

HALIFAX

P.O. Box 1749
Halifax, Nova Scotia
B3J 3A5 Canada

Item No. 11.1.3
Halifax Regional Council
October 27, 2015

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original signed by 
Richard Butts, Chief Administrative Officer
Original Signed by
Mike Labrecque, Deputy Chief Administrative Officer

DATE: October 1, 2015

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

ORIGIN

June 26, 2012 meeting Item 11.1.6, Halifax Regional Council

Moved by Councillor Hendsbee, seconded by Councillor Sloane that Halifax Regional Council:

1. Authorize the Mayor and 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 the June 4, 2012 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 of the June 4, 2012 report.

MOTION PUT AND PASSED

LEGISLATIVE AUTHORITY

Section 133(1) of the *Education Act* provides that "A school board and a municipality may enter into an agreement whereby the municipality agrees to pay the capital cost of a community facility to be acquired by the school board in or in association with a public school and the cost of maintaining and operating the community facility."

RECOMMENDATION

It is recommended that Halifax Regional Council authorize the Mayor and Municipal Clerk to enter into a Joint Use Agreement with Halifax Regional School Board regarding the Porters Lake Elementary School and Lake & Shore Community Recreation Centre as per the draft agreement attached to this report as Attachment 1 instead of the version of the Joint Use Agreement previously approved by Council on June 4, 2012.

BACKGROUND

In 2010, Halifax Regional Municipality Council approved \$3.3 million capital contribution to the construction of a new school and community centre facility in Porters Lake. The Porters Lake Elementary School and Lake & Shore Community Recreation Centre were constructed and have been operational since September 2011.

A Joint Use Agreement (JUA) is required to define the ongoing cooperative relationship between the Municipality and the Halifax Regional School Board (HRSB) regarding the joint usage, maintenance and reciprocal access to the 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 Service Exchange Agreement;
- 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.

Halifax Regional Council approved a version of the Joint Use Agreement & Facility Lease Agreement on June 26, 2012. Subsequent to Council's approval, however, the HRSB requested further changes to the document.

DISCUSSION

HRM staff met with HRSB staff on numerous occasions to negotiate and produce a revised version of the JUA that is acceptable to both parties and clarifies roles and responsibilities (see Attachment 1). Most of the changes are housekeeping in nature and are simply to provide added clarity to the agreement, particularly with respect to maintenance of the facilities. Staff has reviewed the revised agreement to ensure the overall intent is not compromised.

The *Education Act* requires that all JUAs must be approved by the Minister. HRSB has approved the revised version and upon HRM approval, it will receive Ministerial approval. Upon approval by all parties, the revised JUA will be used as a template to produce JUAs for other joint-use schools/community facilities.

The Facility Lease Agreement approved by Council on June 26, 2012 has not been changed and will be executed once the revised JUA is approved and executed.

FINANCIAL IMPLICATIONS

The Halifax Regional Municipality contributes 13.4% of the cost of repair and/or replacement value for the operating and capital cost of the mechanical equipment that is jointly shared and which jointly services both the School and HRM facilities. This is part of the approved HRM operating budget in C705. To date for the first six months of the 15/16 fiscal, this amount equates to \$25,146. The actual for 2014/15 was \$54,868.00.

COMMUNITY ENGAGEMENT

Community members make up the Lake & Shore Recreation Society.

ENVIRONMENTAL IMPLICATIONS

There are no environmental implications associated with this report.

ALTERNATIVES

Halifax Regional Council may choose to not approve the amendment to the Joint Use Agreement and direct staff to negotiate further changes with HRSB.

ATTACHMENTS

Attachment 1 – Revised Joint Use Agreement

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.php> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Colin Taylor, Solicitor, Legal Services, 902.490.4655

Report Approved by: _____
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Financial Approval by: _____
Amanda Whitewood, Director of Finance and Information Technology/CFO, 902.490.6308

Report Approved by: _____
Brad Anguish, Director of Parks & Recreation, 902.490.4933

Original Signed

Joint-Use Agreement

Halifax Regional Municipality
and
Halifax Regional School Board

*Porters Lake Elementary School
Lake & Shore Community Recreation Centre*



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

Tel: 902-490-5713
Fax: 902-490-5950
www.halifax.ca

THIS AGREEMENT MADE THIS ___ day of , 2013

BETWEEN:

HALIFAX REGIONAL MUNICIPALITY (“HRM”)

- and -

HALIFAX REGIONAL SCHOOL BOARD (“HRSB”)

respecting the Porters Lake School & Community Centre

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.

AND WHEREAS this 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;

AND WHEREAS pursuant to the Education Act, 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 with a capital contribution of \$3,300,000 from HRM, the Department of Education and the Province of Nova Scotia have constructed a new elementary school for HRSB, and, a new community centre for HRM in Porters Lake, Nova Scotia;

AND WHEREAS the Parties have a mutual interest in assuring public facilities are accessible and available for Students, 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 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 September 1st to June 30th in each calendar year;

“Agreement” means this joint-use agreement including any and all schedules attached hereto;

“Athletic Field” means the natural turf field adjacent to the Porters Lake School & Community Facility;

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

“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 that portion of the Porters Lake School & Community Facility known as the “Lake & Shore Community Recreation Centre” and includes all portions depicted in yellow on Schedule “E” attached hereto;

“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;

“Porters Lake School & Community Facility” means the entire complex constructed and owned by HRSB in Porters Lake, Nova Scotia, as depicted in Schedule “E” attached hereto, and includes both the School and the Community Centre;

“Principal” means the principal of the School;

“Province” means the Province of Nova Scotia;

“School” means that portion of the Porters Lake School & Community Facility known as “Porters Lake Elementary School” and includes all portions depicted on Schedule “E” attached hereto, except those shown in yellow;

“School Hours” means the hours of 7:00 a.m. to 4:00 p.m., Monday to Friday, throughout the Academic Year;

“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 the Community Centre. Access to and use of the Athletic Field is governed by the SEA.

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 this Agreement and in particular, Section 4.

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 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 recreational programs shall be dealt with in priority to educational programs.

3.4 HRM and HRSB shall participate jointly on the FOC to ensure the ongoing successful communications and operations of the School and the Community Centre. The FOC will be chaired and populated with representatives as determined by Schedule “C”.

- 3.5 HRSB grants to HRM the right to make use of the School at no charge when the School is not being used for educational purposes. For greater clarity, the School shall be used by HRSB for educational purposes during School Hours, commencing at 7:00 a.m. and ending at 4:00 p.m., 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 an HRSB program and as such HRSB has first priority of the School spaces required to operate the program. HRM, will have access to the School after School Hours commencing at 4:00 p.m. daily and ending at 10:00 pm. School access is also available to HRM on weekends, 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 HRSB Labour Agreements. 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) art room, (d) music room, and (e) kitchen. This will be reviewed in detail in the month of May or June of each year of operation.
- 3.6 Scheduled use of the Facilities will be reviewed with the FOC to ensure that appropriate access 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 each year to ensure that custodial staff can complete cleaning and preparations for the upcoming Academic Year.
- 3.7 The School representatives and the HRM representatives on the FOC will work to ensure that scheduled use of the School is maximized between 4:00 pm and 6:00 pm Monday through Friday during the Academic Year. Scheduled use of the School will ensure that both community programs and the Excel program will be able to utilize the School when desirable, and ensure that those spaces are not left empty. If the gymnasium is divided for shared use during Excel programming, HRM agrees to only schedule supervised youth programs in the adjacent gym space.
- 3.8 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. HRM staff and the principal of the School, through the FOC, shall work cooperatively to maximize the joint-use of the Community Centre.
- 3.9 All programs and activities scheduled under this Agreement shall comply with the policies and procedures applicable to the Facilities as established by the Parties.
- 3.10 All scheduling requests will be submitted and reviewed as per Section 4.0 of this Agreement. All other requests shall be submitted in writing to an authorized representative of the other Party. Any issues of disagreement arising from this process shall be dealt with in accordance with the dispute resolution provisions in Section 11.0 of this Agreement.
- 3.11 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.

- 3.12 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.
- 3.13 Public access to the Community Centre and the School (in accordance with s. 3.5) will be scheduled, supervised and managed by the Community Board.
- 3.14 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.
- 3.15 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 each Party for the benefit of the other Party or community-based user as required.
- 3.16 Access to score clocks and audio visual equipment, including, but, not limited to, portable stereo equipment, microphones and sound systems, shall be coordinated in accordance with the policies established by the Parties in consultation with the FOC will be under the direct supervision of the Principal and the Community Board, in consultation with the FOC.
- 3.17 HRM shall have access to the kitchen outside of the Academic Year, as well as on in-service dates, weekends and school breaks, and after 3:00 p.m. during the Academic Year, subject to the Terms and Conditions of Kitchen Use set out in 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 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 in May for each upcoming Academic Year. HRM (via the Community Board) shall initiate the planning and program scheduling process with the Principal or his/her designate.
- 4.2 Commencing in May of each year, HRM (via the Community Board) will identify the programs to be offered and advise the Principal or his/her designate of the scheduling needs of community groups for the upcoming Academic Year. This shall include the scheduling of weekend access and shall include the identification of required schedules for part-time custodians as outlined in Section 6 of this Agreement. Facility-use in one year does not guarantee the same use at the

same times in the subsequent year, due to changes in recreation trends, education requirements, community and demographics.

- 4.3 The Principal or his/her designate shall advise HRM of HRSB's educational program schedule and related HRSB commitments for the upcoming Academic Year, once he/she has received HRM's scheduling requirements as per Sections 4.1 and 4.2 of this Agreement.
- 4.4 Once HRM and the HRSB have exchanged their scheduling requirements as per above, HRM staff, the Principal or his/her designate and the FOC shall discuss the potential sharing of resources and adjust the joint-use schedule accordingly, so as to be in the best interest of the Students and the community at large.
- 4.5 Once a shared-use schedule has been agreed upon in principle for the upcoming Academic Year, the Parties, in cooperation with the FOC shall approve the shared-use schedule.
- 4.6 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 When a Party's Facility is closed due to emergency circumstances the closure of that Facility shall result in the cancellation of the other Party's access to that Facility. Notwithstanding the foregoing, when the Community Centre is closed due to inclement weather, access to the Community Centre by HRSB shall be cancelled; however when the School is closed due to inclement weather but the Community Centre remains open, HRM shall continue to have regular access to the School.
- 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 of the School due to a requirement for use by HRSB for a legitimate HRSB purpose during School Hours must be communicated through the FOC to HRM with a minimum of fourteen (14) days advance notice.
- 5.4 Cancellation of an HRSB booking of the School due to a requirement for use by HRM for a legitimate HRM purpose outside of School Hours must be communicated through the FOC to HRSB with a minimum of fourteen (14) days advance notice.

6.0 Maintenance of Facilities

- 6.1 HRSB shall maintain the School and Community Centre to an industry standard level which ensures HRM's ability to conduct quality recreation programs for community members.

- 6.2 For greater certainty, HRSB shall be responsible for all interior operating and maintenance costs (including heat, hot water, electricity, custodial services, etc.) and all exterior operating and maintenance costs (including landscaping, snow removal, garbage removal, etc.) for both the School and the Community Centre.
- 6.3 On a monthly basis, HRM shall reimburse HRSB an amount equal to 13.4% of the costs incurred by HRSB in the previous month in accordance with sections 6.1 and 6.2 above.
- 6.4 Subject to sections 9 and 10 of this Agreement, HRSB shall be responsible for and shall pay for all repairs, replacements and capital improvements relating solely to the School; and HRM shall pay for all repairs, replacements and capital improvements relating solely to the Community Centre.
- 6.5 Subject to sections 9 and 10 of this Agreement, where repairs, replacements or capital improvements relate to or affect both the School and the Community Centre, the costs thereof shall be shared by HRSB and HRM as agreed to by the parties (with HRM typically contributing 13.4%). If the parties cannot agree on the necessity or apportionment of such costs, the parties will submit to the Dispute Resolution process outlined in section 11 of this Agreement to determine same.
- 6.6 HRSB custodial staff shall 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. Under the current formula HRSB custodial staff will maintain the Facilities from 7:00 am to midnight, Monday through Friday during the Academic Year, and at different and/or reduced hours Monday through Friday during the summer months.
- 6.7 Weekend access to custodial staff will be coordinated through HRSB. HRM agrees to reimburse HRSB for a minimum of 10 hours of part-time custodial staff per weekend when required by HRM. 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.
- 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 Centre guests at each Facility.
- 6.9 All work on site shall be performed in a respectful manner.
- 6.10 Upon arrival at the site, contractors shall inform the Principal and the Community Centre Manager, who shall determine what times, if any, the work should be stopped to accommodate the Students or Community Centre guests.
- 6.11 HRM agrees to adhere to the Fire Safety Plan and Regulations as outlined for the School through the HRSB.

6.12 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 and HRSB shall be jointly responsible for the management of this Agreement.

7.2 HRM reserves the right to delegate the responsibility for the daily operations of the Community Centre to a Community Board. Such a delegation does not remove HRM's responsibility to adhere to its obligations in this Agreement.

7.3 Either Party may, at any time during the term 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 to discuss proposed amendments to the Agreement.

7.4 Representatives of the Parties shall jointly prepare an outcome report for the joint-use of the Facilities on an annual basis, 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 The FOC shall conduct formal performance monitoring of the Agreement on an annual basis, based on the following:

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 and shall remain effective until the Porters Lake School and Community Centre is sold or otherwise disposed of by HRSB. Access to the School will not be available until the School is fully constructed or occupied as a school, which access date will be mutually agreed upon by HRSB and HRM.

8.1.1 Either Party may deem it necessary or beneficial to mutually review this Agreement at any time. The Party requesting the review shall 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:
Community & Recreation Services
c/o Coordinator, Community Development & Partnerships
P.O. Box 1749
Halifax, NS B3J 3A5

9.0 Indemnity

- 9.1 HRM shall indemnify and save harmless HRSB, it's 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 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 or alleged negligence of HRSB, it's governing Board, Officers, Employees, Agents or Volunteers.
- 9.2 HRBS shall indemnify and save harmless HRM, it's 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 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 or alleged negligence of HRM, it's Mayor, 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 General Liability insurance or its equivalent with a cross liability clause and otherwise in amounts not less than Five Million Dollars (\$5,000,000.) inclusive, against all losses, claims, incidents, expenses or costs for personal injury, death or property damage arising from activities of that Party or activities authorized by that Party, occurring in, on or about the Porters Lake School & Community Facility and each Party will ensure such coverage remain in effect and that nothing is done by that Party to affect the validity of such insurance during the term of this Agreement.
- 10.2 HRSB shall carry and maintain industry standard broad form property insurance at its sole cost and expense, with Halifax Regional Municipality named as an Additional Insured, with coverage amounts at least equal to the value of the entire Porters Lake School and Community Centre structure, and will ensure such coverage remains in effect and that nothing is done by HRSB to affect the validity of such insurance during the term of this Agreement.
- 10.3 The Parties agree to provide each other with a Certificate of Insurance evidencing coverage for any insurance required under this Agreement.
- 10.4 Each Party or their Insurer will provide thirty (30) days' notice of cancellation or policy amendment to the other Party.
- 10.5 The cost of repairs arising out of the use or wilful damage of the 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 with the other Party 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 Amendment and Waiver

- 12.1 No amendment or variation of this Agreement shall operate to change or vary the terms, obligations, or conditions hereof except upon mutual agreement of the Parties, signed by an authorized representative of each Party.
- 12.2 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.

13.0 Confidentiality

13.1 Confidential Information 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.

14.0 Freedom of Information and Protection of Privacy (FOIPOP)

14.1 The Parties agree for the purposes of FOIPOP that this Agreement is a public document.

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 enure to the benefit of and be binding upon the Parties, their respective successors and permitted assigns.

17.0 Severability

17.1 If any provision 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 Holding and Disposition of Property

- 20.1 This Agreement is an agreement in respect of a community facility and as such must be executed and interpreted in accordance with the relevant provisions of the Education Act, S.N.S. 2002 (at the time of execution, Sections 133-136) as amended from time to time.
- 20.2 The parties acknowledge that HRM's Capital Contribution of \$3,300,000.00 for the construction of the Porters Lake School & Community Centre was based on an anticipated minimum 30 year usage by HRM of the Community Centre and portions of the School beginning September 1, 2011. Accordingly, notwithstanding the requirements of the Education Act, HRSB agrees that if it closes, sells or otherwise disposes of the Porters Lake School & Community Centre prior to the expiration of the 30 year period, HRM shall receive a minimum share of the sale or insurance proceeds, or reimbursement from HRSB to HRM, of the pro rata portion of HRM's Capital Contribution, as it relates to the amount of the 30 year period remaining at the time of sale, closing or disposition. Every amount recovered by HRM pursuant to this Section shall be paid into the special reserve fund of HRM.
- 20.3 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 Porters Lake School & Community Centre that HRSB wishes to accept, and HRM will be provided with a 90 day right of first refusal to purchase the Porters Lake School & Community Centre 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 contracted 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 for HRM 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 for HRM may be required during School Hours, but will be agreed upon between the Principal and the Community Centre Manager. 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 NS, 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 Custodian)
- 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 jointly chaired by HRM and HRSB.
- 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
Lake & Shore Community Recreation Centre**

**Halifax Regional Municipality
Halifax Regional School Board**

Schedule “D”

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