



STAFF REPORT ACTION REQUIRED

Toronto District School Board (TDSB) and City of Toronto (City) Agreement for City's Use of School Pools (2012-2017)

Date:	April 5, 2012
To:	Community Development and Recreation Committee
From:	General Manager, Parks, Forestry and Recreation
Wards:	All
Reference Number:	P:\2012\Cluster A\PFR\CD12-042412-AFS#15143

SUMMARY

This report requests the approval of the updated *Agreement between the Toronto District School Board (TDSB) and the City of Toronto (City) for the City's Use of School Pools*. It will provide for the continuation of City delivered community swimming opportunities in 33 TDSB schools - after school hours and on weekends September through June, and full hours of use for summer months. The Agreement will also flow the funding for the TDSB to continue provision of swimming for children during the school day. The fees have been reduced by \$285.3 thousand less than approved in the 2012 Community Recreation operating budget. The most recent Agreement called *The Letter of Understanding between the City of Toronto and the Toronto District School Board for School Pools* expires May 30th, 2012. The renewal of this agreement provides updated terms for the next five years, and will expire June 30th, 2017.

RECOMMENDATIONS

The General Manager of Parks, Forestry and Recreation Division recommends that:

1. City Council approve the Agreement between the City of Toronto and the Toronto District School Board (TDSB) for the use of school pools from June 1, 2012 through to June 30, 2017.

Implementation Points

The approval of the agreement will be before the TDSB on April 11, 2012. Upon the TDSB Board approval and Council approval of the Agreement, the document will be signed by the Chairman of the TDSB and the Mayor of the City and will take effect on June 1st 2012.

Financial Impact

The City's new agreement with the TDSB for evening, weekend, and summer usage for 33 of its pools is fully funded within the 2012 Operating Budget.

The draft Agreement represents a 1% reduction in fees for 2012 compared to 2011 and a discount of over 10% when compared to TDSB's projection on full operating costs for its 33 pools in 2012. As the operating budget included projected fee increases, the planned payments for 2012 will result in a favourable operating budget variance of \$0.285 million in 2012.

The following table shows the fees negotiated within the Agreement and projects future annual fees for 2013 through 2017 based on estimated future year Statscan CPI increases of 1.6%.

<u>TDSB LOU Agreement Financial Summary</u>					
Year	TDSB Fee Schedule *	Total (Including HST)	Projected & Actual Payments	Budget*	Operating Budget Variance
2012	5,923,628	6,027,884	5,920,884	6,206,200	285,316
2013	6,018,406	6,124,330	6,124,330	6,124,330	-
2014	6,114,701	6,222,320	6,222,320	6,222,320	-
2015	6,212,536	6,321,877	6,321,877	6,321,877	-
2016	6,311,936	6,423,026	6,423,026	6,423,026	-
2017	6,412,927	6,525,795	6,525,795	6,525,795	-
Notes:					
* Agreement & Budget in years 2013 through 2017 is based on 2012 Core CPI increase of 1.6% .					

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

The most recent agreement called "the Letter of Understanding between the City of Toronto and the Toronto District School Board for City Use of School Pools 2008-2011" outlined the terms by which the City would use Toronto District School Board swimming pools for community programs and defined the associated fees for this use.

<http://www.toronto.ca/legdocs/mmis/2008/cc/decisions/2008-01-29-cc16-dd.pdf> PG. 9

At its meeting on August 25, 2010, City Council authorized the General Manager of Parks Forestry and Recreation to enter into discussions with the TDSB regarding the continued use of school pools beyond the term of the current agreement.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2010.MM52.5>

At its meeting on September 7, 2010 the TDSB approved a motion authorizing the Toronto Lands Corporation (TLC) to lead the discussion with the City on an agreement for leasing of the TDSB's pools by the City, with input from the Toronto District School Board staff and Trustees.

On January 17, 2012, Council approved the 2012 Operating Budget for Parks, Forestry and Recreation which provided funding for the continued operation of City programs at 33 TDSB pools. City Council also approved a motion for the City Manager to work with the Toronto Lands Corporation to reduce the cost of the operating agreement for City operated school pools.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2012.EX14.1> Rec. #179, 185-189

ISSUE BACKGROUND

History

Prior to amalgamation, the school board pools in the six former municipalities were, for the most part, the subject of shared-use agreements with their corresponding Board of Education. The municipalities planned and jointly used many, but not all, of their school board's pools. Historically, funding for school pools was provided through education taxes levied by the Boards of Education and collected by the municipalities. This funding was eliminated at the time of amalgamation when the Province took over funding of education in Ontario through an education funding formula which does not cover the costs to operate pool facilities.

TDSB Operated Pools

In 2008, there were 39 school pools funded and operated exclusively by the TDSB. Following almost a decade without funds for these pools, the TDSB considered closing them. The Board decided to assign the management of the non-city-supported-pools to the Toronto Lands Corporation (TLC) in an effort to save these assets.

As part of this process, the TLC gathered and consulted interested individuals on determining which pools should be supported and how to find new permit revenue to cover their costs. This group formed the "Aquatic Working Group" (AWG). A State of Repair Audit of these facilities was undertaken by the TLC and as a result, seven pools were closed due to low usage and high operational costs. One other pool was closed as a result of school relocation. The TLC reduced permit fees; created a pool permit website and was successful in securing capital funding from the Provincial Government for capital improvements and repairs to the remaining 31 exclusive TDSB pool facilities.

City-Operated School Pools

The City's use of TDSB pools was governed through a negotiated agreement that was first developed in 2003. The Agreement was further developed in 2007 for a four year term, bringing us to the current renewal period.

Current Agreement

A Steering Committee began meetings in December 2010 to discuss terms for a new agreement. The Committee was chaired by the General Manager of Parks, Forestry and Recreation and included the Chief Facilities Officer of the TDSB, the Chair of TLC and the Chief Executive Officer of TLC. The Chief Executive Officer of TLC also convened a Working Group in January 2011 with representatives from Parks, Forestry and Recreation, TDSB, and the TLC. This group gathered and analyzed data on pool operating and capital costs as well as permit fee revenue and pool utilization. These findings informed the steering committee's discussions and the details of new consultation with the Aquatic Working Group, which occurred throughout the period of negotiations and were helpful in shaping the agreement.

COMMENTS

2012 Operating Budget

On January 17, 2012 City Council approved its 2012 Operating Budget for Parks, Forestry and Recreation. Additional motions were approved that impacted the negotiations of the Steering Committee. The City Manager was requested to work with the TLC to reduce the cost of the operating agreement for City operated in-school pools.

On this end, there are two developments that have fed into the reduction of the operating agreement. A reduction of \$100,000 in fees from 2011 to 2012 was realized through the efforts of the TDSB to achieve savings and efficiencies in operating and maintenance costs associated with each of the 33 pools. In addition, the TDSB agreed to charge the CPI % increase beginning in 2013, creating a favourable impact that reduces the 2012 cost by \$0.285 million than was approved in the Parks, Forestry and Recreation's 2012 Operating Budget.

The 2012 fee reduction creates a lower base rate in 2012 going forward for which the future CPI percentage increases will be applied year after year. Assuming a static CPI

increase of 1.6% over the lifetime of the agreement, there will be cumulative savings in fees of \$1.2 million over the 5 year term.

Agreement Highlights

The negotiated agreement captures the clauses within the previous agreement which proved to work well in the delivery of community swimming programs by the City in TDSB school pools. These clauses include access times and regulated responsibilities; facility operation and maintenance responsibilities; and health and safety responsibilities.

The table below highlights key differences in the previous agreement to the updated negotiated agreement.

2008-2011 Agreement	Negotiated 2012-2017 Agreement
4 year term concluding December 31, 2011 with an extension to May 31, 2012	5 year term concluding June 30, 2017
Annual CPI Statscan increase for each year of the agreement	Annual CPI Statscan increase delayed until January 1, 2013 (currently at 1.6% but fluctuates each year)
4 month notice period to change the number of pools utilized	Notice must occur on January 1 st for any change in number of pools to commence September 1st
Lack of provision for City access to pools on March Break and Christmas school breaks	Access provided for City programs during Christmas Break and March Break in Scarborough and North York on non-statutory or Board designated holidays with additional caretaker overtime charges
No provision for signage for public awareness and way finding	Public signs, where needed to identify exterior pool entrances and interior way finding to be installed with shared costs.
No reference to the special nature of the TDSB's relationship with the City in the joint use and financial assistance provided by the City in the delivery of aquatic programs	The first clause recognizes the partnership of the TDSB with the City in the joint use and support of TDSB pool assets in the seamless delivery of aquatic programming and services to the citizens of Toronto.

CONTACT

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SIGNATURE

Jim Hart
General Manager, Parks, Forestry and Recreation

ATTACHMENTS

Attachment 1 - Negotiated Agreement (with Appendices A: City Charges, B: Regulation
565 Equipment Requirements, C: Protocol for Scheduling,
communication and Problem Solving)

Negotiated Agreement **Attachment 1**
Between the City of Toronto and the Toronto District School Board
For Use of School Pools

June 1, 2012 through June 30, 2017

The City of Toronto (The City) and the Toronto District School Board (TDSB) agree to the following conditions regarding the City use of TDSB swimming pools:

General

1. As this is a separate and distinct agreement from those of individual TDSB pool permit holders, it is understood that the City is not a permit group but a "partner" with the TDSB in the seamless delivery of aquatic programming and services to the citizens of Toronto.
2. This agreement shall expire on June 30, 2017. The parties, represented by the General Manager of Parks, Forestry and Recreation or designate for the City and the Chief Facilities Officer or designate for the TDSB, agree to begin discussions/negotiations on the extensions of the contract beyond June 30, 2017, and the related terms and conditions, no later than June 30, 2016.
3. The TDSB, or a designated and qualified third party on their behalf, shall be the on-site *designated Owner and Operator* of its Pools in accordance with the Ontario Health Protection and Promotion Act - R.R.O. 1990, Public Pools Regulation 565, Amended to O. Reg. 179/02, hereafter referred to as "Regulation 565" and other pertinent legislation. When the City of Toronto is operating public programs in TDSB pools, the City is the designated operator of the program in accordance with Regulation 565 and as such has all jurisdictions over the City's public program decisions. In these situations, the TDSB is the Facility Owner Operator and has jurisdiction over the facility operation.
4. Except where the TDSB advises of immediate closures for maintenance, the City of Toronto or the Toronto District School Board shall, give notice to the other party on January 1 to come into effect by September 1st of each year, regarding deletions or additions to the list of pools which is utilized for programs. Payments to be made by the City for operating costs shall be adjusted accordingly.
5. The TDSB agrees to makes its best effort to develop a reliable means to track the participation within allocated times for pools within the agreement. Usage information from both the City and the TDSB shall be shared upon request.

Fees

6. The City shall utilize swimming pools in TDSB schools to conduct Parks Forestry and Recreation permits and programs for the agreed upon fee as set out in ***Appendix A –TDSB Pool Operating Charges for City Use***. The fees are set per pool and beginning January 1, 2013 shall increase as per the annual CPI Statscan percentage increase.
7. The fees identified in Appendix A constitute the total obligation payable to TDSB for use of the pools listed in the same Appendix A. There shall be no other costs assessed to the City of Toronto for the use of these pools including but not limited to capital costs, caretaking,

maintenance, utilities, supplies or safety equipment listed in Regulation 565. The TDSB shall be responsible for all costs associated with maintenance, custodial services, security and utilities. The only exception is custodial overtime costs associated in holiday periods as in Clause 18.

8. For aquatic programs which require a classroom permit in addition to the pool, and only one caretaker is required for both, there shall be no further charge for caretaking fees for the classroom portion of the permit.
9. The city shall retain any revenue associated with its use of these pools, including program registration and permit fees.
10. It is anticipated that maintenance or repairs up to a cost of \$250,000 will be undertaken by the TDSB. When major maintenance or repairs is estimated to exceed \$250,000 for a specific pool, approval from the Board may need to be obtained. If the pool is considered to be unsafe, it will be closed until the repairs, if approved, are completed. The TDSB shall advise the City of any pending pool closures. The City may choose another TDSB pool to continue swimming programs and continue to pay the appropriate fees to the TDSB, as stated in item 6, for the use of the alternative pool or give immediate notice of cancellation of use. No further charges to the City for the identified inoperable site would apply.
11. With the exception of the clauses concerning statutory holidays and pre-approved shut down maintenance periods, the City shall not be obligated to make full payment for any period of closure which exceeds one week. Fifty percent (50%) of the calculated amount shall be deducted, at a daily rate, from the annual contribution for use of the site.
12. Fee payments by the City to the TDSB are due in equal quarterly instalments in advance on the 1st days of January, April, July and October of each year.

Access

13. TDSB has access for student use of the pools from 7:00 a.m. – 6:00 p.m. September through to the end of June.
14. The City shall have exclusive access to the pool from January 1, to June 30, and September 2 (or the day after Labour Day Monday) to December 31 from 6 p.m. to 10 p.m. (out of the building by 10:15 p.m.) Monday to Friday and 8 a.m. to 10 p.m. (out of the building by 10:15 p.m.) on Saturday and Sunday. The City shall have exclusive access to the pool facility from July 2 to August 31 (or the Sunday of Labour Day weekend) from 8 a.m. to 10 p.m. (out of the building by 10:15 p.m.) Monday to Sunday.
15. The City shall not have access to TDSB pools on the following Statutory and Board designated Holidays: New Years Day, Family Day, Good Friday, Easter Monday, Victoria Day, Canada Day, Civic August holiday, Labour Day, Thanksgiving Day, Christmas Day, Boxing Day and the Board designated day for Remembrance day unless additional caretaking charges are paid by the City as per item 16.
16. The TDSB shall provide access for City programs during Christmas and March Break programs at locations in Scarborough and North York on non-statutory or Board designated holidays with additional overtime caretaker charges.

17. In consultation with the City the TDSB may schedule up to 2 weeks for planned maintenance shutdown without reduction in fees. The TDSB must consult with the City on specific dates of shut down periods and give appropriate and reasonable notice. The TDSB must consult with the City on any additional Pool closures due to caretaker scheduling or special school events and provide appropriate and reasonable notice. No closures outside these agreed upon dates shall be afforded unless an emergency repair is required, a deep cleaning of the pool and related areas are required or there is a labour disruption or similar event.
18. The City operates public programs which are advertised in Parks Forestry and Recreation brochures 6 months in advance of program commencement. Lessons are offered as a guaranteed number of classes per session. The TDSB agrees to provide the city with appropriate and reasonable notice in the event of any necessary closure.
19. To confirm access to the pool, City staff will submit a copy of the program schedule (calendar) to TDSB staff (Head Caretaker and Permit Office).
20. The TDSB will ensure access is provided to City staff and patrons for all hours according to the schedule submitted by the City. A method for immediate contact of the caretakers at the school shall be provided for each school to City staff, should the doors not be unlocked. "TDSB After-hours emergency" contacts will be contacted should the caretakers not be available.
21. It is understood that City aquatics staff are to be on site prior to participants in City programs as well as City clients/permit holders gaining pool facility access.

Facility Operation and Maintenance

22. Where there is no exterior public signage identifying the public entrance doors for pool access, the TDSB shall install sufficient signs to guide new clients to the appropriate exterior entrance to the pool. Where interior signs are needed to guide the public down the appropriate corridors to the change rooms or pool office, appropriate signs shall be installed. The cost for the production and installation of the signs will be shared on an equal basis by the City and the TDSB.
23. The TDSB shall provide a safe pool environment including all required equipment according to Regulation 565. See ***Appendix B – Regulation 565 Equipment Requirements***.
24. The TDSB shall perform all daily, weekly and monthly pool inspections, testing, and pool safety audits as required under Regulation 565 to ensure safe operation of the pool, and shall maintain all required operational records.
25. On-site city staff shall be permitted to review all records, including log books and health department inspection reports relating to pool operation.
26. TDSB caretaking staff will make every attempt to manage a pool fouling immediately upon being informed of the situation. City staff may remain on the pool deck to deliver "dry" lessons to students until such time as entry into the water is safe or program is ended for the day.

27. Water clarity and water quality is to be given a high priority by maintenance staff. TDSB caretaking staff will ensure that pool water chemistry is balanced and maintained in accordance with Regulation 565 in order to promote health, safety and patron comfort. Water chemical readings shall be taken prior to the first City program and every two hours during operation, as per Regulation 565. Caretakers shall make all necessary adjustments to the chemicals to meet minimum standards in time for City program daily opening. All readings shall be recorded in the pool log book.
28. The water temperature shall be maintained at a temperature between 78 and 82F, at the discretion of the school principal. The air temperature shall be maintained 2 to 4 degrees warmer than the pool temperature.
29. TDSB caretaking staff will ensure that the pool facility and associated public spaces are clean, safe and hazard free.
30. City staff will notify the TDSB of its program schedule in an agreed upon protocol as outlined in *Appendix C – Protocol for Scheduling, Communication and Problem Solving*

Health and Safety

31. The TDSB shall provide a safe working environment for City workers at each pool site in accordance with the Ontario Occupational Health and Safety Act (the Act).
32. City aquatics staff shall provide assistance to TDSB staff that needs access to the pool deck at their request, in order to ensure the safety of TDSB staff.

Accommodation

33. Where a school pool is closed for an emergency, TDSB permit staff will make every effort to accommodate classroom needs of courses forced to relocate (e.g., Aquatic Leadership courses).
34. The school principal is the manager of the school facility and understands that the City of Toronto is a partner with the TDSB in funding the operation of the pool. The City shall have access to the pool facility including, pool office, spectator areas (e.g., galleries and bleachers), the showers and change rooms (including staff change rooms). The pool office is a shared space with the City and the principal shall allow City aquatic staff to maintain a staff Health and Safety bulletin board and use available space to post necessary information in and around the pool office. Wherever possible, appropriate storage shall be made available for city equipment and supplies.
35. The principal will attempt to coordinate any emergency evacuation drills such as fire drills at a time agreeable to both parties.

Appendices A, B and C

Signed:

City of Toronto

Toronto District School Board

Date: _____

Date: _____

APPENDIX A

2012 CITY LOU CHARGES

TDSB Ward	City Ward	School Type	School Name	City (LoU) 2012 Charges
21	41	S	ALBERT CAMPBELL CI	\$192,127
13	25	E	BEDFORD PK	\$127,599
19	37	S	BENDALE BTI	\$206,626
16	32	E	BOWMORE	\$199,412
11	22	E	BROWN	\$133,268
19	38	S	CEDARBRAE	\$164,341
4	8	S	CW JEFFERYS	\$130,708
16	31	E	DA MORRISON	\$218,390
17	34	S	DON MILLS CI	\$158,744
16	32	E	DUKE OF CONNAUGHT	\$132,200
16	31	E	EARL BEATTY	\$242,151
4	7	S	EMERY	\$95,586
15	30	E	FRANKLAND	\$143,096
17	33	S	GEORGE VANIER	\$157,681
16	32	E	GLEN AMES	\$261,103
16	31	E	GORDON A BROWN	\$190,997
11	21	E	HILLCREST	\$141,370
20	39	S	L'AMOREAUX	\$207,105
21	42	S	LB PEARSON CI	\$209,055
6	12	S	NELSON A BOYLEN	\$127,513
5	10	S	NORTHVIEW	\$138,592
7	14	E	PARKDALE PS	\$244,815
7	11	S	RUNNYMEDE CI	\$160,671
22	44	S	SIR OLIVER MOWAT*	\$209,889
22	43	S	SIR WILFRID LAURIER	\$203,428
7	13	E	SWANSEA	\$227,403
8	15	S	VAUGHAN ROAD	\$183,446
16	34	S	VICTORIA PARK SS	\$161,865
22	43	S	WEST HILL CI	\$176,564
6	11	S	WESTON CI	\$201,799
19	37	S	WEXFORD CI	\$231,047
6	11	S	YORK MEMORIAL	\$192,784
13	25	S	YORK MILLS CI	\$152,254
TOTAL:				\$5,923,628

Note 1 Beginning Jan 2013 and each year thereafter pool fees shall increase by the Core CPI for the previous December to January

Note 2 Fee payments by the City to the TDSB are due in equal quarterly installments in advance on the 1st days of January, April, July and October of each Year.

APPENDIX B

Regulation 565 Equipment Requirements

As per clause number 5, the TDSB accepts responsibility as the owner/operator for the provision of safety equipment prescribed by legislation.

The following is a summarized list of equipment required. For greater detail and explanation of these requirements, refer to Regulation 565 under the following sections:

SECTION 19: Appropriate Signs/Notices:

- **Showers**
- **Emergency Phone**
- **Spectator Gallery**
- **Water Depth**
- **No Diving**
- **Ramps**
- **Ramps with Removable barriers**

SECTION 20: Each pool must place lifesaving equipment in convenient locations for emergencies. Each pool must have:

- **a reaching pole**
- **2 buoyant throwing aids**
- **a spinal board**
- **a stocked first aid kit**
- **appropriate lifeguard stations**

Appendix C

Protocol for Scheduling, Communication and Problem Solving

The City and the TDSB agree that the following protocol is the process by which communication, scheduling, and conflict resolution will be carried out for the duration of the agreement (to be amended as required).

Program Scheduling

36. For each TDSB pool, a City CRP will complete a calendar (the monthly calendar on Groupwise); indicating what is in the pool each day of the session, including permits. The calendar will be submitted to the pool's head caretaker and copied to the TDSB permit office: fax #416-395-8062 or email to permits@tdsb.on.ca attention Senior Permit Clerk.
 - i. Fall calendar will be due August 1st annually.
 - ii. Winter calendar will be due November 1st annually.
 - iii. Spring calendar will be due February 1st annually.
 - iv. Summer calendar will be due May 1st annually.
37. Updates to each schedule will be communicated via e-mail to the head caretaker of the facility and copied to the TDSB permit office: permits@tdsb.on.ca attention Senior Permit Clerk.

City staff will provide a minimum of 2 weeks notice to the TDSB Permit Unit for every individual change it wants to make to its approved schedules.
38. It is understood that provision of the schedule is the only documentation needed for the use of pools covered by the agreement. TDSB staff will not require copies of permits to be presented, as the TDSB does not issue permits for times covered by the agreement.
39. The City will be required to arrange permits in accordance with applicable TDSB permit policies, procedures and fees, only for pools and classrooms that are not covered by this agreement.
40. TDSB and City staff will provide each other with accurate contact lists and update them as necessary in order to ensure efficient and effective communication in the overall implementation of this agreement.

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Problem Solving/Conflict Resolution:

- A. At each facility, it is expected that the first line of problem solving is between the City Community Recreation Programmer (CRP) and Head Caretaker at the facility.
- B. If an issue cannot be resolved, the CRP will take the concern to their supervisor who can address it with the TDSB Family Team Leader for the facility.
- C. Operational issues that are more universal in scope will be addressed by a City Supervisor of Aquatics and the Central Services Manager or his/her designate (TDSB). They will consult other levels of both organizations, as required.