Minutes – Council – January 30, 2025

Minute No. 112
Report – Standing Policy Committee on Community Services – January 10, 2025

Item No. 2 User Agreement between Swim/Natation Manitoba Inc. and the City of Winnipeg

COUNCIL DECISION:

Council concurred in the recommendation of the Standing Policy Committee on Community Services and adopted the following:

1. That the proposed Terms and Conditions for a User Agreement in favor of Swim/Natation Manitoba Inc. for the proposed use of the Pan Am Training Tank and other amenities at 25 Poseidon Bay, and attached hereto as Attachment A, be approved.

2. That the City enter into, execute and deliver a User Agreement with Swim/Natation Manitoba Inc. for the use of the Pan Am Training Tank and other amenities at 25 Poseidon Bay and such other agreements as determined necessary by the City Solicitor/Director of Legal Services ("Ancillary Agreements").

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

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DECISION MAKING HISTORY:

Moved by Councillor Santos,

That the recommendation of the Standing Policy Committee on Community Services be adopted.

Carried

Councillor Orlikow was absent for the vote on the above motion.

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On January 21, 2025, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Community Services and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On January 10, 2025, the Standing Policy Committee on Community Services concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

On October 1, 2024, the Standing Policy Committee on Community Services concurred in the recommendation and granted an extension of time of up to 90 days for the Winnipeg Public Service to report back on the following:

1. That the Winnipeg Public Service be directed to negotiate the terms and conditions with Swim Natation Manitoba for a 20-year user agreement effective as of September 2024, upon successful conclusion of negotiations, for near exclusive use of the Training Tank located within the Pan Am Pool ("the Tank") with rates increasing annually, 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.

COUNCIL DECISION:

On May 8, 2024, Council concurred in the recommendation of the Standing Policy Committee on Community Services and adopted the following:

1. That the Council decision of December 14, 2023, be amended as follows:

A. That Recommendation 1, as approved by Council, be replaced with the following:

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Report – Standing Policy Committee on Community Services – January 10, 2025

DECISION MAKING HISTORY (continued):

COUNCIL DECISION (continued):

"1. That the Winnipeg Public Service be directed to negotiate the terms and conditions with Swim Natation Manitoba for a 20-year user agreement effective as of September 2024, upon successful conclusion of negotiations, for near exclusive use of the Training Tank located within the Pan Am Pool ("the Tank") with rates increasing annually, 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."

B. That Recommendation 2, as approved by Council, be replaced with the following:

"2. That terms and conditions relating to the operation of 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 Tank."

2. That the Winnipeg Public Service be directed to report back to the Standing Policy Committee on Community Services in 120 days.

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

STANDING COMMITTEE RECOMMENDATION:

On April 10, 2024, the Standing Policy Committee on Community Services concurred in the recommendation of the Winnipeg Public Service, as amended, and granted an extension of time of 30 days for the Winnipeg Public Service to report back on the following:

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.

Report – Standing Policy Committee on Community Services – January 10, 2025

DECISION MAKING HISTORY (continued):

COUNCIL DECISION:

On December 14, 2023, Council concurred in the recommendation of the Standing Policy Committee on Community Services and adopted the following:

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.

ADMINISTRATIVE REPORT

Title: User Agreement between Swim/Natation Manitoba Inc. and the City of Winnipeg

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

AUTHORIZATION

Author	Department Head	CFO	CAO
J. Sarna	C. Fernandes	T. Graham	S. Armbruster, Interim CAO

EXECUTIVE SUMMARY

The Public Service and Swim/Natation Manitoba Inc. (Swim MB) negotiated a 20-year user agreement. This agreement is for near-exclusive use of the Pan Am Pool Training Tank located at 25 Poseidon Bay. The User Agreement details access to identified office, storage, and training spaces at the Pan Am Pool facility. Schedule A outlines the specific terms of use.

Swim MB, (a non-profit organization), shares a long-time working relationship with the City. Both are strong supporters of amateur and competitive aquatic sport programming and competitions.

The 20-year User Agreement is for the period September 1, 2024, until August 31, 2044. The original 1993 Pan Am Training Tank Agreement was considered in drafting this agreement. It considered the historic capital and operating contributions made by Swim MB to the Pan Am Pool facility.

RECOMMENDATIONS

1. That the proposed Terms and Conditions for a User Agreement in favor of Swim/Natation Manitoba Inc. for the proposed use of the Pan Am Training Tank and other amenities at 25 Poseidon Bay, and attached hereto as Attachment A, be approved.

2. That the City enter into, execute and deliver a User Agreement with Swim/Natation Manitoba Inc. for the use of the Pan Am Training Tank and other amenities at 25 Poseidon Bay and such other agreements as determined necessary by the City Solicitor/Director of Legal Services (“Ancillary Agreements”).

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

REASON FOR THE REPORT

At the May 30, 2024, meeting, Council concurred in the recommendation of the Standing Policy Committee on Community Services and directed the Public Service to report back to the Standing Policy Committee within 120 days the status of the negotiations with Swim MB for the near exclusive use of the Training Tank at the Pan Am Pool. Furthermore, Council adopted the general considerations for an updated User Agreement as amended:

1. *That the Council decision of December 14, 2023, be amended as follows:*

    A. That Recommendation 1, as approved by Council, be replaced with the following:

    "1. That the Winnipeg Public Service be directed to negotiate the terms and conditions with Swim Natation Manitoba for a 20-year user agreement effective as of September 2024, upon successful conclusion of negotiations, for near exclusive use of the Training Tank located within the Pan Am Pool ("the Tank") with rates increasing annually, 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."

    B. That Recommendation 2, as approved by Council, be replaced with the following:

    "2. That terms and conditions relating to the operation of 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 Tank."

2. *That the Winnipeg Public Service be directed to report back to the Standing Policy Committee on Community Services in 120 days.*

At the October 1, 2024, meeting, the Standing Policy Committee of Community Services granted a 90-day extension to report back.

IMPLICATIONS OF THE RECOMMENDATIONS

The proposed User Agreement is for a full term of 20 years. After the first 10 years, the base rate of pay of $200,000.00 per year increases to $275,000.00 per year plus applicable CPI and taxes. There are no options to renew the agreement beyond the full term. The User Agreement may be terminated by either party with 120 days written notice.

Swim MB will have the right to allocate the Training Tank space to provincial sport organizations during the agreed scheduled hours for the purpose of amateur sport development in competitive swimming, diving, water polo, artistic swimming, and triathlon activities.

The User Agreement includes exclusive and shared access to identified office, storage and training spaces supportive of Swim MB and the provincial sport organizations activities on site. In addition to specified times of the training tank usage, the proposed agreement addresses shared-use of certain equipment, use of the canteen and kitchen for events as well as use of the video board adjacent to the training tank.

The City of Winnipeg maintains the responsibility of operating the facility under the regulations of the Manitoba Public Health Act - *Swimming Pools and Other Water Recreational Facilities Regulation (MR 132/97).*

Any operating surplus generated by Swim MB's use of the Training Tank and allocation of use to provincial sport organizations will be placed in a reserve account by Swim MB to be utilized for the purpose of amateur aquatic sport development and facility improvement at the Pan Am facility, as mutually determined by the City and Swim MB.

HISTORY/DISCUSSION

History

The original User Agreement between the City of Winnipeg and "The Canadian Amateur Swimming Association (Manitoba Section) Inc." (now known as Swim/Natation Manitoba Inc., "Swim MB"), signed on April 16, 1993, had exceeded its 20-year term and continues in an overholding state until a new User Agreement is approved.

Swim MB 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 Swim MB at a price or rate determined by Swim MB.

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 Swim MB to pay an annual user fee as a contribution towards operating costs.

In acknowledgment of the historical capital contribution and significance of amateur aquatic athlete development in Winnipeg and the province, a new User Agreement has been negotiated to reflect the contributions of Swim MB to the facility and economy.

Terms and Conditions

The Public Service has negotiated the Terms and Conditions of a proposed User Agreement with Swim MB. This agreement is for the near-exclusive use of the training tank during specific weeks and hours identified at the Pan Am Pool Training Tank located at 25 Poseidon Bay (Attachment A).

In recognition of the historic capital and operating contributions in the original 1993 Pan Am Training Tank Agreement, an updated User Agreement reflects a period of 20 years, beginning September 1, 2024, until August 31, 2044.

The User Agreement will include near-exclusive access to the Training Tank at specified times and days.

Swim MB will have the right to allocate the Training Tank to provincial sport organizations during the Scheduled Hours identified for the purpose of amateur sport development in competitive swimming, diving, water polo, artistic swimming, and triathlon.

Shared access will be provided to areas such as the Timing Booth, Office Space, Canteen and associated amenities including the scoreboard, video board, and identified facility equipment. Areas of exclusive use for storage and club offices are identified in the Terms and Conditions.

Swim MB will charge the named provincial organizations at a rate which reasonably reflects a recovery of Swim MB's costs. Any operating surplus generated by Swim MB's use of the Training Tank and allocation of use to provincial sports organizations will be placed in a reserve account to be utilized for the purpose of amateur aquatic sport development and facility improvement at the Pan Am facility as mutually agreed to.

The City of Winnipeg will receive branding opportunities at all swim meets and the City will be acknowledged in all media, public activities, or promotions connected with the athletes' participation at international swimming competitions.

Alignment to Winnipeg Recreation Strategy

The User Agreement terms and conditions align with the Winnipeg Recreation Strategy. The Pan Am Pool identifies as a city-wide recreation facility as a major competitive aquatic sports venue. This User Agreement reflects a partnership demonstrating the leveraging of resources and program collaboration with a non-profit sport organization in support of amateur aquatic sport development.

FINANCIAL IMPACT

Financial Impact Statement **Date:** November 21, 2024

Project Name: **First Year of Program** **2024**

User Agreement between Swim/Natation Manitoba and the City of Winnipeg

	2024	2025	2026	2027	2028
Capital					
Capital Expenditures Required	$ -	$ -	$ -	$ -	$ -
Less: Existing Budgeted Costs	-	-	-	-	-
Additional Capital Budget Required	$ -	$ -	$ -	$ -	$ -
Funding Sources:					
Debt - Internal	$ -	$ -	$ -	$ -	$ -
Debt - External	-	-	-	-	-
Grants (Enter Description Here)	-	-	-	-	-
Reserves, Equity, Surplus	-	-	-	-	-
Other - Enter Description Here	-	-	-	-	-
Total Funding	$ -	$ -	$ -	$ -	$ -
Total Additional Capital Budget Required	$ -				
Total Additional Debt Required	$ -				
Current Expenditures/Revenues					
Direct Costs	$ -	$ -	$ -	$ -	$ -
Less: Revenue - Swim Natation MB	$ 66,667	$ 204,000	$ 208,000	$ 212,000	$ 216,000
Net Cost/(Benefit)	$ (66,667)	$ (204,000)	$ (208,000)	$ (212,000)	$ (216,000)
Less: Existing Budget Amounts	(66,667)	(204,000)	(208,000)	(212,000)	(216,000)
Net Budget Adjustment Required	$ -	$ -	$ -	$ -	$ -

Additional Comments:

There is no net budget adjustment required as a result of the recommendations in this report.

Incremental revenue represents the value of the proposed Terms and Conditions of the User Agreement with Swim/Natation Manitoba Inc. for the use of the Pan Am Training Tank effective September 1, 2024. The annualized revenue value of $200,000 in 2024 (prorated effective Sept 1, 2024) increases by an estimated rate of inflation of 2% per annum for illustration purposes (the actual rate of inflation will be confirmed each year). Existing budget amounts represent the budgeted value of facility rental revenue already included in the 2024 adopted and 2025-2028 draft budget of the Community Services Department.

Ozzy Garrett CPA, CGA - Nov 21/24

Ozzy Garrett CPA, CGA
Manager of Finance
Community Services Department

CONSULTATION

This Report has been prepared in consultation with:

- Legal Services
- Corporate Finance - Risk Management Division

OURWINNIPEG POLICY ALIGNMENT

OurWinnipeg (2011)

01 Recreation
01-3 Prosperity
Direction 8: Encourage activities beneficial to the Winnipeg economy.
01-5 Recreation
Direction 4: With Community Partners, participate as a leader in planning and delivering recreation and leisure services in Winnipeg.
Direction 6: Plan for a sustainable and connected recreation and leisure infrastructure.

03 Quality of Life
03-1 Opportunity
Direction 2: Provide equitable access to municipal programs, services and facilities.
03-2 Vitality
Direction 7: Recognize and support the essential role that volunteers and volunteerism play in building a health and vibrant Winnipeg.

OurWinnipeg Development Plan (2045)

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: November 22, 2024
File No: CMS-2024-04

Attachments:

Attachment A – Proposed Terms and Conditions