
Subject: Canada Summer Games – Transition Update

Report to: Corporate Services Committee

Report date: Wednesday, October 14, 2020

Recommendations

1. That this report be **RECEIVED** for information.

Key Facts

- The purpose of this report is to provide Corporate Services Committee with an update on the Canada Games Park build transition progress.
- On June 4, 2020 Regional Council approved, in principle, the transitioning of responsibility for construction of Canada Games Park to the Region.
- On June 30, 2020 The Regional Municipality of Niagara (the “**Region**”) executed a Transition Agreement with 2021 Canada Games Host Society Inc. (“**CSG Host Society**”) setting out the details, including preconditions, to the transition of responsibility for managing the remaining construction of Canada Games Park to the Region.
- Only a handful of preconditions to effecting the transition remain, most notably, receipt of the Province’s consent to the transition.
- The 2021 Canada Summer Games were originally set to be held in August, 2021; however, were recently postponed until 2022. Construction remains on track to reach Substantial Performance by December 1, 2021.

Financial Considerations

The following are financial considerations provided by Region staff based on the documentation and information made available by the CSG Host Society through to the end of July.

The 2021 CSG budget, including both the original operating budget and revised Legacy capital budget now sits at \$146.7 million.

The Region has budgeted for and is scheduled to contribute \$1.0 million a year for four years, contributing a total of \$4.0 million to CSG Host Society's \$34.9 million operating budget.

The Region has budgeted \$20.05 million for the capital contribution, \$6.3 million funded with debentures and \$13.7 million which has already been transferred to the Host Society funded from the Gas Tax capital funding. Should the Regions role in the delivery of any of the capital projects linked to the Canada Summer Games change, this would require budget adjustment. A comprehensive budget reconciliation will be completed once the date of transition is set.

At this time, the capital budget below includes an estimate of the non-recoverable HST municipal tax rebate applicable to the transfer of the building to the consortium at the end of construction. The amount budgeted is for the portion of the facility owned by Brock University, current advice from Deloitte indicates that the Niagara Region, St. Catharines and Thorold are eligible for 100% recoverable HST. The tax status of the Consortium has yet to be finalized, however should the Consortium not be eligible for this rebate; the HST expense could be greater and would represent an additional liability for the Region which would require a future funding allocation.

Capital Program - EXPENSES	Total Approved Canada Summer Games Capital Budget	Canada Games Park Allocation	Henley & Other
SOURCE BUDGET NOTES			
Canada Games Park			
Canada Games Park - Final Contract (excl. HST)		\$ 85,580,225	
Canada Games Park - Change order as of Aug 30 2020 (excl. HST)		\$ 4,471,178	
Canada Games Park - Competition Equipment		\$ 3,959,914	
Off-Site Sanitary Replacement		\$ 1,612,326	
Design, Project Management, Commissioning, Technical Studies, Permits, Admin etc.		\$ 4,386,356	
Canada Games Park - Other Facility Equipment		\$ 1,528,934	
CSG Legacy Capital Project(s) Contingency		\$ 970,856	
Non-refundable HST		\$ 880,000	
Henley Rowing Centre & Other Capital Infrastructure			\$ 8,442,150
TOTAL PROJECT COST	111,810,586	\$ 103,389,789	\$ 8,442,150
(1) Non-recoverable HST of 1.76% was not included in Host budget, funding requirements have been taken out of contingency			

A balanced budget is subject to successfully securing \$6.5 million in collective sponsorship and fundraising for both the Canada Games Park (\$5.5 million) and Henley Rowing Centre (\$1.0 million) respectively. It is anticipated that the COVID-19 pandemic will have a negative impact on the ability to secure sponsorship and fundraising in the short and medium term. This will have a corresponding impact on the overall operating

and capital budget for the Canada Summer Games given that contingencies identified did not consider the potential impacts of a global pandemic.

In addition, the Host Society is currently revising their budget in light of the postponement of the Games to 2022, and will present a revised budget reflective of COVID-19 and the postponement of the Games to their Board in October/November.

Recognising that the financial and capital risks above exist, the Consortium and Host Society continue to meet frequently and collaboratively to address these risks and deliver a Canada Summer Games that will benefit the community as a whole.

Analysis

2021 Canada Summer Games – Timing

On September 16, 2020 the Canada Games Council and CSG Host Society, after consulting with the Federal Government, the Province and the Region, announced the difficult decision to postpone the 2021 Canada Summer Games. While the Games were originally scheduled to take place in August, 2021 they are being reschedule as a result of continued public health concerns relating to the COVID-19 pandemic. The press release by CSG Host Society provides:

Given the uncertainty created by the ongoing pandemic, the decision to postpone the Games was made, first and foremost, to ensure the health and safety of all the athletes, coaches, staff, volunteers and spectators expected to attend this event. Additionally, the COVID-19 pandemic would likely prevent us from delivering a phenomenal Games experience, both in terms of sport competitions and cultural events. By postponing the Niagara Canada Games, we will be able to better protect the health and safety of Games participants, the Niagara community and visitors from across the country, while delivering an extraordinary Games experience.

While no decision has been made yet on new dates our understanding is that Canada Games Council and CSG Host Society are aiming for the rescheduled Games to take place in the summer of 2022. The Region will continue to receive updates on timing as they become available.

Canada Games Park – Construction Update

Based on the last issued construction schedule (July 13, 2021), construction progress is tracking to schedule and is set to achieve Substantial Performance of the Work on December 1, 2021. Milestone events complete or nearing completion include: site works (excluding landscaping), storm water management, outdoor athletic facilities (excluding volleyball courts and outdoor storage), west parking and driveways, foundations, below slab building services, superstructure (structural steel and concrete block), structural steel and gymnasium slab. Roofing, building envelope, HVAC, plumbing, life safety, lighting, electrical and remaining site works are underway. As per the contract, Total Completion is due by February 1, 2022 and includes work remaining after Substantial Performance as well as completion of deficiencies to the Owner's satisfaction.

Schedule Risk – Low to moderate

As indicated in CAO 11-2020 construction commenced on the Canada Games Park in late 2019 utilizing a phased approach. Prior to the postponement of the Games, the contractor provided a schedule delivering Phase 1 exterior amenities and a portion of Phase 2 Games Ready Amenities (a portion of the Canada Games Park building) for August 1, 2021. Staff previously reported a low risk to the schedule for Phase 1 and a moderate to high risk for Phase 2 success. With the Games delayed until the summer of 2022, the requirement to achieve Games Ready is no longer a risk to the project schedule and there is no need to phase the remaining construction.

Overall project schedule risk is low to moderate. During the fall and winter season, construction efficiency decreases with the cold weather and with the potential of a 2nd wave of COVID in late 2020/2021 there may be a further loss of productivity, uncertainty with labour availability and instability with material supply chains further impacting the schedule. To date, the project has lost 17.75 working days due to weather and 20 working days due to the provincially ordered shutdown.

Budget Risk – High

There is a high risk to the project budget. The original contract amount with Aquicon in respect of Canada Games Park was \$85,580,225. The revised contract amount including 76 change orders and 1 change directive approved to date is \$90,051,403. Of the \$4.471 M in added cost, over \$3.2 M is attributed to poor soil conditions. Based on revenue, committed and forecast project cost, the amount remaining in the project budget as a construction contingency is \$804,511 (approximately 1.5% of balance to complete the contract).

At this point in the construction, particularly with a complex building, best practice suggests maintaining a contingency of 3% to 5% indicating a potential budget risk of

\$800,000 to \$2.6 M. In order to mitigate the risk, staff recommends continuing to defer exterior lighting for the athletics and beach volley ball facilities and the purchase of FFE until next spring/summer as they are not part of the base contract.

Canada Games Park – Transition Update

Pursuant to report CSD 42-2020 Regional Council authorized staff to proceed, in principle, with the transfer of responsibility for the construction of Canada Games Park from CSG Host Society to the Region, subject to the fulfillment of the following two conditions:

1. the financial terms and conditions of any Transition Agreement, including with respect to the \$58 million in Investing in Canada Infrastructure Program (“ICIP”) capital funding committed to Canada Games Park are satisfactory to the Commissioner of Corporate Services and Treasurer; and
2. the Transition Agreement includes terms and conditions consistent with the principles set out in the term sheet attached as APPENDIX 3 to CSD 42-2020

Pursuant to this direction CSG Host Society and the Region successfully negotiated the terms of a transition agreement and executed same on June 30, 2020 (the “**Transition Agreement**”). The Transition Agreement, attached hereto as **APPENDIX 1**, contemplates the Region being added to the Provincial Transfer Payment Agreement (the “**Provincial TPA**”) as a Recipient and, once the transition occurs, all Provincial TPA monies being deposited into a Region controlled bank account. This is a clean arrangement and ensures the necessary access to the \$58M in combined provincial/federal funding in order to pay for construction – construction for which the Region will bear direct financial responsibility post transition.

The Transition Agreement also provides, as an over-arching principle, that the parties cooperate in good faith in all matters necessary to facilitate the effective and efficient transition of responsibility for the Canada Games Park build. In this way, both CSG Host Society and the Region have been working together to satisfy the various preconditions to transition set out in the Transition Agreement. While a number of these conditions have been satisfied other key conditions remain outstanding. Until all conditions are satisfied, the transition cannot take place. Accordingly, the Transition Agreement and, specifically, the closing date thereunder (originally anticipated to be July 31, 2020)

continue to be extended on a month-to-month basis pending the completion of these conditions. The following three (3) conditions remain the most noteworthy outstanding preconditions to closing the transition:

1. Provincial Consent
 - i. The Transfer Payment Agreement made between CGS Host Society (as Recipient) and the Region, the City of St. Catharines, the City of Thorold and Brock University executed on or about March 31, 2020 provides that no assignment (or similar) can occur without the consent of the province.
 - ii. The parties circulated a form of Provincial Acknowledgement and Consent to the province on July 4, 2020 and have been diligently following up through regular Steering Committee meetings on its status. The Province has indicated that they are doing their best to turn their attention to this matter but that COVID-19 continues to draw on a large number of their resources.
2. Aquicon (Construction Contractor) – Consent to Assignment
 - i. We understand from CSG Host Society that this document is forthcoming, but that it is taking some time to complete as the Henley scope of work must, first, be removed from the Construction Contract before assignment to the Region (as required by the Transition Agreement). CSG Host Society and Aquicon have been working out the details of the Henley scope of work, following which, we anticipate Aquicon consenting to the assignment as well as executing the necessary amendments to the Construction Contract the Region will assume (to remove the Henley scope of work).
3. MJMA Architect (Consultant)
 - i. As was the case with Aquicon, above, MJMA and CSG Host Society are currently negotiating the particulars of the removal of the Henley scope of work from the Architect contract(s) to be assigned to the Region following which we understand MJMA will be in a position to consent to the assignment as well as complete

the necessary amending agreements to reflect the removal of the Henley scope of work.

Canada Games Park – Consortium Update

In addition to the work that continues under the Transition Agreement the Consortium members have also been working to finalize the Consortium Agreement and Legacy Lease – documents which underpin the future use, operation and governance oversight of Canada Games Park. These documents have been reworked to reflect the Region's role change as it relates to construction and are largely settled.

As a result of the Games being postponed, the Consortium partners have begun to turn their minds to operationalizing Canada Games Park in advance of the Games (now anticipated to be held in 2022). The Region, on behalf of the Consortium partners, has retained the services of an experienced consultant to help assist in operationalizing the building, including with respect to the development of an operational plan, maintenance program and the development of specifications for an RFX for qualified third party operators to run the facility on behalf of the consortium partners.

The Consortium Members together with CSG Host Society have also created a sponsorship committee who has a mandate to provide assistance in relation to generating sponsorship revenue for the development of Canada Games Park and the Games. The committee is made up of members of the Consortium, CSG Host Society as well as community members who will develop a plan for securing sponsorship revenue for the sale of long-term naming rights for Canada Games Park.

Alternatives Reviewed

N/A

Relationship to Council Strategic Priorities

The successful delivery of Canada Games Park will provide the Region with a legacy of health, wellness and athletic excellence for decades to come. In this way, the project supports meeting Council's strategic objective of fostering a 'healthy and vibrant community'.

Other Pertinent Reports

CSD 67-2020
CAO 11-2020
CSD 42-2020

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Appendices

Appendix 1 Transition Agreement