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**TO: GENERAL COMMITTEE**

**SUBJECT: BARRIE COMMUNITY TENNIS CLUB AGREEMENT**

**WARD: ALL**

**PREPARED BY AND KEY CONTACT: R. BELL, MANAGER, RECREATION FACILITIES EXT. 4452**

**SUBMITTED BY: B. ROTH, DIRECTOR OF RECREATION SERVICES**

**GENERAL MANAGER APPROVAL: D. MCALPINE, GENERAL MANAGER OF COMMUNITY AND CORPORATE SERVICES**

**CHIEF ADMINISTRATIVE OFFICER APPROVAL: M. PROWSE, CHIEF ADMINISTRATIVE OFFICER**

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**RECOMMENDED MOTION**

1. That the Mayor and City Clerk be authorized to execute the Barrie Tennis Club Inc. (Barrie Tennis), Facility Use Agreement for use of the Queens Park Club House located at Queens Park, 55 Ross St. Barrie, ON. subject to the agreement conforming to the following:
  - a) The user agreement between the City of Barrie and the Barrie Tennis Club for the Club's use of the building covering all operational aspects including but not limited to – insurance, building maintenance, utilities, taxes (if applicable), term, renewal and rent based on the premise that no rent will be charged in exchange for the Barrie Tennis Club paying the capital costs and all operational costs during the term of this agreement, generally in accordance with Appendix "A" to Staff Report REC001-18;
  - b) The term of the agreement shall be 5 years, from April 1<sup>st</sup>, 2018 to April 1<sup>st</sup>, 2023, with an option for an additional 5 years with the written notice prior to December 1<sup>st</sup>, 2022, and with agreement from the City of Barrie; and
  - c) The agreement shall contain any other terms and conditions deemed necessary by the General Manager of Community and Corporate Services, and the form of the agreement shall be prepared to the satisfaction of the Director of Legal Services.
2. That the Mayor and City Clerk be authorized to execute the extension of the agreement under the same general conditions.

**PURPOSE & BACKGROUND**

Report Overview

3. In the fall of 2001 members of the Barrie Tennis Club met with Parks and Recreation staff to discuss a proposal they had developed for the construction of a tennis club house facility at Queens Park for the exclusive use of the club. An agreement was executed between the parties that allowed the Barrie Tennis Club to erect a building that would act as their main clubhouse throughout the term of the agreement.

4. The intent of the building was to provide washrooms for the members, and a small meeting/gathering area for their players to socialize before or after their tennis games. (Under the conditions of the agreement consumption of alcoholic beverages on City property would be prohibited.) They used to use an old garage on the site for storage of equipment.
5. The Club submitted an application request to the Molson Community Fund for this project. Their request was approved and they were awarded \$65,000, and the clubhouse was built.
6. The Club has been in existence since the early 1960's and has a present membership of 125 consisting of predominately adults. An increase in youth memberships has been experienced this year.
7. The Barrie Tennis Club has indicated that they wish to continue their relationship with the City of Barrie and operate the Queens Park Club house that the Club built on City lands.

### **ANALYSIS**

8. Queens Park presently has five tennis courts which are used by the general public. Of the five courts, the Barrie Tennis Club is allocated three of the courts for four nights a week and Saturday mornings and occasional use of a fourth court for a total of 77 hours of prime time court use. The remainder of the courts and times (162 hours of prime time) are for general community use. The agreement with the Barrie Tennis Club requires that one or two courts be available at all times for public use.
9. Typically with community groups using facilities on City lands in the past, it has been agreed that the ownership of the building remains with the City and the parties entered into a user agreement or lease arrangement. This practice ensures the City is in a position to maintain control of an asset on its lands.
10. Attached as Appendix "A" to Staff Report REC001-18 is the proposed general form of the agreement. The new agreement would contain the same general terms and conditions as the previous one with the new five year term, from April 1<sup>st</sup>, 2018 to April 1<sup>st</sup>, 2023, with an option for an additional 5 years.

### **ENVIRONMENTAL MATTERS**

11. There are no environmental matters related to the recommendation.

### **ALTERNATIVES**

12. The following alternatives are available for consideration by General Committee:

**Alternative #1** General Committee could decline the recommendation, and leave the clubhouse empty and not in use. This alternative is not recommended as the Barrie Tennis Club offer services to the residents that are not available elsewhere, and leaving the building vacant could increase the costs to the Corporation in ongoing maintenance of the building.

### **FINANCIAL**

13. There are no financial implications for the Corporation resulting from the proposed recommendation.

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**LINKAGE TO 2014-2018 STRATEGIC PLAN**

14. The recommendation(s) included in this Staff Report support the following goals identified in the 2014-2018 Strategic Plan:
  - Inclusive Community
15. The partnership with the Tennis Club allows the City to maintain ownership of the land and building while allowing the Club members access to a Club House to support their membership.

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**APPENDIX "A"**

**PROPOSED FACILITY ACCESS AGREEMENT**

This Agreement dated the 1<sup>st</sup> day of April, 2018.

**BETWEEN:**

**THE CORPORATION OF THE CITY OF BARRIE**  
("Barrie")

- and -

**BARRIE COMMUNITY TENNIS CLUB INC.**  
("Barrie Tennis")

**WHEREAS:**

- A. Barrie owns the lands and premises known as Queens Park legally described as Lot 2 to 5 E Parkside Dr & W High St & Lots 2 to 4 E High St Lots 2 to 4 W/S Toronto ("Queens Park");
- B. Management and operation of Queens Park and related facilities is vested with Barrie;
- C. Barrie Tennis constructed a tennis club house at Queens Park (the "Club House");
- D. Barrie owns the Club House;
- E. Barrie had authorized the negotiation of a Joint Development and Facility Access Agreement by motion 02-G-493 dated August 26, 2002 for exclusive use of the Club House by Barrie Tennis, which has now come full term and the following to be agreed upon.

**THE PARTIES AGREE AS FOLLOWS:**

- 1. For the privilege of having exclusive use of the Club House for a period of ten (5) years, from April 1<sup>st</sup>, 2018, to April 1<sup>st</sup>, 2023 (the "Term"), Barrie Tennis will be responsible for all capital and operational costs. Capital Items include, structural items required to maintain the clubhouse, restoring any damaged walls, windows, roofing or any upgrades to the Club house. Utilities required to operate and maintain the Club House will be monitored through a sub meter, from May 1<sup>st</sup> to September 30<sup>th</sup> and the City will invoice the Barrie Tennis for this use yearly, throughout the term of the contract.
- 2. Barrie Tennis may renew this Agreement, for an additional term of 5 years (the "Renewal Term"), with a written notice prior to December 1, 2022 to Barrie, and with agreement from the City of Barrie.
- 3. Any and all alterations, additions, renovations or upgrading to the Club House shall become the property of Barrie.
- 4. Barrie is responsible for all maintenance of Queens Park during the Term and Renewal Term of this Agreement.

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5. Barrie grants to Barrie Tennis, its representatives, employees and invitees for the Term and Renewal Term an exclusive right to the use and enjoyment of the Club House, provided Barrie Tennis is otherwise in compliance with this Agreement and Barrie's rules, policies and procedures with respect to sports facilities.
  6. Barrie Tennis shall not at any time or in any manner materially interfere with the operation, maintenance or use by Barrie or others of Queens Park except as specifically permitted pursuant to this Agreement.
  7. Barrie Tennis agrees that it will procure and maintain throughout the term of this Agreement or any renewal thereof reasonable commercial general liability insurance sufficient to protect both Barrie and Barrie Tennis against liability for the bodily injury and death and for damage to or destruction of property, with liability coverage in an amount of not less than \$3,000,000 per occurrence.
  8. Barrie Tennis shall maintain in its possession at all times and submit with this agreement a valid Certificate(s) of Insurance which includes Barrie as an "ADDITIONAL INSURED" and contain a "CROSS LIABILITY CLAUSE". The Certificate(s) of Insurance must contain an endorsement indicating that the insurer agrees to provide at least (30) days written notice to Barrie in the event of cancellation, coverage reductions or any other changes.
  9. Barrie Tennis agrees to INDEMNIFY AND HOLD HARMLESSs Barrie from any and all claims, demands, losses, causes of action, damage, lawsuits, judgments, including legal fees and costs, arising out of or relating to the use of the Club House and Queens Park.
  10. Notice to the either party shall be deemed to have been sufficiently given when mailed to such party as follows:  
  
The Corporation of the City of  
Barrie 70 Collier Street, P.O. Box  
400 Barrie, Ontario, L4M 4T5  
Attention: Manager of Recreation Facilities  
Fax: (705) 739-4243  
  
Barrie Community Tennis Club  
Inc. 16 - 72 Ross Street  
Barrie, Ontario, L4N 1G3  
Attn: President
  11. If any part of this Agreement or the application thereof shall, to any extent, be invalid or unenforceable, it shall be deemed to have been severed from this Agreement and the remainder of the terms and provisions will continue to operate in full force and effect and be binding upon the parties to the extent necessary to implement the intentions of this Agreement.
  12. This Agreement shall ensure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.
  13. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.



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14. The parties acknowledge and agree that this Agreement and any schedules may be executed in counterparts, which, taken together, shall constitute one and the same instrument. Fax copies of counterparts of this Agreement shall be deemed to be originals and shall be binding upon the parties executing same in the same manner as if each party had executed the original.

**IN WITNESS WHEREOF** the parties have executed this Agreement by their proper signing officers duly authorized in that regard.

**THE CORPORATION OF THE CITY OF  
BARRIE**

Per \_\_\_\_\_ or

Per \_\_\_\_\_

**BARRIE COMMUNITY TENNIS CLUB INC.**

Per \_\_\_\_\_

I have the authority to bind the  
corporation