMENDATIONS

The financial impact of a new long-term Agreement with SNMB is unknown at this time. It is expected that departmental revenues will increase, but until such time that the negotiations are complete, the full incremental revenues cannot be known with certainty.

Under new negotiated terms, SNMB will retain near-exclusive use of the training tank for its member swim clubs during the negotiated times, but will no longer manage the reservation scheduling to swim clubs nor set its own rates. The City will have full reservation responsibility of the training tank. As the City maintains the public swimming pool operating permit as per *The Public Health Act*, managing the training tank would maximize full control and assurance of safe use.

Operational and scheduling control over the training tank may require one additional FTE, Head Instructor Guard, to oversee increased reservations and responsibilities. However, it is expected that increased revenue will offset any additional staff required to carry out the increase in workload. If it is determined that a new FTE is needed, the request would be made through the regular budget process.

HISTORY/DISCUSSION

The previous Winnipeg Sports Facility Program (a collaboration of the Government of Manitoba, the City of Winnipeg and the Manitoba Sports Federation Inc.) was created to construct major sport facilities in Winnipeg by providing grants to qualified Project Sponsors to develop community sport facilities resulting in long term benefits for amateur sport. On April 16, 1993,

Swim Natation Manitoba (then referred to as the Canadian Amateur Swimming Association (Manitoba Section) Inc.) entered into a 20-year agreement with the City of Winnipeg as a Project Sponsor for the development of the Pan Am Pool expansion (the "1993 Agreement). The expansion resulted in the creation of the training tank portion of the Pan Am Pool and included a 50-meter, 8-lane training tank pool and a separate shallow kiddie pool with a spray feature.

Swim Natation Manitoba's (SNMB) purpose, as referenced in the 1993 Agreement as the "User", was to provide amateur competitive swimming and related instructional programs and related activities, as approved by the General Manager of Parks and Recreation. Within this agreement, the Winnipeg Sports Facility Program contributed 100 percent of the $2,999,361.00 project cost in 1993 and SNMB was to pay annual user fees toward operating costs. The annual user fee established at that time was $75,000 charged on a monthly basis and subject to annual Consumer Price Index increases, in exchange for 47 hours per week of exclusive training tank access for 46 weeks per year. Monthly fees were suspended during periods of recreation facility closures during the pandemic as follows:

- 2020 – April, May, June, July, November and December
- 2021 – January, February and July

The City and SNMB have continued operating under the terms of the 1993 Agreement since its expiration on April 16, 2013. On July 10, 2019, the City, by way of letter, contacted SNMB advising of the need to negotiate a new agreement. The process was consequently delayed due to the pandemic and service interruptions. SNMB was recently advised their agreement will not extend beyond August 31, 2024. A new agreement is necessary to also identify roles and responsibilities for shared equipment for swim events, use and responsibility of the video board, advertising guidelines, and related terms and conditions to support SNMB's various activities in hosting provincial, national and international events.

In addition, a new agreement will provide an opportunity for both the City and SNMB to ensure alignment between SNMB and key City of Winnipeg strategies and policies, including the Winnipeg Recreation Strategy and the Poverty Reduction Strategy. Both strategies speak to the need for service accessibility and access to recreational activities regardless of physical, social, economic, environmental, or systemic barriers. For example, as outlined in goal 6.10 of the Poverty Reduction Strategy's 18-month Implementation Plan, when agreements with major sports complexes are renewed, a review of 'amateur access' requirements is important in order to increase and more clearly define expectations related to opportunities for facility access by community groups who offer programs and services to First Nations, Métis, Inuit, Black, racialized and religious minority groups, women, and people with a disability, particularly those working in areas of higher poverty. Building these discussions into the negotiation process will not only help to ensure alignment with City planning goals, but will also consider access to City facilities for all residents.

Swim Natation Manitoba (SNMB)

SNMB's mission is to lead a "thriving and supportive swim community, inspiring Manitobans to embrace swimming as a sport for life." They value fairness and inclusion, community working in cooperation, and evolution and innovation. SNMB is a not-for-profit Provincial Sport Organization, the governing body supporting competitive swim clubs such as the Manitoba Marlins Swim Club, Manta Swim Club, and Manitoba Masters Aquatic Club. The SNMB hosts sanctioned local, provincial and national swim meets.

Following a meeting with SNMB's Board of Directors and Executive Director on August 25, 2023, SNMB has expressed their intent to negotiate with the City for the benefit of their members and community.

Agreement Fee

In 1993, a fee structure was established for a 20-year period. The original funding formula acknowledged the original capital investment of $2,999,361.00 and a number of variables in a complex calculation to capture operating expenses and a fair charge. This fee was subject to Consumer Price Index (CPI) each year and has since provided a subsidy to the swim clubs when compared to the fee charged to other non-profit organizations.

Under the terms of the 1993 Agreement, SNMB was first charged $75,000 for the first year plus applicable taxes, subject to CPI adjustments annually, with the annual fee charged monthly. Effective September 2020, the fee is $11,619 per month ($139,428 annually), with exclusive use access from September – June each year. The 1993 Agreement allows for SNMB to manage bookings of the Pan Am training tank to its associated member clubs during specified times and days of the week, totaling 47 hours per week for 46 weeks of the year, generating income for SNMB. Under a new agreement, any future use of the training tank would be subject to fees as outlined in the City of Winnipeg Fees and Charges Schedule similar to pool rates charged to other organizations. Based on the current amount of near-exclusive use swim time reserved for SNMB, the estimated annual fees for 2022 would have been $332,400 charged at the non-profit rate as per the 2022 Fees and Charges. Fees charged by SNMB to the swim clubs through the current arrangement is less than the fees charged by the City for pool use to other organizations and users of the pool.

The Public Service proposes that SNMB retain near-exclusive use of the training tank for its member swim clubs during the negotiated times but they would no longer manage the reservation scheduling to swim clubs. The City would then have full reservation responsibility for the Pan Am facility, including the training tank. The City maintains the public swimming pool operating permit as per *The Public Health Act*, and managing the training tank would maximize full control of the tank and the surrounding area, and provide assurance that it's use is safe and in alignment with key City of Winnipeg strategies and policies.

Presently, SNMB sets the fees it charges to its member swim groups, and generates income from the sale of pool time. This would not continue under the terms and conditions of a new agreement. Under the new proposed approach, the Council-approved rates would be consistently charged to all organizations that book the pool tanks, including SNMB and its member swim clubs. SNMB would not pay a set monthly fee as in the 1993 agreement; instead, it would pay for the specific times it uses the training tank.

Operational and scheduling control over the training tank may require one additional FTE, Head Instructor Guard, to oversee increased reservations and responsibilities. However, it is expected that the increased revenue will offset any additional staff required to carry out the increase in workload. If it is determined that a new FTE is needed, the request would be made through the regular budget process.

The Fees and Charges non-profit rate provides a reduced hourly fee to all non-profit organizations who wish to book the training tank pool. An agreement that provides a further subsidized rate to SNMB or any other organization beyond this amount requires Council approval.

FINANCIAL IMPACT

Financial Impact Statement Date: September 18, 2023

Project Name:

Pan Am Training Tank Agreement with Swim Natation Manitoba

COMMENTS:

There are no financial implications associated with the recommendations of this report.

The report is seeking the authority to negotiate a new agreement with Swim Natation MB with the intent to continue to provide exclusive use of the training tank area at Pan Am Pool for Swim Natation MB member clubs.

Until such time that the negotiations are complete the financial implications cannot be known with certainty.

Ozzy Garrett - September 18, 2023

Ozzy Garrett CPA, CGA
Manager of Finance
Community Services Department

CONSULTATION

This Report has been prepared in consultation with:

- Legal Services (as to legal issues).

OURWINNIPEG POLICY ALIGNMENT

Goal: Leadership and Good Governance
Policy 1.8 Accountable Revenue Generation

Goal: Economic Prosperity
Policy 3.16 Optimize Facility Access
Policy 3.21 Community Capacity Development

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

Consideration was given as to whether this report connects to the Winnipeg Climate Action Plan (CAP), and it was determined that the CAP is not applicable to this specific report.

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

GOAL 6: All City Services are Equitable, Inclusive and Accessible.

SUBMITTED BY

Department: Community Services
Division: Recreation Services
Prepared by: J. Sarna
Date: Sept 18, 2023
File No: CMS-2023-12