

Item No. 11.1.6
Halifax Regional Council
June 26, 2012

TO: Mayor Kelly and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by _____
Mike Labrecque, Acting Chief Administrative Officer

DATE: June 4, 2012

SUBJECT: Joint Use Agreement & Facility Lease Agreement - Lake & Shore
Community Recreation Centre

ORIGIN

- January 26, 2010 - Motion of Regional Council:
MOVED by Councillor Hendsbee, seconded by Councillor McCluskey, that Halifax Regional Council:
 1. Approve entering into a joint project with the Province to add a community centre component to the new Lakeview Elementary School project;
 2. Direct staff to include \$1.65M in the proposed 2010/11 Operating Budget as HRM's contribution to the cost of the new facility by deferring \$1.65M for the Lacewood Transit Terminal capital project (CB200428) to 2011/12 thereby reducing Capital from Operating by this amount;
 3. Direct staff to initiate a public consultation process for determining the appropriate catchment area for an area rate as the community contribution to the project;
 4. Direct staff to further explore the possible private donor contribution with possible naming rights and surplus land transaction with any contribution received used to reduce the amount of funding required from an area rate;
 5. Authorize staff to initiate the process for the closure of the existing Porter's Lake Community Centre such that closure occurs concurrent with the opening of the new facility;
 6. Authorize staff to begin discussions with the Community Board overseeing the old facility to offer them the opportunity to oversee the new facility; and
 7. Declare that, on the closure of the existing Porter's Lake Community Centre, it be surplus to the needs of the municipality, and staff be authorized to arrange for its disposal. **MOTION PUT AND PASSED.**

RECOMMENDATIONS ON PAGE 2

- June 13, 2011 - CAO approval of interim MOU with Lake and Shore Community Recreation Society for the management and operation of the Lake and Shore Community Centre.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Authorize the Mayor and the Municipal Clerk to enter into a Joint Use Agreement (Attachment 1) with the Halifax Regional School Board (HRSB) as per the key terms outlined in the body of this report under the heading Joint Use Agreement (JUA) Highlights; and
2. Authorize the Mayor and the Municipal Clerk to enter into a Facility Lease Agreement (Attachment 2) with the Lake & Shore Community Recreation Society to lease and operate the new Lake & Shore Community Recreation Centre as per the key terms and conditions set out in Table 1.

BACKGROUND

On January 26, 2010 Regional Council approved the joint construction of a Community Recreation Centre as a partnership with a new elementary school in Porter's Lake as outlined in the Origin section of this report.

Construction of the school and recreation centre enhancements were completed, and subsequently opened in September of 2011.

As per potential donor contributions outlined in item #4 of the motion, potential private sector investment in the project was explored but a naming rights partner has not been secured to date. Should a partnership interest develop in future, staff will return to Regional Council with a recommendation.

School enhancement projects, constructed in partnership with the Province, are governed through the development of a Joint Use Agreement (JUA). The JUA outlines the ongoing cooperative relationship between the Municipality and the Halifax Regional School Board regarding the joint usage and reciprocal access to the new facilities. The primary objectives of the agreement are:

- To establish processes which encourage cooperative working relationships between HRM and HRSB personnel at all levels and to quickly and equitably resolve any disputes which may arise;
- To communicate the mutual responsibilities and conditions of the relationship between the Parties;
- To establish a joint process to continually address the needs of both Parties for shared facility usage as well as the recreational needs of the general community;
- To provide a level of access to facilities which meets, if not exceeds, the provisions for use enumerated in the SEA*;
- To encourage mutually beneficial joint use of the facilities described in this Agreement;
- To encourage joint and cooperative ventures between the Parties to this Agreement; and

- To establish processes to regularly report on the outcomes of this Agreement and the respective performances of the Parties hereto.

*SEA (Service Exchange Agreement - Halifax Regional School Board (HRSB) operates and maintains public education buildings and desires to provide access to its facilities for HRM sponsored community recreation programs through this service exchange agreement and to other community-based recreation/leisure users under the HRSB's Use of Facilities Policy).

The partnership relationship between Halifax Regional Municipality and the Halifax Regional School Board is defined in the JUA. The JUA is the process through which the two parties define and operate shared use of jointly constructed public facilities. It is the governing document which contains clauses and terms recognizing HRM's capital investment for the facility enhancement and includes provisions that allow HRM to reassign the management role of the community centre to the new community volunteer board.

Currently there are three JUA agreements in place, and three pending, as follows.

Existing Agreements (JUA)	Pending Agreements (JUA)
Tallahasse Elementary School, Eastern Passage	Porters Lake Elementary School, Porters Lake
Basinview School, Bedford	Bedford Hammonds Plains High School
	Graham Creighton School, Cherry Brook (agreement under review)
Citadel High School, Peninsula Halifax	

Porters Lake Elementary School Enhancement

The new jointly constructed recreation centre includes approximately 8,000 square feet of space consisting of:

- fitness and activity studios;
- multipurpose room;
- locker rooms;
- office space; and
- enhanced gymnasium.

A volunteer community Board has been recruited and supported in their efforts to incorporate and prepare for their role as Tenant in the Facility Lease program. The Facility Lease Agreement (FLA) is the recommended management model for this new facility. It is a model consistent with 23 other HRM owned facilities of similar size and description, commonly known as Category 1 Community Centres.

The FLA management model recognizes ongoing responsibility of the Municipality as the Landlord for the facility, but provides possession and occupation of the community facility to the community Board as a Tenant, in consideration of the Tenant facilitating the availability of the Leased Premises for public (community) use. It is the intention of the FLA to provide an opportunity for community organizations to collaborate and deliver approved services through an alternative service delivery approach.

Intended Outcomes:

- access, engage and mobilize community skill sets required for facility management and program delivery;
- build, strengthen and sustain community capacity of volunteer organizations offering community programming and facility management;
- maximize potential use of facilities managed and operated by community organizations;
- promote public use of HRM facilities;
- safeguarding of HRM assets; and
- respond to local community needs for recreation, social and culture.

Section 63(1) of the *Halifax Regional Municipality Charter* allows for a lease to a non-profit organization for less than market value, when it is carrying out activities beneficial to the municipality. This agreement is with a new community group, the Lake & Shore Community Recreation Society, and therefore this is not a renewal and requires Regional Council approval as per Section 63(2) of the *Halifax Regional Municipality Charter*.

The Board of the existing Porter's Lake Community Centre chose not to transfer to the new facility, and have instead indicated their interest to acquire the existing facility from HRM. A recommendation on this matter will be referred to Regional Council for consideration in a future staff report.

DISCUSSION

Joint Use Agreement - Halifax Regional Municipality / Halifax Regional School Board

The JUA addresses shared use of the cafeteria and classrooms year round, including times when the school facility would typically be closed. This represents a cost benefit to the citizens in the area by creating opportunity for public access at accessible rates to a publicly funded, co-built facility.

The Lake & Shore Community Recreation Centre will operate independently from the school, and has been constructed to ensure day-time access to the facility is safe and complimentary to school activity. Members of the public will not have access to the school area during the day. Students will have access to the community centre during the day, when requested and overseen by teaching staff. The recreation centre will offer services for all age groups daily, with full access to the enhanced gymnasium and other school-specific areas such as classrooms and cafeteria, during the evenings, weekends, and holidays.

To ensure a positive relationship at the facility, a Facility Operations Committee (FOC) will be established. This FOC will consist of HRM staff, HRSB staff and representation from the Community Management Board, and will meet monthly for communication and problem solving. This FOC model exists currently at the Citadel Recreation Centre.

Joint Use Agreement (JUA) Highlights of Key Terms:

Principles:

The JUA is intended to ensure access by each party to the other party's facilities and services

through a cooperative approach to facility scheduling, programming, and management. The JUA is designed to encourage and promote effective and efficient use of resources; facilities; shared use and maximizes community access.

Community Access:

The shared use of enhanced facilities will allow for access by the community at all reasonable times when not required for educational purposes e.g. after school, evenings, weekends, and holidays.

HRM staff and the Community Board will establish a composite facility fee schedule to ensure affordable access for the community. Through this agreement, the Community Board will be responsible for operating within the terms and conditions established in the FLA.

Facility Scheduling:

HRM has full authority for scheduling and usage monitoring of all school facilities when not required for educational purposes. As per the FLA Category 1 model, this will be carried out through the Community Board. Scheduling and maintenance of the athletic field will be carried out by HRM, and may be designated to the Community Board after separate consideration of the benefits to both parties.

The Halifax Regional School Board has worked cooperatively with HRM staff in the preparation of the proposed JUA for this project. Approval of the terms and conditions has been confirmed by the HRSB at the March 20th meeting of the Board.

Facility Lease Agreement – Halifax Regional Municipality/Lake & Shore Community Recreation Society

The FLA will provide for the use and care of the facility including the costs of repairs and maintenance. The Tenant is required to provide programs and services to the public which align with a HRM focus area. The Facility Lease Agreement is based on a 5 year term and is reviewed annually.

Since the new Board will be operating within the existing facility with known costs, unknown risks for the Board and HRM are minimized. There are other categories of facilities that HRM has chosen not to enter into FLA's with community boards at this time, as more detailed financial and operating information is required to ensure risks for both parties are mitigated.

The new Lake & Shore Community Recreation Society was formally registered as a non-profit society with Registry of Joint Stocks on March 28, 2011. In preparation for the transfer, the Society has

- created by-laws;
- established an executive committee;
- designed a website and registration system; and
- established a human resources committee.

**Joint Use Agreement & Facility Lease Agreement
Lake & Shore Community Recreation Centre- 6 -**

June 26, 2012

The Lake & Shore Community Recreation Society has reviewed HRMs Facility Lease Agreement (FLA) and approved a motion to enter into this agreement at their May 21, 2012 Board meeting.

The key terms and conditions of the lease are as outlined in Table 1 as follows:

Table # 1

<i>Property</i>	40 Inspiration Drive, Porters Lake, PID 40372476
<i>Zoning</i>	RE- Rural Enterprise
<i>Owner</i>	Province of NS
<i>Head Tenant & Partner through JUA, acting as Landlord for this Agreement</i>	Halifax Regional Municipality
<i>Sub-Tenant & Facility Manager</i>	Lake & Shore Community Recreation Society
<i>Commencement Date</i>	July 1, 2012
<i>Rent (\$0.00)</i>	No rent is charged as The Board will provide the management, assume operating costs and provide programming services.
<i>Term & Renewal Term</i>	5 years, July 1, 2012 – June 30, 2017 - reviewed annually by the appropriate managing department of HRM, 1 year renewal (conditional)

<i>Specific Conditions And Requirements</i>	<ul style="list-style-type: none">* Their services must provide a direct recreation, sport, leisure contribution resulting in a positive impact to and for HRM citizens.* These services shall contain an inclusion policy.* The Community Board will follow the guidelines of Public Use as set out in the FLA for a purpose built facility. Several conditions of usage of a purpose built facility include the fact that the facility must meet the public use standards such that during at least 80% of the time it is operating, any member of the public may access the amenity at either no cost or a cost reasonable for the type of facility use or service availability.* HRM, HRSB and the Community Board will work cooperatively to establish a composite facility fee schedule in order to ensure affordable access for the community.* The Community Board will work in partnership with Community Development to uphold all aspects and requirements in the JUA.* The Community Board will be responsible for their percentage share of the utility and exterior maintenance costs for the facility, which includes: electricity, water, waste removal, snow removal, lawn and landscaping maintenance.* The Community Board will carry the required insurance as set out in the FLA and HRM is to be named as additionally insured. If alcohol is served or consumed on the premise, the Community Board must ensure from HRM Risk Management that the coverage is sufficient.* The Community Board will comply with all financial reporting requirements as indicated in the FLA.
--	---

Interim Memorandum of Understanding:

The Lake & Shore Community Recreation Centre is currently operated by a newly formed volunteer board as per a Memorandum of Understanding (MOU) signed with the HRM CAO in July 2011. This was a fast-tracked partnership project and, as such, the Joint Use Agreement and Facility Lease Agreement were not ready for Council consideration prior to the opening of the centre. Therefore, an MOU was put in place for the interim.

Agreement Management and Effective Date:

Community and Recreation Services staff will manage this agreement as part of the Category 1 FLA program. An annual review of the terms of the FLA will be conducted to ensure the needs of HRM, HRSB, and the community are being met. This FLA will be in effect on July 1, 2012, and replaces the Interim MOU currently in place.

BUDGET IMPLICATIONS

The Lake & Shore Community Recreation Society will be eligible for financial assistance from HRM for start up and operation consistent with other purpose built facilities of its size:

Year	Description	Amount	Cost Centre
Year 1	Maximum start up and transition	\$80,000	C705
Year 1 & thereafter	Maximum operating subsidy	\$80,000	C705

In 2011-12, Project# CBX01282 Porter's Lake Community Centre included \$80,000 in Operating Cost of Capital (OCC) for one-time implementation costs, plus \$80,000 for on-going annual operating costs. Of these amounts, \$50,000 of OCC for one-time implementation costs was transferred to cost centre C705 Facilities Management in 2011-12. The remaining OCC funding will be transferred to cost centre C705 as required.

FINANCIAL MANAGEMENT POLICIES/BUSINESS PLAN

This report complies with the Municipality's Multi-Year Financial Strategy, the approved Operating, Project and Reserve budgets, policies and procedures regarding withdrawals from the utilization of Project and Operating reserves, as well as any relevant legislation.

COMMUNITY ENGAGEMENT

The completed community engagement process complies with the HRM Community Engagement Strategy. During the community engagement process staff:

- held public meetings;
- provided information on the facility;
- catchment for the area rate; and
- implementation of the area rate.

A public meeting was held April 22, 2010 to present information related to the recreation facility, including the design, funding for the project, and details regarding the area rate.

HRM staff began the recruitment process in the fall of 2010 for members to form a new Board to manage the Lake and Shore Community Recreation Centre.

The following steps were taken in the recruitment of the new Board for this facility:

- Advertising to recruit Board members;
- Applications and references;
- Board members notified;
- First Board meeting; and
- Board orientation and training.

Meetings were also held with the newly formed Lake and Shore Community Recreation Society to outline the Facility Lease Program. The Board will continue to engage the community formally on an annual basis through the Annual General Meeting process.

ENVIRONMENTAL IMPLICATIONS

None identified.

ALTERNATIVES

1. Council may choose not to approve the Joint Use Agreement with HRSB at this time. This is not the recommended course of action as the JUA as presented represents the best solution to achieve the desired outcomes of both parties.
2. Council may choose not to enter into a Facility Lease Agreement with the Lake & Shore Community Recreation Society at this time. This is not the recommended course of action because this model is consistent with other similar facilities. This alternative would further require direction from Regional Council regarding whether the preference is to recruit for a different operator or direct staff to operate the facility. These options may have further financial and other implications not included in the current budget plans.

ATTACHMENTS

Attachment 1 Joint Use Agreement
Attachment 2 Facility Lease Agreement
Attachment 3 Floor Plan Design Lake & Shore Community Recreation Centre
Attachment 4 Site Layout Lake & Shore Community Recreation Centre / Porters Lake
Elementary School

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/agenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

Report Prepared by: Tara Legge, Community Facility Service Delivery Coordinator, 490-8442
Betty Lou Killen, Facility Development, Planning and Infrastructure 490-4833

Report Approved by: _____
Denise Schofield, Manager, Regional Recreation & Culture, 490-6252

Report Approved by: _____
Brad Anguish, Director of Community & Recreation Services, 490-4933

Financial Approval by: _____
Greg Keefe, A/Director of Finance & Information Technology/CFO, 490-6308

Legal Review by: _____
Marian Tyson, Acting Director, Legal Services & Risk Management, 490-4226

Joint-Use Agreement

Halifax Regional Municipality
and
Halifax Regional School Board
Porters Lake Elementary School

May 23, 2012



Halifax Regional Municipality
Community & Recreation Services
Regional Recreation & Culture
PO Box 1749
Halifax, Nova Scotia B3J 3A5

Tel: 902-490-6252
Fax: 902-490-5950
www.halifax.ca

THIS AGREEMENT MADE THIS ____ day of _____, 2012

BETWEEN:

HALIFAX REGIONAL MUNICIPALITY (“HRM”)

- and -

HALIFAX REGIONAL SCHOOL BOARD (“HRSB”)

respecting the Porters Lake Elementary School (the “School”)

Preamble

WHEREAS in 2004, HRM and HRSB (hereafter collectively referred to as “the Parties”) entered into a cooperatively developed principle-based Service Exchange Agreement (“SEA”), the intent of which was to provide a long-term solution regarding access to facilities, programs and services between the Parties as well as ensuring facility availability for the general community.

WHEREAS this agreement (the “Agreement”) is intended to give effect to the spirit and intent of the SEA, but exists in its own right separate and apart from the SEA. Unless otherwise specified, the terms of the SEA do not qualify or govern this Agreement;

WHEREAS the Department of Education and the Province of Nova Scotia have constructed the new Porters Lake Elementary School for HRSB, and with a capital contribution of \$3,300,000.00 from HRM, a community centre for HRM (“Community Centre”) which will be located in the structure adjacent to the school;

WHEREAS the HRSB and HRM may enter into an agreement wherein HRM agrees to pay the capital cost of a community facility in association with the new school and the cost of maintaining and operating the community facility;

AND WHEREAS the Parties have a mutual interest in assuring public facilities are accessible and available for Students (as herein defined), HRM program participants and the community of HRM at large;

AND WHEREAS full cooperation between the Parties is necessary to provide the best service with the least possible expenditure of public funds;

AND WHEREAS the Parties agree that a joint use concept will best provide for the usage, maintenance and operation of both the School and the community centre (collectively, the “Facilities”) and allow and encourage the Parties to work together in developing the Facilities for shared usage;

AND WHEREAS the Parties agree that coordinated and cooperative scheduling of the facilities on the terms and conditions set forth in this Agreement is the best way to maximize the beneficial use of the facilities while ensuring that they are maintained as sustainable community assets;

AND WHEREAS the School has been constructed in accordance with the Education Act to serve the needs of Students and will provide recreation opportunities for the greater HRM community;

IN CONSIDERATION OF the forgoing, HRM and HRSB agree as follows:

Definitions

In this Agreement, unless there is something in the subject matter or context inconsistent therewith:

“Academic Year” means the months of September to June when school is operational for educational purposes;

“Agreement” means this Agreement including any and all Schedules to this Agreement;

“Athletic Area” means the area used for athletic purposes and encompasses the Community Centre, the School Gymnasium; School Changing Areas and Locker Rooms;

“Athletic Field” means the natural turf field adjacent to the School;

“Capital Contribution” means HRM’s capital contribution to the construction of the Community Centre in the amount of \$3,300,000.00;

“Community Board” means the community association with which HRM has entered into an agreement for operation of the Community Centre and provision of service delivery;

“Community Centre” means the community centre constructed and forming part of the structure containing the School, and designated parking spaces forming part thereof and after school hours, also to be comprised of the gymnasium, the School’s cafeteria, music room, art room, kitchen, athletic field, and necessary access ways, and parking spaces normally designated for the school;

“Community Recreation Facilities” means those facilities that are owned and operated by HRM;

“Confidential Information” means the confidential or proprietary information of one Party, including data, technical information, financial information including prices and utility rates, and business information including business plans, strategy and practices, which has been or may hereafter be disclosed, directly or indirectly to other Party either orally, in writing or in any other material form pursuant to this Agreement;

“FOC” means the Facility Operations Committee comprised of the designated representatives of HRM and HRSB as outlined in Schedule “C”;

“Facilities” means, collectively, the School and the Community Centre and “Facility” means any one of them;

“Principal” means the principal of the School;

“Province” means the Province of Nova Scotia;

“School” means the facilities owned and operated by HRSB in Porter’s Lake, Nova Scotia and known as “Porters Lake Elementary School” and, in the context of the shared space to be available for use by HRM under this Agreement, is limited to the real property, designated parking spaces, gymnasium, cafeteria, music room, art room, kitchen and athletic field;

“School Hours” means the hours of 7:00 a.m. to 4:00 p.m., Monday to Friday, throughout the academic year, (September to June);

“SEA” means the Service Exchange Agreement entered into between HRM and HRSB;

“Students” means pupils enrolled in regular or special education programs at the School; and

“Year Round” includes academic and non-academic calendar exclusive of statutory holidays.

1.0 Purpose and Objectives

- 1.1 The purpose, objectives and guiding principles of this Agreement are as described in Schedule “A” hereto attached.

2.0 Facilities To Be Shared

- 2.1 This Agreement is limited to the joint use and sharing of the School and Community Centre.

3.0 Access to Facilities and Equipment

- 3.1 Each party to this Agreement agrees to make its respective Facilities available for use by the other Party on a first priority basis after the scheduling requirements for its own programs and services have been met. It is understood that each Party has budget limitations and administrative processes that must be respected in implementing programs and services. Scheduling issues are to be dealt with in a cooperative manner as per the provisions of the agreement and in particular Section 4.0.
- 3.2 It is understood by the Parties that the School is intended primarily for educational purposes and for the benefit of Students. It is therefore agreed by HRM that, in planning programs and scheduling activities in the School, the needs and opportunities of such educational programs shall be dealt with in priority to recreational programs.
- 3.3 It is understood by the Parties that the Community Centre is intended primarily for recreational purposes for the benefit of the citizens at large. It is therefore agreed by HRSB that, in planning programs and scheduling activities in the Community Centre, the needs and opportunities of such recreational programs shall be dealt with in priority to educational programs.

- 3.4 The FOC will work as a partnership group to ensure that the interests of each partner are observed. The FOC will also be tasked with operational problem solving when necessary;
- 3.5 HRM and HRSB shall participate jointly on the FOC to ensure the ongoing successful communications and operations of the School and the Community Centre and any shared spaces. The FOC will be jointly chaired by HRSB and HRM staff, and populated with representatives as determined by Schedule “C”.
- 3.6 School access is also available to HRM on school in-service days, Christmas Break, March Break and Summer Break. HRM understands that current HRSB Labour Agreements will affect parameters for staffing during these normal “off school time” periods. Scheduled community use of non-community centre areas will be done with consideration of Labour Agreements. HRSB grants to HRM the right to make use of the School Facilities at no charge when the School Facilities are not being used for educational purposes. For greater clarity, the School shall be used by HRSB for educational purposes during School Hours and the Excel Childcare program will be operational in the School up until 6:00 p.m. each weekday. The Excel program and potential associated “camp” is a school program and as such has first priority of the School spaces required to operate the program. The Community Board, through HRM, will have access to the School commencing at 4:00 p.m. daily and ending at 10:00 p.m.. Shared use of the Facilities will be coordinated through the FOC. It is expected that community needs will be addressed sufficiently by access to the Community Centre and the following areas of the School: (a) the gymnasium, (b) cafeteria, (c) raised classroom and (d) music room. This will be reviewed in detail in the month of May of each year of operation.
- 3.7 These schedules will be reviewed with the FOC to ensure that appropriate time is available for HRSB staff requirements during in-services, Facility cleaning and maintenance, and to ensure community program and service needs are being met. HRM agrees there will be no community access or programming to the School during the last 12 days of August to ensure that custodial staff can complete cleaning and preparations for the new school year.
- 3.8 HRSB custodial staff will be scheduled by HRSB to meet the needs for cleaning the School and Community Centre based on an assessment of space size and use, as per the current HRSB Operations Services formula, and/or future formulas. The formula supports staffing to midnight each weekday during the school year.
- 3.9 Weekend access to custodial staff will be coordinated through HRSB. HRM agrees to reimburse HRSB for minimum of 10 hours of part-time custodial staff per weekend. Additional specifics of these needs will be coordinated annually as per Section 4.0 of this Agreement. It is further understood that there is not a need for custodial staff to be present at all times when the Community Centre is operational for community purposes. However, HRSB may require that custodial services are required to support designated programming, which may result in additional hours at regular or overtime rates.
- 3.10 The School representative and the HRM representative will work with the FOC to ensure that scheduled use of the School/Community enhanced spaces is maximized between 4:00 p.m. and 6:00 p.m. Monday through Friday during the academic year. Scheduled use of the space will ensure that both the Excel program and the Community Centre programs will be able to utilize

spaces when desirable for the school and community and those spaces are not left empty. If the gymnasium is divided for shared use during Excel programming, HRM agrees to only consider booking supervised youth programs in the adjacent gym space.

- 3.11 HRM grants HRSB the right to use the Community Centre for educational purposes at no charge when the Community Centre is not being used during school hours of operation HRM staff and the principal of the School, through the FOC, shall work cooperatively to maximize the joint use of the Facilities.
- 3.12 All programs and activities scheduled under this Agreement shall comply with the policies and procedures applicable to the Facilities. Each of the Parties is responsible to inspect the area(s) to be used for risks to the participants and to either remove or accept those risks and liabilities prior to the program or activity commencing.
- 3.13 All scheduling requests will be submitted and reviewed as per Section 4.0 of this Agreement. Requests made outside of that timeline by a Party pursuant to this Agreement shall be submitted in writing to an authorized representative of the other Party. Any issues of disagreement arising from this process will first be discussed with the FOC for solution. If that does not resolve the situation, the issue will be discussed with the contact names in Section 11.0 of this Agreement.
- 3.14 It is agreed by the Parties that this Agreement is intended to benefit HRM citizens of all ages and therefore in planning programs and scheduling activities pursuant to this Agreement, the Parties agree, on a best efforts basis, to ensure that the needs and opportunities of all ages are addressed.
- 3.15 The Community Centre and the School will be available for scheduled use by the general public, community organizations and groups on a year round basis provided that the requested Facility is available to be scheduled. HRSB will work closely with HRM to promote an environment of mutual inclusion in decision making relative to access to the School at times of the year when Students are not present. If this access is not available within the scheduled usage outlined in Section 3.0 of this Agreement, appropriate rental and/or access fees may be applicable.
- 3.16 Community Centre rental rates will be developed through a consultative process by the Community Board to ensure affordable access for the public. The HRSB retains the right to apply and collect the approved rate structure for programs booked within the School during school hours, such as adult and for-profit groups, if appropriate, and to book and collect revenues for elections, without any requirement to share any revenues earned thereby with HRM. Such bookings shall be coordinated with the Community Board.
- 3.17 Public access to the Community Centre will be scheduled, supervised and managed by the Community Board.
- 3.18 Each Party and community-based user shall be responsible to supply its own athletic and other program equipment, with the exception of standards and nets, which shall be made available, on a best efforts basis, by the Party for the benefit of the other or community-based user as required.
- 3.19 The Facilities and equipment described in this Agreement do not include score clocks and audio visual equipment, including, but, not limited to, portable stereo equipment, microphones and

sound systems. Access to this equipment will come under the direct supervision of the Principal and the Community Board, in consultation with the FOC.

- 3.20 Access to the kitchen by the Community Board shall be permitted after 3:00 p.m. Monday to Friday and on in-service dates, weekends and school breaks as per Section 3.6 and Schedule “B” of this Agreement. All relevant provincial health and food safety regulations must be followed at all times. If there is a requirement to access the kitchen during the School Hours, the request shall be made to the Principal through the FOC no later than one month in advance of the event.

4.0 Negotiation of Shared Use Schedule

- 4.1 Joint use planning and the formation of shared use schedules shall occur on an annual basis beginning each May for the upcoming school year, if applicable. HRM staff (Community Board) shall initiate the planning and program scheduling process with the Principal or designate.
- 4.2 Commencing in May of each year, HRM staff will identify the programs to be offered and advise the Principal or designate of the scheduling needs of community groups falling within the upcoming academic year. This shall include the scheduling of weekend access and shall include the identification of required schedules for part-time caretakers as outlined in Section 3.0 of this Agreement. Facility use in one year does not guarantee the same use in the subsequent year, based on changes in recreation trends, education requirements, community and demographics.
- 4.3 The Principal or designate will then articulate the School’s educational program schedule and related School commitments for the upcoming academic year.
- 4.4 Discussion between HRM staff, the Principal or designate and the FOC shall ensue at this time regarding the potential sharing of resources and the joint use schedule shall be adjusted as deemed to be in the best interest of the Students and the community at large.
- 4.5 Once a shared use schedule is confirmed for the upcoming academic year, the Parties, in cooperation with the FOC, by representatives, shall approve the shared use schedule.
- 4.6 The approved schedules shall then be compiled by the Community Board in the form of a Facility Rental Agreement and circulated for signature(s).
- 4.7 The Parties agree to honour each other’s scheduled activities and events to the extent possible and undertake, on a best efforts basis, to not disrupt the other Party’s scheduled use of the Facilities. Monthly meetings of the FOC will provide a forum for the discussion of potential program changes that may impact user groups, well in advance of any cancellations taking place.

5.0 Cancellations

- 5.1 Without exception or advance notice, when the Community Centre is closed due to inclement weather access by HRSB shall be cancelled, and in other emergency circumstances, including, but by no means limited to those set out in the Force Majeure section of this Agreement, closing a Party’s Facility shall result in the cancellation of the other Party’s access. For greater certainty,

when the school is closed for inclement weather, but the Community Centre is open, regular access to the school facilities will apply.

- 5.2 Each Party reserves the right to cancel the other Party's right to access its Facility for emergency maintenance and repair purposes, and will where possible provide the other Party with 24 hour advance notice.
- 5.3 Cancellation of an HRM booking due to a requirement for use by the School for a legitimate school purpose must be communicated through the FOC to HRM with a minimum of fourteen (14) days advance notice.
- 5.4 Cancellation of an HRSB booking due to a requirement for use by HRM for a legitimate HRM purpose must be communicated through the FOC to HRSB with a minimum of fourteen (14) days advance notice.

6.0 Maintenance of Facilities

- 6.1 The Parties shall be responsible for the maintenance, repair and/or replacement of their respective Facility and equipment and shall bear the cost thereof unless otherwise agreed in writing.
- 6.2 HRSB shall be responsible for the operating and capital cost of the mechanical equipment that is jointly shared and which services both the School and HRM Facilities. When repairs and/or replacement of such equipment are required, HRM will contribute 13.4% of the cost of the repair and/or replacement value. For specific agreements related to the usage and maintenance of kitchen equipment see Schedule "B".
- 6.3 HRSB shall be responsible for all utility costs (including heat, electricity and water) and exterior maintenance costs (including landscaping, snow removal and garbage removal) of the entire complex and shall bear the cost thereof except as agreed in subsequent sections noted below.
- 6.4 HRM will reimburse HRSB an amount calculated at 13.4% on interior operational costs and exterior maintenance costs for the complex.
- 6.5 HRM shall be responsible for the operating costs of the Community Centre other than as identified previously and shall bear the cost thereof unless otherwise agreed in writing.
- 6.6 HRSB shall maintain the School to a satisfactory level in accordance with relevant standards (includes repairs and replacement) which ensures HRM's capability of conducting quality community-based recreation programs.
- 6.7 HRSB shall ensure appropriate snow and ice maintenance for the School and Community Centre parking lot and walkways to a standard equivalent to that provided to the school community, as per the Terms and Conditions of the HRSB Snow and Ice Maintenance Contract.
- 6.8 Staff and contractors performing maintenance duties for either party must be diligent in their attention to the operations and the students and community guests at the facility.

- 6.8.1 All work being conducted on site will be performed in a respectful manner.
- 6.8.2 Upon arrival at the site, the workers shall inform the Principal and the Community Centre Manager and it shall be determined what times, if any, the work should be stopped to accommodate the Students or Community Centre guests.
- 6.9 HRM agrees to adhere to the Fire Safety Plan and Regulations as outlined for the School through the HRSB.
- 6.10 HRM agrees to work cooperatively with the Principal in the execution of required fire drills at the Community Centre and in the School.

7.0 Agreement Management and Reporting

- 7.1 HRM shall be responsible jointly with HRSB for the management of this Agreement.
- 7.2 HRM reserves the right to delegate the responsibility of the daily operations of the Community Centre to the Community Board. This delegation does not remove HRM's responsibility, in partnership with HRSB, for the successful operation of this Agreement.
- 7.3 Any Party may, at any time during the terms of this Agreement, upon providing the other Party with two (2) days written notice, initiate a special meeting to discuss any concerns arising from this Agreement, or discuss proposed amendments to the Agreement.
- 7.4 Representatives of the Parties shall annually, jointly prepare an outcome report for the joint use of the Facility, including a summary of the total annual hours of shared facility usage by the Parties, respective benefits derived and a list of scheduling and/or operational issues which arose during the preceding year.
- 7.5 Formal performance monitoring of the Agreement by the FOC shall occur on an annual basis and is based on the following measurement:
 - Measure: % of shared/reciprocal use as outlined in this Agreement.
 - Indicators: # of hours available and scheduled by site, facility type, user category and use.
 - Reporting: Annual reporting conducted by facility schedulers.
 - Monitoring: Reports provided within one month of the annual anniversary date of the initiation of this Agreement.

8.0 Term and Review of Agreement

- 8.1 Unless earlier terminated in accordance with this Agreement, this Agreement shall be effective as of September 1, 2011.
 - 8.1.1 Either Party may deem it necessary or beneficial to review this Agreement at any time. The Party requesting the review will do so to the other Party in writing by contacting the following representatives:

To HRSB:
Halifax Regional School Board
c/o Superintendent
33 Spectacle Lake Drive
Dartmouth, NS B3B 1X7

To HRM:
Halifax Regional Municipality
c/o Manager, Regional Recreation & Culture
PO Box 1749
Halifax, NS B3J 3A5

9.0 Indemnity

- 9.1 HRM shall indemnify and save harmless HRSB, its governing Board, Officers, Employees, Agents and Volunteers from and against all claims and demands, loss, costs, damages, actions, suits or other proceedings by whomsoever made, brought or prosecuted, in any manner based upon, occasioned by or attributable to HRSB's execution of this Agreement or any action taken or things done by or maintained by HRSB except for any claims for damages resulting from negligence of HRM, its Mayor, Officers, Employees, Agents or Volunteers.
- 9.2 HRBS shall indemnify and save harmless HRM, its Mayor, Officers, Employees, Agents or Volunteers from and against all claims and demands, loss, costs, damages, actions, suits or other proceedings by whomsoever made, brought or prosecuted, in any manner based upon, occasioned by or attributable to HRM's execution of this Agreement or any action taken or things done by or maintained by HRM except for any claims for damages resulting from negligence of HRSB, its governing Board, Officers, Employees, Agents and Volunteers.

10.0 Insurance

- 10.1 Each Party shall carry and maintain, at its sole cost and expense, in a form at least as broad as the current Insurance Bureau of Canada wording, Commercial Liability insurance or its equivalent with a cross liability clause and otherwise in amounts not less than Five Million Dollars (\$5,000,000.00) inclusive, against all losses, claims, incidents, expenses or costs for personal injury, death or property damage occurring in, on or about the premises and will ensure such coverage remain in effect and that nothing is done by HRSB or HRM to affect the validity of such Insurance.
- 10.2 The Parties agree to provide each other with a Certificate of Insurance evidencing coverage at the time of signing.
- 10.3 Each Party or their Insurer will provide thirty (30) days' notice of cancellation or policy amendment to the other Party.
- 10.4 The cost of repairs arising out of the use or wilful damage of the buildings or facilities or equipment owned by either of the parties shall be assessed and paid for by the party using that facility when and where the damage occurs subject to the following:
- a. Where it can be established that the damage has been done by a party authorized by HRM to use the Facility, HRM shall pay the cost of the repair and it will be HRM's responsibility to collect the cost of these repairs from the individual or group responsible for the damage;

- b. Where the damage has been done by a party authorized by HRSB to use the Facility, HRSB agrees to pay the cost of repair and it will be HRSB's responsibility to collect the cost of these repairs from the individual or group responsible for the damage; and
- c. Where the party responsible for the damage cannot be established, the Dispute Resolution process outlined in Section 11.0 will be followed to determine who shall be responsible for the cost of the repairs.

11.0 Dispute Resolution

- 11.1 Any dispute between the Parties in relation to matters governed by this Agreement shall be resolved as provided in this Section 11.0.
- 11.2 In the event of a dispute, either one of the Parties may give written notice of the dispute (the "Dispute Notice") to the Principal or the HRM representative designated from time to time as the individual to whom a Dispute Notice may be delivered, as the case might be, and the individual who receives such Dispute Notice shall notify the members of the FOC within one (1) business day of the receipt of such Dispute Notice.
- 11.3 Upon receipt of the Dispute Notice, the representative of the Party served with notice shall have ten (10) days to meet and attempt to resolve the matter. If the dispute is not resolved within ten (10) days, the matter will be referred to the Superintendent of HRSB and the Chief Administrative Officer of HRM.
- 11.4 In the event the Superintendent of HRSB and the Chief Administrative Officer of HRM cannot resolve the dispute within ten (10) days of having been referred the matter, and this time frame for resolving the dispute has not been extended by mutual written agreement between the Parties, the matter shall be referred to arbitration by a single arbitrator, if the parties agree upon one; otherwise, the matter will be heard by a panel of three arbitrators, one to be appointed by each party and a third to be chosen by the nominees.
- 11.5 The award and determination of the arbitrator or arbitrators or any two of the three arbitrators shall be binding upon the Parties and their respective successors and assigns.

12.0 Force Majeure

- 12.1 The Parties agree that neither Party shall be held responsible for damages caused by delay or failure to perform its undertakings under the terms of this Agreement when the delay or failure is due to fires, strikes, lockouts or other labour disputes between the Parties and their employees, floods, severe weather, acts of God, acts of war or terrorism, riots, civil disorder, rebellions or revolutions in Canada, unlawful acts of a third party, vandalism or sabotage, lawful acts of public authorities, or delays or defaults caused by common carriers, or any other cause beyond the reasonable control of the Parties and which cannot reasonably be foreseen or provided against.

13.0 Amendment and Waiver

- 13.1 No amendment or variation of this Agreement shall operate to change or vary the terms,

obligations, or conditions thereof except upon mutual agreement of the Parties, signed by authorized representative of each Party.

- 13.2 No waiver shall be inferred or implied by anything done or omitted by the Parties save only an express waiver in writing, signed by an authorized representative of the waiving Party.

14.0 Confidentiality

- 14.1 Confidential Information (being information so marked as confidential) relating to a Party shall be held in confidence by the other Party to the same extent and at least in the same manner as such party protects its own confidential or proprietary information. Neither Party shall disclose, publish, release, transfer or otherwise make available Confidential Information of the other Party in any form to, or for the use or benefit of, any person or entity without the other Party's consent. Each Party shall, however, be permitted to disclose relevant aspects of the other Party's Confidential Information to its officers, agents, sub-contractors and employees who are parties to a confidentiality agreement on terms at least as restrictive as contained herein and only to the extent that such disclosure is reasonably necessary for the performance of its obligations under this Agreement.

15.0 Governing Law

- 15.1 This Agreement shall be constructed and interpreted in accordance with the laws of the Province of Nova Scotia and the laws of Canada applicable therein.

16.0 Assignment

- 16.1 No part of this Agreement may be assigned by either Party without the express written consent of the other.
- 16.2 This Agreement shall inure to the benefit of and be binding upon the Parties; their respective successors and permitted assigns.

17.0 Severability

- 17.1 If any of the provisions of this Agreement is held by a court of competent jurisdiction to be contrary to law, then the remaining provisions of this Agreement or the application of such provisions to persons or circumstances other than those to which it is deemed invalid or unenforceable shall not be affected thereby, and each such provision of this Agreement shall be valid and enforceable to the extent granted by law.

18.0 Headings

- 18.1 Section headings are for reference and convenience only and shall not be considered in the interpretation of this Agreement.

19.0 Entire Agreement

- 19.1 This Agreement, including the Schedules referred to herein, which are hereby incorporated by reference, constitutes the entire agreement between the Parties with respect to the subject matter hereof, notwithstanding the fact that this Agreement is intended to give effect to the spirit and intent of the SEA between the Parties. This Agreement supersedes all prior Agreements, Understandings and Negotiations, both written and oral, between the Parties with respect to the subject matter of this Agreement.

20.0 Freedom of Information and Protection of Privacy (FOIPOP)

- 20.1 The Parties agree for the purposes of FOIPOP that this is a public document.

21.0 Holding and Disposition of Property

- 21.1 This Agreement is an agreement in respect of the community facility and as such must be interpreted in accordance with the relevant provisions of the Education Act, S.N.S. 2002 as amended from time to time, and those provisions (at the time of execution, Sections 133-136) and any amendments shall be incorporated herein.
- 21.2 For greater clarity, the Capital Contribution of HRM in the Community Centre shall be protected and returned in accordance with the requirements of applicable law.
- 21.3 In the event of a sale of the School or the partial or complete destruction of the School, HRM is entitled to receive:
A proportionate share of the proceeds from any sale or any insurance recovery, as the case may be less any amount required to be paid to the Province pursuant to the Education Act which proportionate share (before deductions) shall be HRM's share be equal to the proportion that the Capital Contribution paid by HRM bears to the appraised value of the whole School property at the time of any such sale or partial or complete destruction.
- 21.4 The parties acknowledge that HRM's contribution of \$3,300,000.00 for the construction of the structure containing the Facilities was based on an anticipated minimum 30 year usage by HRM of the Community Centre. Accordingly the Province agrees, notwithstanding paragraph 21.3, supra, that on a closing or sale of the structure by the Province prior to expiration of the 30 year period shall result in a minimum share of the sale or insurance proceeds, or reimbursement from the Province to HRM, of the pro rata portion of HRM's contribution related to the amount of the 30 year period remaining at the time of sale or closing.
- 21.5 Every amount recovered by HRM pursuant to this Section shall be paid into the special reserve fund of HRM.
- 21.6 In the event that HRSB deems the school to be surplus to its needs, it will notify HRM in writing. HRM will be provided with written notice of any offer to purchase the school that the Province wishes to accept, and HRM will be provided with a 90 day right of first refusal to purchase the school at the offer price.

IN WITNESS WHEREOF the parties hereto have executed these presents as of the day and year first above written.

Signed on behalf of:		
Halifax Regional School Board:		
Name: _____	Title: _____	Date: _____
Witness: _____		Date: _____
Name: _____	Title: _____	Date: _____
Witness: _____		Date: _____
Halifax Regional Municipality:		
Name: _____	Title: _____	Date: _____
Witness: _____		Date: _____
Name: _____	Title: _____	Date: _____
Witness: _____		Date: _____

The Minister of Education hereby endorses approval of this Agreement

Minister of Education

List of Schedules

Schedule "A"	Purpose, Objectives, and Guiding Principles of the Joint Use Agreement
Schedule "B"	Terms and Conditions of Kitchen Usage
Schedule "C"	Terms and Conditions for Facility Operating Committee
Schedule "D"	Snow and Ice Maintenance Agreement

Schedule “A”

Purpose, Objectives and Guiding Principles of the Joint Use Agreement

Purpose of this Agreement:

The purpose of this Agreement is to outline the cooperative relationship between the Parties regarding the joint usage and reciprocal access to the facilities described herein. It is hoped that this Agreement will provide the Parties with opportunities to enhance their programs and services through reciprocal facilities usage.

Primary Objectives of this Agreement:

- To establish processes that encourage cooperative working relationships between HRM and HRSB personnel at all levels and to quickly and equitably resolve any disputes which may arise;
- To articulate the mutual responsibilities and conditions of the relationship between the Parties;
- To establish a collaborative process to continually address the needs of both Parties for shared facility usage as well as the recreational needs of the general community;
- To provide a level of access to facilities which meets, if not exceeds, the provisions for use enumerated in the SEA;
- To encourage mutually beneficial joint use of the facilities described in this Agreement;
- To encourage joint and cooperative ventures between the Parties to this Agreement;
- To establish mechanism to regularly report on the outcomes of this Agreement and the respective performances of the Parties hereto.

Guiding Principles of this Agreement:

- It is intended that this Agreement will improve access to both HRM and HRSB facilities for use by the other Party and will enhance the programs and services offered by the Parties.
- The facilities are to be managed with the concept of share usage in mind.
- It is intended that a cooperative consultative process involving the Parties shall span the length of the term of the Agreement.
- It is hoped that this Agreement will encourage and promote the effective and efficient use of resources and facilities, optimizing shared use opportunities.
- This Agreement is designed to provide shared access to facilities in the hope of assisting in the advancement of the priorities and operational goals of the Parties hereto.

Schedule “B”

Terms and Conditions of Kitchen Usage

1. HRSB agrees to provide to HRM access to the kitchen and equipment, within the terms and conditions outlined with the contractual service provider, and to ensure that any service agreements with suppliers include notification to the suppliers that this is the preferred arrangement. It is understood the school will have priority booking of the cafeteria kitchen for school events.
 - a. Primary access will be after school hours and weekends, and the purpose of food preparation for such things as camps, community receptions, special events, etc.
 - b. Secondary access will be required during school hours, but will be agreed upon between the Principal and the Coordinator. Notice of this requirement will be submitted to the Principal not less than 30 days prior to the date required.
2. HRSB agrees to allow HRM to access to a designated storage area in the kitchen on a daily basis. The details of this access to be reviewed annually or as required.
3. HRM agrees to pay for a percentage of equipment maintenance and replacement. This amount will be prorated based on the amount of time required and usage of the equipment.
4. When alcohol is served pursuant to a license issued by the Province of Nova Scotia, it will not be stored in the School Facility.

Schedule “C”

Terms and Conditions for Facility Operating Committee

Facility Operations Committee

Committee Membership:

- 3 representatives from HRM (Coordinator Client Services, Community Recreation Coordinator and Facility Recreation Program Manager)
- 3 representatives from Porters Lake Elementary School (Principal, Physical Education Teacher and Caretaker)
- 2 representatives from HRSB (Operations and Facility Bookings)
- 1 representative from the Lake and Shore Community Recreation Society (LSCRS)

Committee Scope of Work:

- a) Committee will meet monthly with a shared agenda and minutes
- b) Committee will be chaired by HRM
- c) Meetings are focused on the operational requirements of HRM/Porters Lake Elementary School/ HRSB/Lake and Shore Community Recreation Society and will include:
 - Agendas
 - Minutes
 - Booking Requests from HRM, Porters Lake Elementary School, HRSB and LSCRS
 - Program and Administrative Updates from LSCRS
 - Custodial Updates
 - HRSB Operational Updates
 - Debrief of Bookings and Programs and Future Recommendations
 - Issue Identification and Problem Solving
 - Other

Under each topic there may be a number of discussion points depending on what is happening at the facility or time of year.

Joint Use Agreement
Porters Lake Elementary School
Porters Lake Community Centre

Halifax Regional Municipality
Halifax Regional School Board

Schedule “D”

Snow and Ice Maintenance Agreement (HRSB Snow and Ice Maintenance Contract)

Facility Lease Agreement

**Lake & Shore Community Recreation Society
40 Inspiration Drive
Porters Lake, Nova Scotia
B3E 1M1**



Halifax Regional Municipality
Community & Recreation Services
PO Box 1749
Halifax, Nova Scotia B3J 3A5
Tel: 902.490. 8442 Fax: 902.490.5950
www.halifax.ca

Table of Contents

Section 1 - Contractual Lease Agreement	5
1. Intent of the Facility Lease Agreement	6
2. Definition of Public Use of Municipal Assets & Resources	6
3. Non-Profit Organization	7
4. HRM Service Delivery <u>Focus Areas</u>:	7
5. Leased Premises	7
5.1 HRM Property to be subject of Facility Lease Agreement	7
5.2 Permitted Facility Use	7
5.3 Easements and Right-of Ways	8
5.4 Emergency Measures Operations(EMO) - Designated Facility Sites	8
5.5 Visual Identity, Directional Signs & Way finding	8
6. Lease	8
6.1 Lease	8
6.2 Annual Rent	8
6.3 Net Lease	8
7. Term of Lease - Commencement and Initial Term	9
7.1 Initial Term	9
7.2 Renewal Term	9
8. Taxes	9
8.1 Taxes	9
8.2 Commercial Property Taxes	9
8.3 Business Occupancy Taxes	9
8.4 Collection of Fees and Applicable Taxes	9
8.5 HST (Harmonized Sales Tax)	9
Lease Inducements	10
9. Financial Reporting and Obligations	10
9.1 Financial Records and Reporting Practices	10
9.2 Special Events Account - Lotteries & Bingo	10
9.3 Interest	10
9.4 Annual Business Plan	10
9.5 Municipal Parameters/Policy for Area Rates/General Rate	11
9.6 Area Rate Policy	11
9.7 Budgets - Operating & Capital	11
9.8 Fiscal Year	12
9.9 Reporting	12
9.10 Bill Payment	12
9.11 Operating /Capital Deficits & Surpluses	12
9.12 Emergency Recapitalization Funding	13
9.13 Emergency Operational Funding	13
9.14 Revenues -Assets	13
9.15 Reserve Accounts	13
9.16 Donations	14
9.17 Approvals	14

Table of Contents (cont)

10. Facility Alterations & Fire Safety	14
10.1 Approval for Facility Alterations	14
10.2 Licenses and Permits	14
10.3 Building Code	14
10.4 HRM Fire Services	14
10.5 Fire Safety Plan Guidelines	15
10.6 Fire & Life Safety Equipment Maintenance Procedures and Reports	15
11. Assignment and Sub-Lease	15
11.1 Assignment of Facility Lease Agreement	15
11.2 Third Party Leases (sub-lease)	15
12. Request / Call for Proposal	16
12.1 Call for Proposals	16
13. Termination, Defaults and Notices	16
13.1 Termination by Either Party	16
13.2 Default of Tenant	16
13.3 Notices	17
14. Tenant's Personnel and Employment Policies	18
14.1 Personnel	18
14.2 Staffing Requirements	18
14.3 Payroll Deductions	18
14.4 Employment Policies	18
14.5 General Manager / Executive Director	18
14.6 Employee Training Opportunities	19
15. Community Advisory Committees & HRM Staff Liaison	19
15.1 Community Advisory Committees	19
15.2 HRM Staff Liaison Person for Community Groups	19
15.3 HRM/Board Development Tool	19
16. Miscellaneous Licence & Fees	20
16.1 <i>SOCAN</i> License Fees	20
17. HRM Insurance Responsibility	20
17.1 Property Insurance	20
17.2 Commercial General Liability (CGL)	20
18. Tenant's Insurance Responsibility	20
18.1 Tenant's Insurance Responsibility	20
18.2 Board Insurance, Director & Officers	20
18.3 Property (<i>Content</i>)	20
18.4 Commercial General Liability (CGL)	21
19. Limitation of Authority	21
19.1 Limitation of Authority	21
20. Indemnification & Legal Action	22
20.1 Indemnification of the Tenant	22
20.2 Indemnification of HRM	22
20.3 Suits and Claims	22

Table of Contents (cont)

21. Facility Operation and Management	22
21.1 Facility Operation and Management	22
21.2 Shared Costs	22
Capital Improvements	23
21.3 Heating	23
21.4 Contaminants	23
21.5 Waste Management	23
21.6 Procurement Process	23
21.7 Purchasing Policies	24
21.8 HRM Purchase Agreements	24
22. Condition Assessments, Facility Inspections & Lock Systems	24
22.1 Annual Facility Condition Assessments	24
22.2 Quarterly Facility Conditions Assessments	24
22.3 Facility Inspections	25
22.4 HRM Facility Lock System	25
23. Additional Clauses	25
23.1 Validity of Provisions	25
23.2 Consent or Waiver	25
23.3 Successors	25
23.4 Remedies	26
23.5 Contractual Approval	26
24. Agreement- Entire Agreement	26
Signature Page	27

Schedules & Attachments

Schedule "A1"	Site Layout
Schedule "A2"	Site Layout
Schedule "A3"	Building Design
Schedule "B"	Permitted Facility Use - Site Specific Permitted Facility Use

Attachment # 1	Facility Lease Agreement Resource Binder
Attachment # 2	Site Specific Information
Attachment # 3	Facility Responsibilities
Attachment # 4	Rent
Attachment # 5	Joint Use Agreement

THIS AGREEMENT is made as of the _____ day of _____, 20____

BETWEEN:

Halifax Regional Municipality (Herein after referred to as “HRM” or “the Landlord”)
OF THE FIRST PART

- and -

Lake & Shore Community Recreation Society
a society incorporated under the *Societies Act* of Nova Scotia
(herein after referred to as “the Tenant”)
OF THE SECOND PART

WHEREAS the Tenant is a community based, not-for-profit organization;

AND WHEREAS the Tenant aligns with the Halifax Regional Municipality mandate in that the services they provide, promote and encourage community recreation and cultural services and/or opportunities;

AND WHEREAS the Tenant has demonstrated a commitment to provide recreation and cultural based services on behalf of community and provide a direct service that will generate a positive community impact to the citizens of Halifax Regional Municipality;

AND WHEREAS the Tenant will collaborate and build relationships within community;

AND WHEREAS the Tenant will promote public use and general access of a municipal asset;

AND WHEREAS the Tenant will consider alternative service delivery methods in order to meet the needs of a specific target group, unique community culture and or community demographic;

AND WHEREAS the Tenant has demonstrated the organizational capacity to manage and operate a HRM facility as well as provide or facilitate direct program service delivery;

AND WHEREAS the Tenant’s day to day use of the facility and service delivery will be supported through organizational capacity, annual assessments and a sustainable plan of action and operating budget;

AND WHEREAS the Tenant will promote and support feasible economic development through collaboration with community businesses as employment opportunities.

THEREFORE WITNESSTH that in considerations of the mutual covenants and other valuable consideration contained herein, the Parties agree as follows:

1. Intent of the Facility Lease Agreement

The Landlord, HRM has participated by financial contribution to the construction of the Porter's Lake Elementary School structure which structure contains the community center which is the subject of this Facility Lease Agreement ("FLA"). As a consequence of its financial participation, HRM has been provided with possession and administrative control of that portion of the school structure containing the community center, the term and conditions of which are set out in a Joint Use Agreement ("JUA") between HRM and HRSB. References to HRM's property or the Landlord's premises, or other similar descriptions in this FLA shall mean the community center and such other portions of the school structure or school grounds as HRM may have possession or access to from time to time.

It is the intention of the Landlord HRM to make the community center premises available for public use. Possession and occupation of the Leased Premises is provided to the Tenant in consideration of the Tenant facilitating the availability of the Leased Premises for public use. It is the intention of the Facility Lease Agreement to provide an opportunity for community organizations to collaborate and deliver approved services through an alternative service delivery approach. The intended outcomes are:

- access, engage and mobilize community skill sets required for facility management and program delivery
- build, strengthen and sustain community capacity of volunteer organizations offering community programming and facility management
- maximize potential use of managed and operated by community organizations
- promote public use of HRM facilities
- safeguarding of the asset
- respond to local community needs for recreation, social and culture

This Facility Lease Agreement will provide for the use and care of the facility, and the costs of repairs and maintenance. The entering of the Facility Lease Agreement is dependent upon the Tenant successfully providing a program to the public which aligns with a HRM focus area. The Facility Lease Agreement will normally be based on a 5 year term and reviewed annually.

See Facility Lease Agreement Resource Binder - HRM Facility Managements Models

2. Definition of Public Use of Municipal Assets & Resources

HRM has the responsibility to hold public property in trust and to ensure public access to these properties is not compromised. HRM has chosen to lease certain HRM facilities to community organizations with clearly defined tenant use parameters. Community organizations as tenants must be careful stewards of HRM properties and must have a mandate that is a direct link to and that aligns with HRM focus areas. Program and service delivery represents community activities and events that serve to meet or exceed a defined service delivery focus areas of Halifax Regional Municipality and meet the purpose and objectives of the Tenant. Their services must provide a direct contribution resulting in a positive impact to and for HRM citizens. These services shall contain an inclusion policy. "Public Use" applies to all organizations which obtain funds raised from tax dollars or would benefit from the use of public property owned by HRM. "Public Use" is to ensure public resources are utilized to the benefit of the general public. Priority access is provided to the general public prior to special interests and/or groups or private organizations. A facility meets the public use standards if during at least 80% of the time it is operating, any member of the public may access the amenity at either no cost or a cost reasonable for the type of facility use or service availability. The reasonableness of cost will be determined through comparable facilities, program user fees, demographics and facility location. Facility Lease operational guidelines will be approved by HRM.

HRM _____

Tenant _____

Monitoring Public Use Would Encompass:

- operating hours or schedules
- open memberships
- accessible memberships and user fees
- inclusive practices
- required skill level or performance ability in service delivery and facility operation
- adequate promotion of public opportunities

3. Non-Profit Organization

Non-Profit Organization means a not-for-profit corporation (under the Societies Act or otherwise) other than a trust, a public institution, a municipality or a government, that was organized and is operated solely for a purpose other than profit, no part of the income of which is payable to, or otherwise available for the personal benefit of, any proprietor, member or shareholder thereof unless the proprietor, member or shareholder is a club, a Society or an Association. Tenants must continue to maintain Non-Profit Organization status during the term of this Facility Lease Agreement. No compensation shall be paid to the directors and officers of the Tenant organization.

4. HRM Service Delivery Focus Areas:

(Subject to change based on HRM Service Delivery and Council endorsement)

The Service Delivery focus Areas are in response to the HRM Council Focus Areas. These focus areas will change from time to time depending on program requirements and the current priorities of HRM.

5. Leased Premises

5.1 HRM Property to be subject of Facility Lease Agreement

The leased HRM property generally consists of the community centre portion of the facility which is approximately 8,034 square feet of space consisting of fitness and activity studios, multipurpose room, locker rooms, office space and enhanced gymnasium. In addition, the Joint Use Agreement addresses shared use of the school facility such as the cafeteria and classrooms year round, including times when the school facility would typically be closed, lands surrounding or attached to the facility or what encompasses the parcel. i.e., parking lot, and athletic field,. Each site is unique. "Leased Premises" means those certain premises consisting of the space within the building as known as Lake & Shore Community Recreation Centre located at **40 Inspiration Drive, Porters Lake, Nova Scotia** which is more particularly described in Schedules "A1" and "A2" and "A3" and coloured in yellow on Schedule "A3" attached hereto; (collectively referred to herein as the "leased facility" or "demised premises").

5.2 Permitted Facility Use

The Tenant shall use the leased premises only for the permitted uses set out in Schedule "B", and not to carry on or permit to be carried on therein any unapproved trade, business or other activity. That the Tenant will not carry on any business or activity or permit anything to be done or kept on the leased premises which shall in the opinion of the Landlord or at law be a nuisance or disturbance, or which shall be noisy or contrary to any law or statute or any by-law, rule or ordinance of any governmental authority having jurisdiction, or by reason of which the insurance on the leased premises shall be made void or voidable or increased in cost.

The Tenant shall not do, suffer or permit to be done any act or anything upon the leased premises which is or constitutes a nuisance to the occupiers of any lands or premises adjoining or in the vicinity of the leased premises or to the public generally. **See Site Specific Permitted Facility Use is described in Schedule "B"**

5.3 Easements and Right-of Ways

The Landlord may grant easements, rights-of-way, licenses and similar rights to public utilities and governmental agencies for the purpose of allowing for the provision of electrical power, telephone, water and other utility and municipal services to the leased premises and for the installation of wires, metres, conduits, pipes and other equipment, apparatus and facilities in connection therewith and it is agreed that any such easements, rights-of-way, licenses and other rights as may be granted by the Landlord shall have priority to the interest of the Tenant under this Facility Lease Agreement.

5.4 Emergency Measures Operations (EMO) - Designated Facility Sites

The Emergency Measures Act (By-Law E100) was enacted in 1990 by Municipal Council and led to the creation of the EMO. The goals of EMO are to promote emergency preparedness and coordinate emergency management within HRM. Several HRM Community/ Neighbourhood facilities are designated EMO sites and may require operational guidelines and monitoring. Notwithstanding any other provisions of this Facility Lease Agreement HRM will continue to have lease facility access based on HRM emergency operational requirements. See EMO Act at www.halifax.ca/legislation/bylaws/hrm/ble100.pdf.

5.5 Visual Identity, Directional Signs & Way finding

Any visual identity or directional signs on the exterior of the building must be approved in writing by HRM. Halifax Regional Municipality reserves the right to place HRM branding signs on any municipally owned property and or building. All new interior way finding signs must comply with HRM Way finding System Guidelines. **See Facility Lease Agreement Resource Binder**

6. Lease

6.1 Lease

A Lease is an interest in real property and or personal property given by a lessor/landlord to another person/organization (usually called the lessee or tenant) for a fixed period of time and the lessee obtains exclusive possession of the property or dedicated space within a property in return for paying a fixed or determinable consideration known as rent. In this Facility Lease Agreement the Tenant is responsible to manage and operate the leased facility, make decisions and manage risk to achieve the facility and approved program delivery goals.

6.2 Annual Rent

HRM shall charge the Tenant a base rent of zero (\$0.00) dollars annually for the leased facility; this is based on taking into account the nature and location of the leased facility and restrictions in use imposed by this Facility Lease Agreement.

6.3 Net Lease

The intention of the parties and this Facility Lease Agreement is that all expenses, costs, payments and outgoings of every nature and kind relating to or in respect of the leased premises be identified and paid by the Tenant. The Tenant therefore agrees to pay, all amounts of such expenses, costs, payments and outgoings during the term except as may otherwise be expressly stipulated herein to the contrary.

7. Term of Lease - Commencement and Initial Term

7.1 Initial Term

In consideration of the covenants and agreements herein contained on the part of the Tenant to be paid, observed and performed, HRM hereby leases to the Tenant, the leased premises for the term of the lease. This Facility Lease Agreement shall be for a term of 5 years and reviewed annually. Review of the Agreement on an annual basis will provide the opportunities to evaluate the Board capacity, program delivery, facility operation and community impact. "Initial Term" means a term of **five (5) years** commencing on or about the 1st day of July 2012 and terminating on June 30, 2017; however this agreement will be reviewed annually by HRM Staff through reports which the Tenant provides to HRM.

7.2 Renewal Term

Provided that the Tenant is not in default under any of the terms or conditions of this Facility Lease Agreement, HRM has not proceeded with a Call for Proposal, and that neither parties have given the other notice to quit, the Tenant shall have the option, exercisable by written notice delivered to the Landlord not later than two (2) months prior to the expiry of the Initial Term or renewed term, to renew this Facility Lease for one (1) year on the same terms and conditions herein contained except as to renewal term.

8. Taxes

8.1 Taxes

The Tenant shall pay as and when they fall due all taxes, rates and charges charged, assessed or levied in relation to its possession and occupation of the leased premises, in respect of any business or other activity carried on upon or in connection with the leased facility, or in respect of the Tenant's fixtures and equipment.

8.2 Commercial Property Taxes Commercial property taxes apply to facilities, which are not owned and occupied by HRM for Municipal purposes, in a geographic area zoned commercial. The Tenant is required to include in any sublease agreement with a third party a provision requiring the third party sub-lessee pay any applicable commercial property taxes directly to HRM.

8.3 Business Occupancy Taxes

The Tenant as a Non-Profit Organization is exempt from paying Business Occupancy Tax. However, if the Tenant sub-leases to a third party the Business Occupancy Tax will apply to the sub-lease premises if the occupant is engaged in a commercial business. The third party Sub-Lessee would be required to pay the Business Occupancy Tax to HRM.

8.4 Collection of Fees and Applicable Taxes

The Tenant shall collect the fees and charges (including all applicable taxes) for the use of the facility and the services offered therein. All such fees and charges collected by the Tenant shall be deposited in the operating account in the form in which the funds are received.

8.5 HST- (Harmonized Sales Tax)

In general, leases of commercial real property are subject to HST. A sub-lease provided by the Tenant to a sub-lessee may be subject to HST depending on the Tenant's HST status and requirements under the Excise Tax Act GST Section. If HST is applicable, the Tenant is required to collect the HST and submit it to the Revenue Canada Agency under the Tenant's Business Registration Number. As per Clause 11.2, the Tenant is not acting as an Agent for the landlord in respect to any sub-leases.

Lease Inducements

Lease Inducements provided by the Tenant to third party sub-lessees can be such items as rent-free periods, reduction of rents, cash inducements etc. Rent-free periods would not be subject to HST when provided by the Tenant where there is no charge. In the case of other lease inducements where there is a charge, HST will apply.

9. Financial Reporting and Obligations

9.1 Financial Records and Bookkeeping Practices

The Tenant is responsible for and required to maintain all books in accordance with the generally accepted accounting principles (GAAP) and all books shall be maintained at the facility and at no other premises. HRM shall have the right, at its own expense, and with reasonable notice, to audit or examine the books of account and accounting records maintained by the Tenant pursuant to this Facility Lease Agreement.

Tenant Practices & Obligations:

- set up bank account(s) at a chartered bank or other deposit institution
- authorize signing officers to make expenditures on the bank accounts
- shall not be permitted to borrow funds on behalf of the facility without written approval from HRM
- The municipality through its designated agents or employees shall be entitled at all times and from time to time during normal business hours inspect or audit the books and records of the Centre.

9.2 Special Events Account - Lotteries & Bingo

Should the Tenant operate a bingo or other lottery under license from the Province of Nova Scotia, they shall designate a separate account from the operating account or special events account, into which all monies and proceeds derived from such bingo or lotteries are to be deposited (the "Lottery Account"). These funds will be used for the operations of the bingo or the program service delivery, facility maintenance; capital improvements, capital reserve fund, or reduce debt as deemed appropriate by the Tenant and HRM. Revenues generated to support service club activities will be identified and shall be approved for the program delivery, facility operations and service club activities separate from facility operations and program delivery. Revenue co-shared with another society or special interest group will be identified.

When proceeds are co-shared with another not-for-profit organization or special interest group the monies for each group will be identified.

9.3 Interest

Interest means the rate of interest HRM charges on overdue accounts. Interest also applies to Tenants having outstanding debt with HRM predating this Facility Lease Agreement. The rate of interest on overdue accounts is as provided for in HRM Administrative Order 14.

9.4 Annual Business Plan

The Tenant shall develop an annual business plan in accordance with the HRM planning practices that will facilitate the management, promotion, development, operation and administration of the program service delivery and the facility. The annual business plan should reflect the outcomes of the Board Development Tool.

9.5 Municipal Parameters/Policy for Area Rates/General Rate

Many community facilities are categorized as recreational facilities and in many cases are eligible for receipt of funds administered by a Resident Rate Payers or Athletic Association. Policies and procedures provide guidance for members of Regional Council and staff on types of eligible expenses and appropriate record keeping and reporting.

- area rates can only be used for the provision of services within HRM's focus areas and service traditionally provided by HRM
- area rates are not to be used to provide different levels of a Municipal service within urban and suburban areas where said services are covered by the general tax rate
- proposals for new area rates must be advertised publically, clearly identifying affected areas, the purpose for the rate, rate information and the duration the rate is expected to be charged
- a public meeting will be held and those attending the meeting will be informed of the rationale for the rate and consulted on its appropriateness - community vote will determine approval and implementation of rate

9.6 Area Rate Policy

The Provincial Legislation that governs the expenditures of Area Rate accounts is the Halifax Regional Municipality Charter passed November 24, 2008 which lists allowable expenditures and Area Rates. This Provincial Legislation has amended the Municipal Government Act (MGA). HRM has expenditure principles whereby all expenditures;

- must meet the spending guidelines of the Halifax Regional Municipality Charter, Section 79
- must have supporting documentation for payment, no advances issued
- should be made in accordance with the HRM Conflict of Interest Policy
- must comply with the spirit and objectives of the procurement policy approved by HRM Council, and, must be made in accordance with Provincial and Federal Legislation

Specifically with regard to area rate expenditures, the expenditure must also benefit the community on whose behalf the Area Rate has been collected. See the Halifax Regional Municipality Charter at www.gov.ns.ca/legislature/legc/bills/60th_2nd/3rd_read/b179.htm

9.7 Budgets - Operating & Capital

Budgets shall be prepared by the Tenant in accordance with methodologies, frameworks, policies, guidelines, directives, and instructions from HRM from time to time relating to HRM annual budgets. HRM will provide assistance when required or requested in the preparation of the annual operating and capital budgets.

The budgets should specifically identify costs for program service delivery and overall operations including costs for facility renovations, upgrades and maintenance. HRM will establish parameters and guidelines for the HRM funds targeted for the program service delivery.

HRM shall advise the Tenant in writing of any changes required by HRM to the proposed budget and the Tenant shall submit to HRM a revised budget reflecting the changes within 30 days. The revised budget, upon written approval by HRM, shall constitute an approved operating budget. Proposed capital expenditures shall be in consultation with HRM.

This shall not be considered authorization for the Tenant to undertake any capital expenditures, all of which must be specifically approved in writing by HRM. Each annual capital budget shall include a description

with projected costs of proposed capital improvements or alterations to the facility, consistent with the Facility Condition Assessment or a "Facility Life Cycle Plan". Additional considerations will be required with Facilities with registered Heritage Status or significance.

9.8 Fiscal Year

The Tenant will be required to date their business operations and budgets to the HRM fiscal year - April 1st to March 31st.

9.9 Reporting

Quarterly financial statements are required to be submitted to HRM on August 1, November 1, February 1, and May 15th (annual financial statements). Reports must capture actual revenues and expenses (year to date), projected revenues and expenses, and prior year actual. Annual statements must include a statement of sources of funds and uses of funds as well as a statement of assets and liabilities and a bank reconciliation. HRM reserves the right to request a formal audited statement.

9.10 Bill Payment

HRM will only process bill payments for the Tenant that are approved and set up on an area rate. HRM will forward invoice notification to the Tenant.

Based on the terms of this Facility Lease Agreement, the Tenant is authorized to contract services for facility maintenance and repairs through the HRSB.

9.11 Operating /Capital Deficits & Surpluses

The parties agree that the program service delivery and the facility operation shall be managed in a prudent and fiscal manner. HRM agrees that any surplus generated from the program service delivery and or the operation of the facility, may be held in reserve accounts and accessed for a dedicated and intended purpose.

- to subsidize or underwrite the continued program service delivery and operation of the facility
- to be allocated to pay down or service capital debt related to the facility
- to fund the Equipment Reserve Fund or Capital Reserve Fund or such other Reserve Funds as may be approved by the Municipality.

In the event the Tenant sustains, in any fiscal year or quarterly report, a deficit from its operating or capital budget, the Tenant shall prepare a report for HRM. The report shall set out the magnitude of the operating or capital deficit, the reason for the deficit and recommendations for addressing the deficit.

HRM will review financial status and determine if the facility or program delivery is at risk or in jeopardy and determine a resolution strategy, alternative service delivery method or required intervention.

HRM accounting principles prohibits HRM from using Municipal tax dollars to pay out debt which is the responsibility of the Tenant.

The Tenant will not qualify for the HRM Fund Program until the deficit had been addressed to the satisfaction of HRM .

9.12 Emergency Recapitalization Funding

It is understood that unbudgeted emergency facility repairs may be required when the sudden malfunction or distress of a facility infrastructure item results in placing undue risk to either the facility or its users. All details plus supporting documentation (including written cost estimates) will be forwarded to HRM in a timely manner. The Tenant shall be eligible to access emergency funding in times of facility crisis, based on the capital and operational areas of responsibility identified in this Agreement.

Attachment #3 - Facility Responsibilities

9.13 Emergency Operational Funding

The HRM Contributions Fund for Category One Community / Neighbourhood facilities provides service enhancement subsidies. The Tenant can apply to the Emergency Assistance category of the Fund throughout the year. Funding is subject to change based on HRM budget approval.

The criteria for this funding are as follows:

- insolvency of a debt to a business that is a supplier to program delivery
- bridge financing pending insurance settlement or legal claim that impacts service delivery (in consultation with HRM Legal Services)
- severe vandalism or under-insured destruction of property
- interim HRM staffing in the event of contractual termination by either party

9.14 Revenues -Assets

All monies, proceeds, funds and revenues of every nature and in kind received by the Tenant in respect to the facility, whether by fees paid for services provided in, for the use of the facility, of any part thereof or by way of grants, gifts, sponsorships, bequests, donations, fund raising or otherwise (savings or any monies of proceeds) derived by the Tenant are for the benefit of the Tenant.

All fixed equipment located in or purchased for the facility at any time relating to operation of the facility, shall be the property of HRM (subject to negotiation) upon the expiration or termination of this Facility Lease Agreement. I.e. security system, sound systems, kitchen upgrades, score clocks, gym back boards etc. Prior written approval by HRM must be obtained before any branding or naming of the facility for revenue purposes or otherwise.

9.15 Reserve Accounts

In the proposed annual budget, the Tenant shall make provision for the following guidelines:

- a program reserve and equipment reserve fund for the purpose of funding program service delivery requirements
- a capital alterations and expansion reserve fund for the facility, responsive to the HRM facility condition assessment or facility upgrade/renovation specifications approved by HRM

Such reserve funds shall be maintained by the Tenant in accordance by the terms set out in this Facility Lease Agreement and shall be reported on annually as part of the annual financial statements.

Areas of responsibility for facility alterations, improvements and /or expansions regarding HRM facilities, will be identified and categorized for budgeting reserve purposes. The categories will be establish when the Tenant or HRM is responsible for the expenditure and reserve funds.

9.16. Donations

HRM may, if requested by the Tenant issue tax receipts for donations made to the facility or its operations. Donation cheques need to be made payable to HRM and clearly indicate purpose of the donation and who will be the recipient. Revenues generated to support service club activities will be identified and shall be approved for the program delivery, facility operations and service club activities separate from facility operations and program delivery.

9.17. Approvals

Agreements entered into by the Tenants, termination of such agreements and debt repayment plans will require the written approval of HRM.

10. Facility Alterations & Fire Safety

10.1 Approval for Facility Alterations

The Tenant may whenever necessary at its own expense make such changes, alteration, additions or improvement to the said premises and the facility thereof as will in judgement of the Tenant improve the premises for its purpose. No structural changes, alternations, additions, improvements, or signage should be made without prior written consent of the HRM, and any certificates or permits issued by a duly authorized official of the HRM shall be conclusive evidence of such consent. That any improvements shall be the responsibility of and be carried out at the cost of the community group. Exterior branding, signs and /or advertising requires prior written approval from Halifax Regional Municipality.

10.2 Licenses and Permits

Tenants shall obtain and renew as necessary all licenses and permits, inspections, and approvals/ authorizations which may be required in connection with the operation and maintenance of the facility. A formal request to waive permit fees will be considered by HRM. The Tenant shall at all times comply with the conditions of such licenses, permits and approvals and shall comply with and observe all laws, by-laws and regulations applicable to the facility and the operation thereof, i.e, certificates, consents, licenses, third party leases, permits and qualifications and the Health & Safety Act or orders of any Governmental Authority by applicable laws.

10.3 Building Code

Work that requires a HRM municipal building inspection and approval qualifies as “Code”. Subject to the other provisions of this Facility Lease Agreement and unless otherwise specified in a JUA, Tenants conducting facility work which is not considered “Code” can do the work without HRM approval. If the work does require “Code”, HRM must be notified in writing, and if appropriate HRM will provide written consent and may waive the building permit fee(s), Construction work not provided or performed by HRM requires a certified/license professional, proof of Workers Compensation coverage and insurance prior to working on HRM property. i.e, electrician, plumber, roofer, etc.

10.4 HRM Fire Services

The Tenant is responsible to follow the Fire Safety Code and Guidelines as outlined on the HRM Fire Services website(www.halifax.ca/fire). Under Section 2.8 of the National Fire Code of Canada (in 1995), any building required by the National Fire Code to have a fire alarm system, must also have an approved Fire Safety Plan. The Fire Safety Plan shall be prepared and consolidated prior to submission and should deal with layout, use, and location pertaining to a particular building. For leased premises containing more than one building, a Fire Safety Plan shall be prepared for each individual building.

10.5 Fire Safety Plan Guidelines

The purpose of a Fire Safety Plan is to ensure the effective utilization of life safety features in a building to protect persons from fire, and to provide for the efficient and safe evacuation of building occupants in the event of fire or other emergency. The Tenant is required to follow the approved Fire Safety Plan prepared by the HRSB as per the JUA between HRM and HRSB.

10.6 Fire and Life Safety Equipment Maintenance Procedures and Reports

The Tenant is responsible to ensure regular maintenance is performed on all fire and life safety equipment in the building in accordance with the Fire Code. A written record shall be kept for all tests and corrective measures performed by contractors. All records must be kept for a period of two years after they are made, and the records shall be made available upon request to the chief fire official.

HRM Fire Services requires that the leased facility's maintenance summaries be recorded and filed on a prescribed regular basis. The Tenant is responsible to file the summaries and ensure the records are maintained and accessible at the leased facility. HRM Fire Services will conduct a Fire Safety Inspection of the leased facility at least every 3 years. Tenants or occupants that hold Gaming and Alcohol licenses require inspections annually. Fire Services will conduct a site visit inspection and provide inspection report. The License is conditional on the inspection approval. Tenants are required to complete all facility alterations and renovations as noted in the inspection report. Fire Services will follow-up with a second site visit to determine compliance. If the Tenant has not complied with the inspection report violations fines will issued to the Tenant/occupant.

11. Assignment of Facility Lease Agreement and Sub-Lease

11.1 Assignment of Facility Lease Agreement

The Tenant shall not assign or sublet the leased premises or any part thereof without the expressed written consent of HRM, consent may be withheld by HRM in its sole discretion. The Tenant will not permit, nor cause anything to be done to the leased premises which would allow any lien, judgement or certificate of any court or any mortgage, charge or encumbrance of any nature whatsoever to be imposed upon or to remain upon the leased premises or the Landlord's building. In the event of the registration of any such lien or encumbrance the Tenant shall at its own expense immediately cause the same to be discharged. If the lien or encumbrance is not discharged within three days after notice is given by HRM, HRM may take such action or recourse as it in its sole discretion determines appropriate including discharging such lien or encumbrance and recover from the Tenant all amounts expended (including legal costs on a solicitor and client basis) by the Landlord in obtaining such discharge.

11.2 Third Party Leases (sub-lease)

The Tenant may sub-lease portions of the space within the said premises to other individuals, groups or organizations, provided that their activity is within the mandate of the organization and they receive prior written consent from HRM. The Sub-lessee will complement the services provided within the community through direct service delivery and the Tenant will assume full responsibility of the negotiations and administration. For greater certainty it is specified that the Tenant is not an agent for the Landlord in respect of third party leases and accordingly the Landlord is not in any respect a party to these leases. Commercial tax is paid when applicable and permitted under zoning for the said premises.

The term of the Sub-Lease will not exceed the term of the Facility Lease Agreement and will end before or at the same time as the Facility Lease Agreement. The Tenant shall follow the lease regulations and procedures as per the Halifax Regional Municipality Charter, any HRM Transaction Policy and the Not for Profit Guidelines. **See Facility Lease Agreement Resource Binder**

The Tenant shall ensure that all their sub-leases who have exclusive space within said premises, carry a minimum of \$2,000,000 inclusive commercial general liability including tenant legal liability coverage insurance with HRM and the Tenant added as additional named insured.

A sub-lease will expire or default to HRM upon termination or expiration of the Facility Lease Agreement.

12. Request / Call for Proposals

12.1 Call for Proposals

In order to provide broad based community services that align with HRM focus areas, HRM will review facility operation, management and program delivery on an annual basis. It is anticipated that at least every 5 years HRM will call for community proposals on facility management and service delivery for a specific facility. Community groups will be considered and selected based on status, experience, capacity and business case. Selection of proposal will be the responsibility of the HRM. The community organization holding the current Facility Lease Agreement will be given first consideration if the proposal is of equal or greater quality, providing they meet the terms and conditions of the existing Facility Lease Agreement. In the case where a community group or HRM terminates the Facility Lease Agreement, HRM will call for proposals as required. The community groups submitting proposals will obtain input from the community on programming and facility needs and be representative of the community geography and demographic.

Call for Proposals will be required when:

- the existing management group can no longer maintain service delivery, facility or carry out the terms of the Agreement
- when a HRM owned facility is determined surplus
- when more than one community organization has capacity to manage and operate from a facility

13. Terminations, Defaults and Notices

13.1 Termination by Either Party

Either party may terminate this Facility Lease Agreement at any time by providing written notice to the other party 60 days prior to the date of termination.

13.2 Default of Tenant

This Agreement may be terminated at any time by HRM on criteria for default of Tenant. The Landlord shall have the right at any time to remedy or attempt to remedy any default of the Tenant hereunder, and in so doing to make any payments due or alleged to be due by the Tenant to a third party and may enter upon the leased premises to do any work or repairs for which the Tenant is responsible under this Facility Lease Agreement and in such event all expenses of the Landlord in remedying or attempting to remedy such default shall be recoverable by the Landlord from the Tenant. Payment in full or through payment plan will be arranged with HRM. Interest will be factored into the outstanding debt based on determination of HRM.

The Landlord may re-enter upon the leased premises in the event of the following:
Criteria for the decision to terminate would include but not limited to the:

- the Tenant is incapable of day to day program or facility operation
- facility needs to be protected against vandalism, theft, pipes freezing, activity contrary to public safety
- the Tenant became in danger of bankruptcy or foreclosure actions
- facility being used contrary to the terms of the Agreement to the detriment of HRM
- facility use and programming creates hardship to the immediate residents
- the Tenant cannot successfully obtain legal Registered Non Profit Society Status (may also include Federal Charitable Status)
- the Tenant does not maintain current General Liability Insurance
- any unauthorized assignment of subletting of this lease by the Tenant
- unauthorized facility change that effects the building insurance
- the Tenant shall not observe, perform and keep all and every one of the covenants, agreements, provisions, stipulations and conditions herein contained to be observed, performed and kept by the Tenant
- if the leased premises shall become vacant

* **Note** - Upon termination of this Facility Lease Agreement HRM will take responsibility and control of the facility.

In the event of a claim for debt, damages or indemnity by the Landlord against the Tenant, the Landlord shall have the right to seize and take possession of any equipment, furniture or other property of any nature whatsoever situated on the leased premises and to sell the same at public or private sale without notice and to apply the proceeds thereof upon the account of Tenant. The Tenant shall continue to be liable to the Landlord for the deficiency if any and the Tenant hereby waives and renounces the benefit of any present or future Act in force in Canada or in the Province of Nova Scotia which takes away or limits the Landlord's rights, and that the Landlord may seize and sell the Tenant's goods and chattels as fully as the Landlord might have done if such Act had not been enacted or passed.

13.3. Notices

All notices, demands, requests, approvals or other communication of any kind which a party hereto may be required or may desire to serve on the other party in connection with this Facility Lease Agreement shall be served personally or sent by registered mail. Any such notice or demand so served by registered mail shall be deposited in the mail with postage thereon fully prepaid, registered and addressed to the party so to be served as follows

A. If to the Municipality:	B. If to the Organization:
<p style="text-align: center;">Halifax Regional Municipality P.O. Box 1749 Halifax, NS B3J 3A5 Attention: Community Facility Service Delivery Coordinator, Alderney 2nd</p>	<p style="text-align: center;">Lake & Shore Community Recreation Society 40 Inspiration Drive Porters Lake, Nova Scotia B3E 1M1</p>

Except in the event of a postal service strike or lockout (in which event the parties hereto agree to temporarily utilize other reasonable methods of communicating any notices), service of any notice or demand so made by mail shall be deemed complete on the date of actual delivery as shown by the registry receipt or at the expiration of the seventh business day after the date of mailing, whichever is earlier in time. Either party may from time to time, by notice in writing served upon the other party as aforesaid, designate a different mailing address or different or additional persons to which all such notices or demands are thereafter to be addressed.

14. Tenant's Personnel and Employment Policies

14.1 Personnel

All personnel involved in the management, administration and operations of the leased facility, including the Manager or Executive Director and any other staff, will be employees of the Tenant. The wages, salaries and benefits of such employees shall be paid directly by the Tenant. The Tenant shall be responsible for the supervision, instruction, and training of such employees subject to best practices (or recommendations provided from time to time by HRM). If the Tenant requires assistance in the instruction and training of such employees it may request and, if it is appropriate to do so, HRM may provide such assistance. The Tenant is reminded that the eventual termination of this agreement may have an effect on employee's length of employment and entitlement of notice of termination and accordingly it is suggested the Tenant take this into account in its hiring / employment practices.

14.2 Staffing Requirements

The Tenant shall insure that the leased facility is adequately staffed at all times as is appropriate to properly maintain and operate the facility and ensure public safety. The staff requirements will be determined and based on the scope of program delivery, the square footage of a facility and the amount dedicated to recreation service delivery. A facility dedicating over 15,000 sq feet or more to recreation service delivery will generally require at least a full or part time support staff at the facility and an operations manager.

14.3 Payroll Deductions

The Tenant shall be responsible for all Worker's Compensation coverage, payroll responsibilities and Revenue Canada remittance documentation pertaining to employee Canada Pension Plan, Employment Insurance, vacation pay and Income Tax deductions.

14.4 Employment Policies

The Tenant agrees to follow fair and equitable employment practices and observe all applicable laws when recruiting, hiring, compensating, training and terminating the employment of employees of the Tenant. The Tenant further agrees to develop its own comprehensive written staffing and personnel policies. If the Tenant requires assistance in developing best practices and guidelines in staffing policies it may request and, if it is appropriate to do so, HRM may provide such assistance.

14.5 General Manager / Executive Director

When required, the Tenant, shall select and hire a competent General Manager/Executive Director to supervise and manage the day-to-day operations of the facility on behalf of the Tenant. This General Manager/Executive Director is an employee of the Tenant.

14.6 Employee Training Opportunities

The Tenants providing alternative service delivery in the Community / Neighbourhood facilities, can make a request to HRM for assistance from the HRM Contributions Fund Discretionary Allowance. Training will be directly related to staff roles as they pertain to the management and operation of the facility and program service delivery. This will be part of the Tenant's Board Development Tool , Annual Plan, Budget and HRM Operating Subsidy submission.

- skill development of staff to enhance program quality through formal accreditation - priority on risk management, safety, alignment program HRM focus areas
- Attendance at the Annual Facility Lease Agreement Meeting and/or the annual Volunteer Conference.

15. Community Advisory Committees & HRM Staff Liaison

15.1 Community Advisory Committees:

Each geographic area within HRM has one or more HRM owned facilities operated by a community volunteer group. It is important for HRM to facilitate opportunities for representatives from each facility, including HRM staff to meet on a biannual basis. The benefits of networking, sharing of resources, and looking at a global community service, in regards to recreation program delivery, facility management and cost recovery of day to day operations will help address the challenges faced by many community groups. Collaboration of efforts can reduce duplication of fund-raising initiatives, assist in the coordination of special events, serve as a collective voice for a geographic area and speak to the overall needs and support required from HRM to better serve the overall recreation interests of citizens.

15.2 HRM Staff Liaison Person for Community Groups

HRM will appoint a staff member to be responsible for administration of this Facility Lease Agreement. The role of the HRM Staff Liaison Person includes working with and assisting Tenants leasing HRM facilities. Through the role of advisor they will offer recommendations on best practices regarding program delivery and facility operation.

15.3 Board Development Tool

The HRM Board Development Tool is the mechanism used to assess both HRM's supporting performance and the Tenants management board's organizational performance in four key areas:

1. Board Structure and Governance
2. Community Service delivery
3. Financial management
4. Facility management

The completion of this document is a required annual benchmark. This exercise will clearly indicate the strengths of both parties and identify areas for improvement.

Based on the outcome, the parties will develop goals, planning strategies, determine resources, time lines and proposed budgets. This will provide information to assess the HRM investment/community impact.

16. Miscellaneous Licenses & Fees

16.1. SOCAN License Fees

SOCAN is an organization that administers the communication and performing rights of virtually the world's entire repertoire of copyright - protected music, when it is used in Canada. They collect license fees, then distribute the fees as royalties to their members and affiliated performing rights organizations (PROs) worldwide. They ensure that music creators and publishers get paid for the communication and public performances of their music in Canada. To do this, they collect fees from individuals, businesses and organizations that play music in public, broadcasted, or communicated by telecommunication. The Tenant shall comply with its payment obligations in respect of the use of copyrighted materials. For application to Community Organization - see guidelines WWW.socan.ca

17. HRM Insurance Responsibility

17.1 Property Insurance - HRM will insure all real and personal property that are owned by HRM or for which HRM is legally responsible. This coverage insures for all risks of direct physical loss or damage including but not limited to fire plus many other hazards including windstorm and lightning. HRM does not provide property insurance coverage for any real or personal property (including contents) owned by the Tenant or their sub-lessee or invitee.

17.2 Commercial General Liability (CGL) - HRM will provide insurance coverage related to legal liability imposed upon HRM for its negligent act that causes bodily injury and/or property damage to a Third Party arising from entering onto, leaving or while on HRM premises. HRM does not provide Commercial General Liability insurance coverage for the negligence arising out of the Tenant's programs or the activities thereof.

18. Tenant's Insurance Responsibility

18.1 Tenant's Insurance Responsibility - The Tenant is required to provide certain insurance coverage with a Certificate of Insurance provided to the HRM at the time of signing the Facility Lease Agreement as well as at the Tenant's yearly renewal. Other insurance coverages listed are policies Tenants may wish to consider based upon their scope of activities. An insurance broker can advise on the appropriate coverage and limits required based upon your individual circumstances. Halifax Regional Municipality and Halifax Regional School Board to be named on the Insurance Certificate as an additional name insured.

18.2 Board Insurance, Director & Officers - The Tenant is required to insure against claims related to the wrongful acts or omissions committed or omitted by Directors and Board members "Wrongful acts or omissions" means those acts or omissions including, not limited to, decisions, organization policies, libel, slander, but excluding acts or omissions, which result in bodily injury to other people (the public) or damage to their property. Libel and Slander may be excluded from certain directors and officers policies.

18.3 Property (Content) - Tenant is required to obtain insurance coverage in respect of all personal property owned by the Tenant or for which the Tenant is legally responsible. Coverage must include leasehold improvements. This coverage insures for all risks of direct physical loss or damage including but not limited to Fire and Earthquake plus many other hazards including Windstorm and Lightning. HRM provide Property insurance coverage for any real or personal property (including contents) owned by the Tenant or their invitee.

18.4 Commercial General Liability (CGL) - The Tenant is required to obtain insurance coverage in respect of legal liability imposed upon the Tenant for its negligent act that causes bodily injury and/or property damage to a Third Party arising from entering onto, leaving or while on the Tenant's premises, any products sold or other Tenant operations, including programs policy shall include Tenant legal liability coverage. If alcohol is to be served on site by the Tenant then liquor liability must be included in coverage. HRM does not provide Commercial General Liability insurance coverage for the negligence arising out of the Tenant's programs or the activities thereof. Insurance coverage must be satisfactory to HRM. HRM generally requires a minimum coverage limit of 2 million dollars for small recreation centres (25,000 sq ft and less) unless alcohol is regularly served onsite. For large facilities or if alcohol is served on site additional coverage may be required.

Note - Often Property and Commercial General Liability policies can be purchased within the terms and conditions of a Tenant's Insurance Package.

19. Limitation of Authority

19.1. Limitation of Authority

Unless expressly authorized in this Facility Lease Agreement, or by prior written direction or approval of HRM, the Tenant shall not have the authority to do any of the following:

- obtain loans for or on behalf of HRM, whether secured or unsecured, or give grant options, rights of first refusal, deeds of trust, mortgages, pledges, security interests, or otherwise encumber the facility or any portion thereof or any interest of HRM therein, or obtain replacements of any mortgage or mortgage;
- prepay in whole or in part, refinance, increase, modify, consolidate or extend any obligation affecting the facility or any portion thereof, except to the extent contemplated by the budget approved by HRM and in the ordinary course of operating the facility
- cause HRM to extend credit or to make any loans or become a surety, guarantor, endorser or accommodation endorser for any person, firm or corporation
- cause HRM to enter into any contracts with respect to the facility other than contracts in the ordinary course of managing the facility, which are in accordance with the provisions of this Facility Lease Agreement
- sell, exchange or convey the facility or any portion thereof
- release, compromise, assign or transfer any claim, right or benefit of HRM, except in the ordinary course of managing the facility pursuant to this Agreement
- allow a default judgment to be entered against HRM
- modify, change or amend, in any material way, any drawings, maps, plans or specifications prepared for or in connection with the facility
- grant easements or other property rights in the facility
- lease, purchase or sell any real property, including the facility or any part thereof, on behalf of HRM
- any other operational restriction such as subleasing, which may be identified elsewhere in this agreement

20. Indemnification & Legal Action

20.1 Indemnification of the Tenant

HRM shall indemnify, defend, and hold harmless the Tenant and each officer and director thereof, against any loss expense, damage, claim, obligation, judgement or injury suffered or sustained by reason of any act, omission or alleged act or omission arising out of the negligence of HRM.

20.2 Indemnification of HRM

Should an incident or loss occur where the Tenant is deemed to have been negligent in their actions, Halifax Regional Municipality reserves the right to launch any actions necessary to recover HRM costs. The Tenant shall at all times indemnify and save harmless HRM and its officers, servants or agents from and against all claims and demands, loss, costs, damages, actions, suits or other proceedings by whomsoever made, brought or prosecuted, in any manner based upon, occasioned by or attributable to the Tenants's execution of this Facility Lease Agreement, or any action taken or things done or maintained by the Tenant by virtue hereof, or the exercise by the Tenant in any manner of rights arising hereunder, except claims for damage resulting from the negligence of any officer, servant or agent of the Landlord while acting within the scope of his duties or employment.

20.3 Suits and Claims

The Tenant shall notify HRM in writing as soon as possible after it becomes aware of any injury occurring in, on or about the facility, which could reasonably be expected to result in a claim being made against HRM or the Tenant and of all claims against HRM and/or the Tenant which involves the facility. The Tenant shall take no steps (such as the admission of liability) which would operate to bar HRM from obtaining any protection afforded by any policies of insurance it may hold or which will operate to prejudice the defence in any legal proceedings involving HRM or the facility, or otherwise prevent HRM from protecting itself against any such claim, demand or legal proceeding. The Tenant shall fully cooperate with HRM in the defence of any claim, demand or legal proceeding.

21. Facility Operation and Management

21.1 Facility Operation and Management

The Tenant shall have the responsibility for the costs of management, operation, repairs, maintenance and administration of the leased facility in accordance with and subject to the terms and conditions during the term of the Agreement and unless and except to the extent otherwise determined by the HRM in writing to the Tenant. The Tenant shall perform its duties and exercise the powers and authority set out in this Agreement in a competent, efficient and economical manner and in accordance with the terms of this Agreement, subject to the directions from time to time from HRM. The leased facility shall be maintained in a clean and safe condition subject to inspection by HRM.

21.2 Shared Costs:

The Tenant is responsible to perform infrastructure repairs and maintenance required to protect the physical asset, including structural repairs and to report same to HRM and to HRSB as per the JUA . HRM is financially responsible for capital upgrades. Ensuring the health and safety of the general public is the responsibility of both HRM and the Tenant.

HRM owned facilities that have specialized equipment may be considered structural infrastructure assets of the leased facility. This will be the case where the equipment is required to provide the function of the facility. i.e., Arena ice surface plants, ice resurfacing machine, pool liners. In this case HRM will determine full or cost shared responsibility with the Tenant. HRM monetary contributions will take into account the financial capacity of the Tenant.

Capital Improvements:

The Tenant shall, as soon as practicable, after the execution of this Agreement, prepare and present to HRM for consideration, a long term plan for financing capital improvements and alterations to the Facility as a planning guide for future required capital improvements or alterations to the Facility. The Tenant shall update such plan annually. With respect to any proposed improvements and/or alterations to the Facility, the Tenant shall follow guidelines set by HRM with respect to capital projects. No such improvement or alteration shall be undertaken unless and until it has been approved by HRM. In furtherance of same, the Tenant shall have the right, subject to the terms of this Agreement and to the limits of the budget approved by HRM pursuant to this Agreement, to contract on behalf of the Municipality as "Agent" for such capital improvements when requested to do so by the HRM.

21.3 Heating:

The Tenant shall at all times during the term of this Facility Lease Agreement, at its sole cost and expense ensure that the leased premises are heated in their entirety to a reasonable degree and to such a temperature as to prevent damage to any part of the Landlord's building ("Landlord's building" as referred to in this FLA being the community center and portions of the school used in connect therewith and shall expressly include all mains, pipes, wires and conduits forming part thereof or appertaining thereto). In event of any heating related problems the Tenant shall advise HRM and HRSB immediately. In the event that damage is caused to the Landlord's building as a result of the Tenant's breach of this covenant, the Tenant shall, at its own expense, cause the same to be repaired within 15 days of the occurrence of such damage (except such repairs which, with all due diligence, would require a longer period, then within such longer period) and, if the Tenant should fail or neglect to repair such damage within the time specified, the Landlord, its servants and agents, may effect the same at the Tenant's expense, and the Landlord in so doing shall not be liable for any inconvenience, disturbance, loss of business or other damage resulting therefrom, and all payments and costs incurred by the Landlord thereby shall be recoverable by the Landlord.

The Tenant shall at all times maintain and monitor working condition of the furnace or heating system and heating fuel tank gauge or level indicator, including monitoring the amount of heating fuel to heat the facility to a required temperature that will minimize risk to the facility is the responsibility of the Tenant.

21.4 Contaminants:

The Tenant shall not discharge, cause or permit to be discharged or howsoever to pass in to the sewer systems or surface facilities any deleterious material, toxic, noxious, contaminated or poisonous substances, and in the event of the escape or discharge of such material or substances, the cost incurred and the clean up to the satisfaction to the Landlord, shall be at the Tenants expense.

21.5 Waste Management

The Tenant shall comply with HRM By-Law S-600. The Tenant shall provide receptacles to accommodate proper source-separation of waste both interior and exterior. All containers (interior and exterior) shall be properly signed to indicate the material contained within. HRM will provide the Tenant with the guidelines on the different types of separation and the acceptable materials for each. All Sub-Tenants shall be responsible to source separate their waste within their exclusive space.

21.6 Procurement Process

Capital or Operating expenses approved by the Tenant and/or HRM: Community groups planning and funding work for HRM facilities are required to follow sound procurement practices, principles and policy consistent to those adopted by HRM. All capital planning and funding will take place as per the JUA.

HRM _____

Tenant _____

With respect to any proposed improvement and or alterations to the facility, the Tenant shall be responsible for developing and preparing all necessary plans, specifications and tender packages (HRM process) and in the selection of consultants and contractors. No such improvement or alteration shall be undertaken unless and until it has been approved in writing by HRM staff / Council in the final Capital budget or by special dispensation of Council or HRM approves in writing the Tenant's Budgets. Upon HRM written approval all such improvements and alternations can be administered by the Tenant.

HRM will make available any assistance requested to help develop and prepare necessary plans, specifications and tender packages and select the contractors and consultants along with monitoring the work to be completed.

*** Note -** For monies approved in the Tenants budget which are allocated to proposed facility improvement or alterations, the Tenant shall require all invoices to be made out to the Tenant and payable by the same.

21.7 Purchasing Policies

The Tenant shall operate from comprehensive written procurement guidelines and best practices and for use by the board and/or facility manager/executive director at all times in the purchase of all goods, supplies and services of a non-capital nature for the facility as approved by HRM. With respect to the purchase of goods, supplies and services which, by their nature, are purchases which are or ought to be included in the facility's capital budget, the Tenant shall, in making such purchases, ensure that there is compliance in all respects with the Municipality's standard procurement guidelines and procedures.

21.8 HRM Purchase Agreements

HRM has Standing Purchase Agreements with qualified businesses and will provide access to the information that the Tenants can utilize when purchasing a service or supply.

22. Condition Assessments, Facility Inspections & Lock Systems

22.1 Annual Facility Condition Assessments: Prior to and time of termination of lease inspection of facility

The landlord will conduct an annual facility condition assessment and it will be reviewed with the Tenant. Should the landlord find that the leased premises are not in good condition and repair, in any respect, the Tenant agrees that upon receipt of written notice of the same, the Tenant will make such repairs and replacements as the Landlord may reasonably require within thirty (30) days thereafter. When work would require a longer period, and, if the Tenant should fail or neglect to repair or make replacements as reasonably required by the Landlord within the time specified, the Landlord, its servants and agents, may enter the leased premises and at the Tenant's expense, perform and carry out such repairs and replacements, and the Landlord in so doing shall not be liable for any inconvenience, disturbance, loss of business or other damage resulting therefrom, and all payments and costs incurred by the Landlord thereby shall be recoverable by the Landlord.

22.2 Monthly Facility Inspections/Reports

The tenant shall complete a Monthly Facility Inspection Sheet for each quarter of the year, and submit a copy of the report to HRM in the prescribed format. These reports will be kept on file to document risk management practices but are not considered requests for work to be completed. Any safety concern requiring HRM's involvement should be brought to the attention of your HRM liaison immediately and followed up with written correspondence.

HRM _____

Tenant _____

22.3 Facility Inspections

The Tenant hereby declares it has inspected the leased premises before executing this Facility Lease Agreement and has satisfied itself as to their condition and the taking of possession by the Tenant shall be deemed conclusive evidence that the Tenant received the leased premises in good order, condition and repair.

22.4. HRM Facility Lock System

Many HRM owned facilities are fitted with a facility lock system. The keys are numbered and assigned and tracked. When an assigned key is no longer required it is turned into HRM and reassigned. The individuals assigned keys are required to sign a key agreement stating key holders are not permitted to transfer, to loan, give possession of, misuse, modify or alter the keys or lock system. They will be required to agree not to cause, allow or contribute to the making of any unauthorized copies of the above keys. Tenants will be responsible for cost associated with new keys. When HRM owned facilities that are not fitted with the facility lock system the Tenant will be required to establish a facility key system that assigns, monitors and tracks assigned keys and access to a facility. Tenants are to provide security access information and board contacts information to HRM staff. HRM staff will require access for facility condition assessments and response to service or maintenance calls. Tenants with a security system are responsible for call response and any facility fines or fees charges resulting from a false alarm. Facilities that are designated EMO sites are required to assure accessibility to the facility in the case of an emergency and community access is required.

23. Additional Clauses

23.1 Validity of Provisions

In the event any one or more of the provisions contained in this Facility Lease Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceable shall not affect any other provisions of this Facility Lease Agreement and this Facility Lease Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein and this Facility Lease Agreement shall be enforceable to the fullest extent permitted by law. This Facility Lease Agreement shall be interpreted in accordance with the laws of the Province of Nova Scotia.

23.2. Consent or Waiver

Time shall, in all respects, be of the essence of this Facility Lease Agreement. No consent or waiver, expressed or implied, by a party of any breach or default by the other party in the performance by such other party of its obligations hereunder shall be deemed or construed to be a consent or waiver of any other breach or default hereunder. Failure on the part of a party to complain of any act, or failure to act, on the part of the other party or to declare the other party in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its right there under. Neither this Facility Lease Agreement nor any provision hereof may be amended, waived, modified or discharged except by an instrument in writing executed by the party against whom enforcement of such amendment, waiver, modification or discharge is sought.

23.3 Successors

The provisions of this Facility Lease Agreement shall, subject to the terms and conditions hereof, be binding upon and ensure to the benefit of the successors and assigns of each of the parties hereto, provided, however, this Agreement shall at all times remain personal to the Tenant and may not be assigned by the Tenant without the prior written consent of HRM.

23.4 Remedies

Both parties shall, in addition to all rights provided herein or as may be provided by law, be entitled to the remedies of specific performance and arbitration if necessary, to enforce their rights hereunder.

23.5 Contractual Approval

Based on the terms of the Facility Lease Agreement, HRM will require verification of:

- Program alignment with HRM focus areas
- Tenant's current Board status (with The Registry of Joint Stocks Companies - Nova Scotia)
- A financial account with a recognized financial institution
- No outstanding debt of the Tenant to HRM
- Proof of General Liability Insurance and Directors and Officer Insurance

24. Agreement- Entire Agreement

The Joint Use Agreement between HRM and the HRSB (and endorsed by the Province of Nova Scotia), is incorporated by reference and forms a part of this Facility Lease Agreement. The Tenant shall act in accordance with provisions of the JUA and HRM's obligations thereunder, and to the extent applicable the obligations of HRM under the JUA shall be obligations of the Tenant. In the event of an inconsistency in the provisions of this Facility Lease Agreement and the JUA, the provisions of the JUA shall prevail and apply.

Subject to the foregoing, this Facility Lease Agreement, together with any written agreements executed in connection herewith or modifications or amendments to this Agreement entered into by the parties hereto shall constitute the entire Agreement between the parties hereto relative to the subject matter hereof and shall supersede any prior agreement or understanding, if any, whether written or oral, which either party may have had relating to the subject matter hereof. The Agreement will indicate the Commencement Date and Expiration Date.

IN WITNESS HEREOF the parties hereto have properly executed this Indenture as of the day and year first above written.

SIGNED, SEALED and DELIVERED

Lake & Shore Community Recreation Society

Date Signed

Witness

Tenant

Witness

Tenant

Halifax Regional Municipality

Date Signed

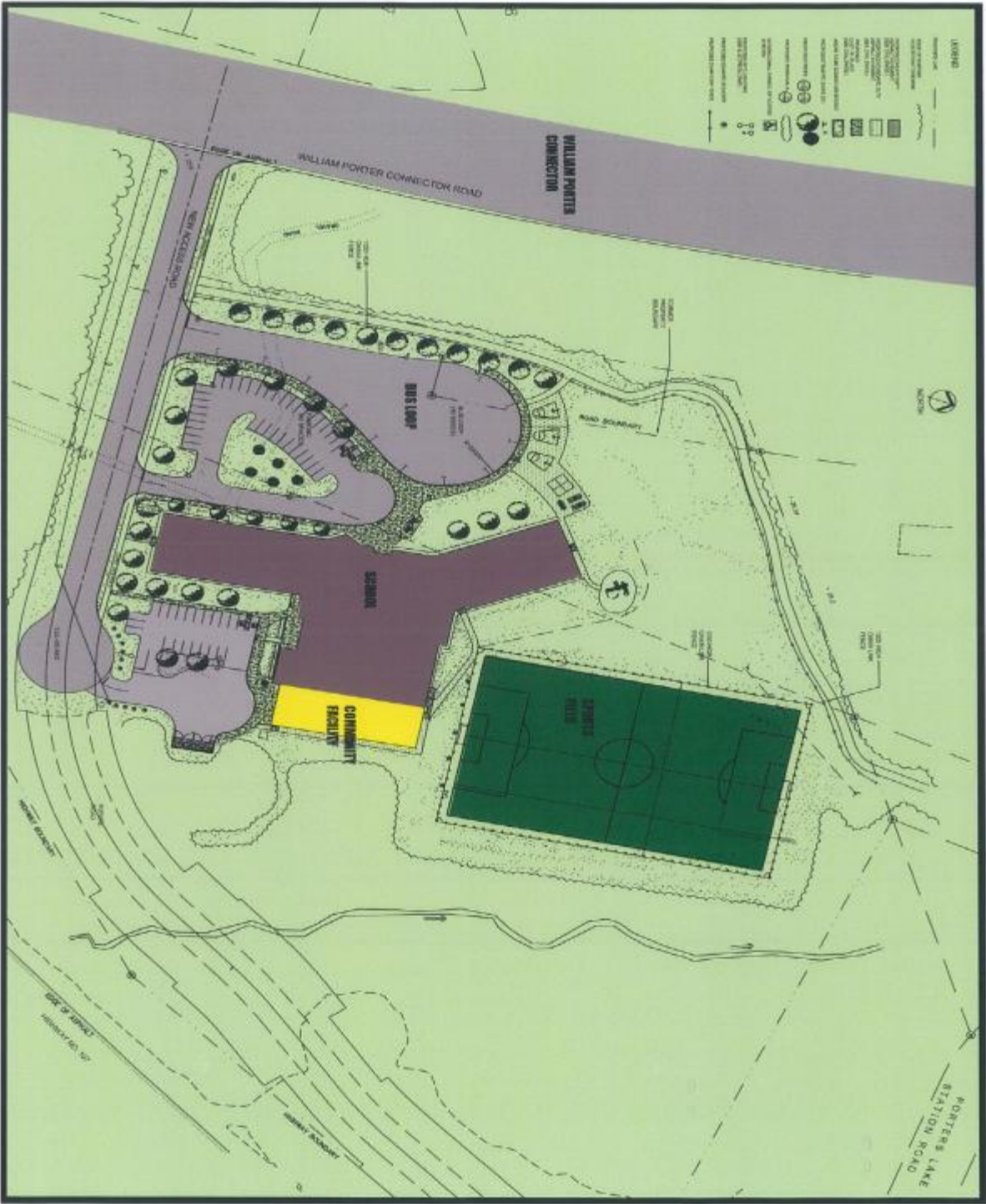
Witness

Peter Kelly, Mayor

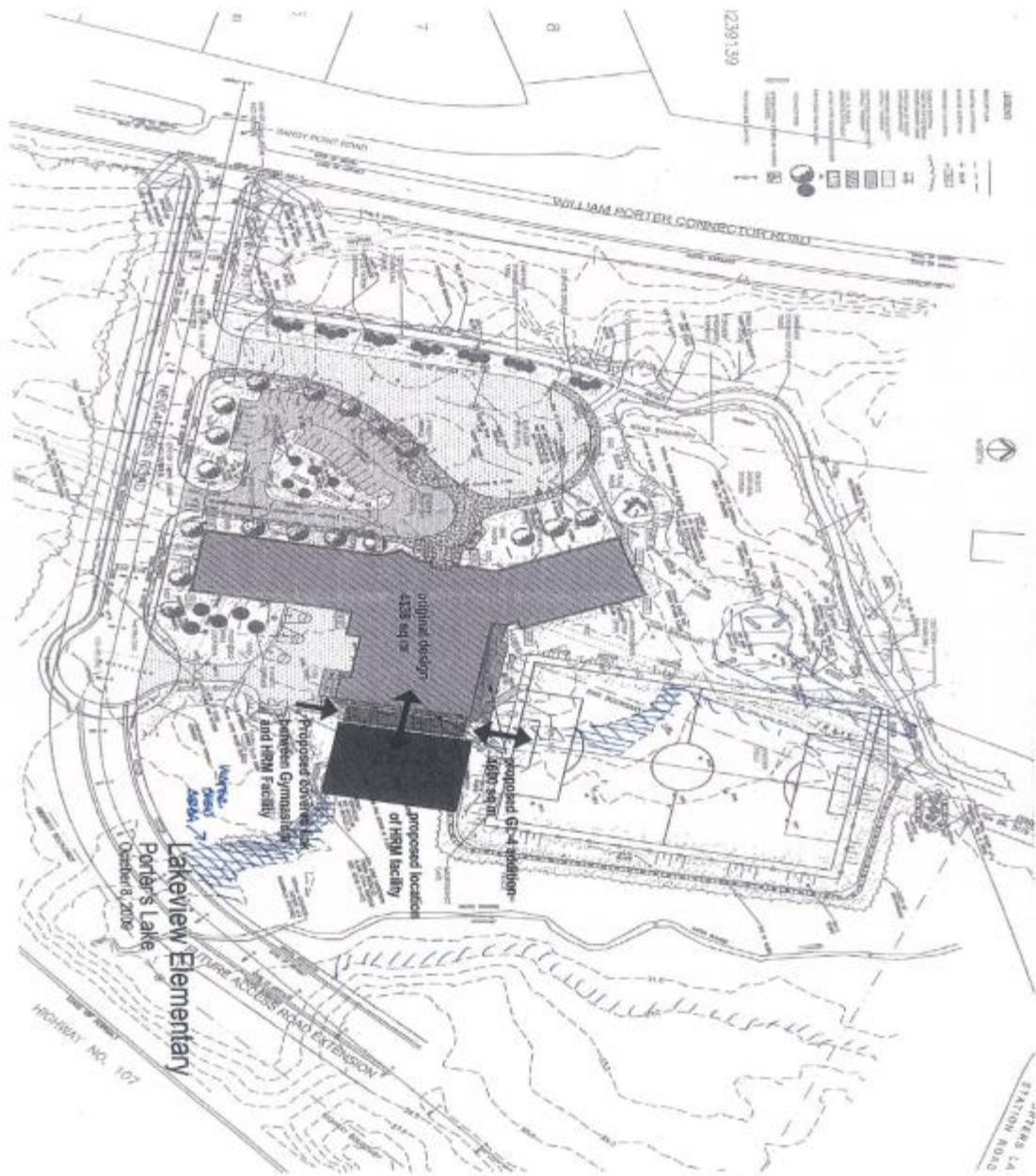
Witness

Municipal Clerk

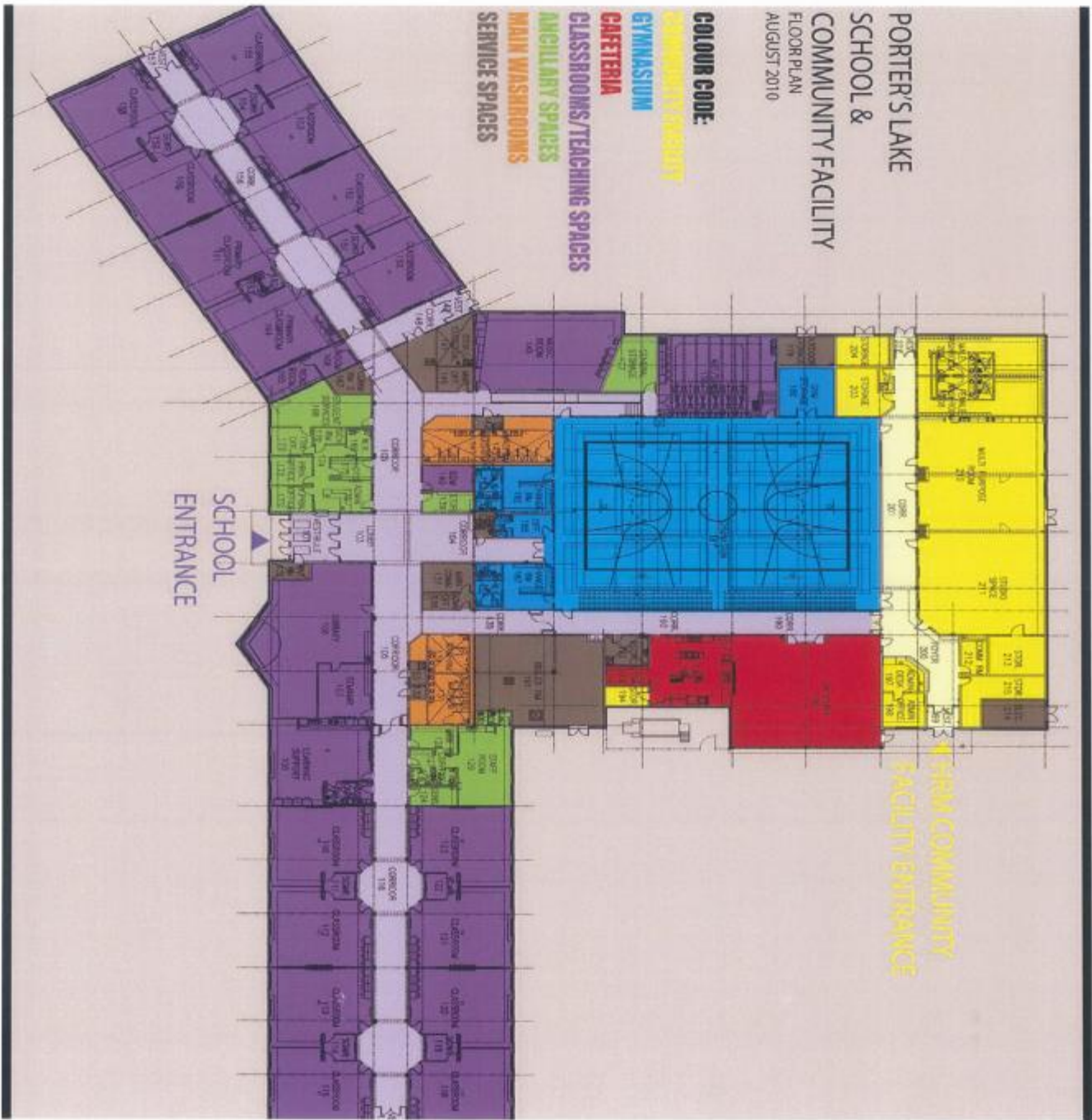
Schedule “A1”
Site Layout



Schedule "A2"
Site Layout



Schedule “A3”
Building Design



Schedule “B”

Permitted Facility Use - Site Specific Permitted Facility Use

The Tenant shall use the leased premises only for the permitted uses that are a direct link to and that align with HRM focus areas. Program and service delivery represents community activities and events that serve to meet or exceed a defined service delivery focus areas of Halifax Regional Municipality and meet the purpose and objectives of the Tenant. Their services must provide a direct contribution resulting in a positive impact to and for HRM citizens. Priority access is provided to the general public prior to special interests and/or groups or private organizations. A facility meets the public use standards if during at least 50% of the time it is operating, any member of the public may access the amenity at either no cost or a cost reasonable for the type of facility use or service availability.

The tenant shall not carry on or permit to be carried on therein any unapproved trade, business or other activity.

That the Tenant will not carry on any business or activity or permit anything to be done or kept on the leased premises which shall in the opinion of the Landlord or at law be a nuisance or disturbance, or which shall be noisy or contrary to any law or statute or any by-law, rule or ordinance of any governmental authority having jurisdiction, or by reason of which the insurance on the leased premises shall be made void or voidable or increased in cost.

The Tenant shall not do, suffer or permit to be done any act or anything upon the leased premises which is or constitutes a nuisance to the occupiers of any lands or premises adjoining or in the vicinity of the leased premises or to the public generally.

The tenant shall obtain prior written permission for any exclusive leasing within the building. Any alcohol on the premise or service must be done in accordance with the Alcohol and Gaming Authority.

The Tenant shall not allow any of the following to take place on the premises:

pawn shops;

drugstore or health and beauty aids store;

no stored items which are not used at the facility;

no banks, loan companies, trust companies or finance companies;

no catalogue or mail order business;

VLTs;

adult stores;

any other business which due to the merchandise to be sold or pricing methods used would downgrade the character of the Centre or cause community apprehension/concern.

Attachment # 1

Facility Lease Agreement Resource Binder

The Tenant has received a Facility Lease Agreement Resource Binder which consist of relevant information for a facility and site. The binder was developed for the Tenant to use as a reference guide.

HRM has the right to update the contents as information may change from time to time.

Attachment # 2 Site Specific Information

Lake & Shore Community Recreation Centre
40 Inspiration Drive
Porters Lake, NS
PID # 40372476 District # 3

Approximate age	New Build opening September 2011
Former -	New Build Community Centre attached to new school
Size of building	Approximately 8,034 sq feet size of community centre
Water-	Well (drinking water) & cistern (grey water) & responsibility HRSB
Sewer-	Septic field - Type & responsibility HRSB
Type of Lock System-	Best Lock
Lock box on site:	YES
Security System:	<input checked="" type="checkbox"/> YES <input type="checkbox"/> No
Security system monitored by	HRSB
Security Cameras in use:	<input checked="" type="checkbox"/> YES <input type="checkbox"/> No
Security Cameras monitored by	HRSB

Source Separation:

Garbage collected by	HRSB to determine included in maintenance fees
Recyclables collected by	HRSB to determine included in maintenance fees
Organics collected by	HRSB to determine included in maintenance fees

Facility

Facility operational hours	8:30am – 9 pm hours, 5 days per week
General public access –	Daily access and weekend rentals
Accessibility for users:	(ex. Accessible/ramp) sidewalk curb cuts and accessible push button entry doors
EMO Site:	No, may be used in cases of emergencies as a comfort station
Easements:	This facility is attached to an operational school which are on HRSB land
Service Agreements:	No

Joint Use Agreement –

The Landlord, HRM has participated by financial contribution to the construction of the Porter's Lake Elementary School structure which structure contains the community center which is the subject of this Facility Lease Agreement ("FLA"). As a consequence of its financial participation, HRM has been provided with possession and administrative control of that portion of the school structure containing the community center, the term and conditions of which are set out in a Joint Use Agreement ("JUA") between HRM and HRSB. References to HRM's property or the Landlord's premises, or other similar descriptions in this FLA shall mean the community center and such other portions of the school structure or school grounds as HRM may have possession or access to from time to time.

The Lake & Shore Community Recreation Society will be responsible to uphold the terms and conditions of both the JUA and the FLA at all times.

Attachment # 3

Facility Responsibilities

The Tenant shall manage, promote, develop, operate, maintain and improve the Facility.

The facility responsibilities for the community group and HRM are outlined in the Facility Lease Agreement Resource Binder Section 6.3 Guidelines – Facility Maintenance Responsibilities.

The list dated 2012 covers the majority of regular maintenance items, however, if the group has a question regarding a particular item or responsibility they can contact their HRM staff liaison to get clarification.

Attachment # 4

Annual Rent

HRM shall charge the Tenant a base rent of zero (\$0.00) dollars annually for the leased facility, this is based on taking into account the nature and location of the leased facility and restrictions in use imposed by this Facility Lease Agreement.

PORTER'S LAKE
SCHOOL &
COMMUNITY FACILITY
FLOOR PLAN
AUGUST 2010

COLOUR CODE:
COMMUNITY FACILITY
GYMNASIUM
CAFETERIA
CLASSROOMS/TEACHING SPACES
AGILARY SPACES
MAIN WASHROOMS
SERVICE SPACES

