
Subject: Canada Summer Games Park – Financial Update

Report to: Regional Council

Report date: Thursday, March 23, 2023

Recommendations

1. That the capital budget for Canada Games Park **BE ADJUSTED** to include funding of \$2,630,000 from Capital Variance – Levy Project, as outlined in Appendix 1 to Report CAO 3-2023.

Key Facts

- The purpose of this report is to provide Regional Council with an update on the construction of Canada Games Park and seek approval of funds to balance the capital budget associated with the same.
- This report also serves to introduce Doug Hamilton, Canada Summer Games Host Society (CSG Host), Board Chair, to provide an overall Niagara 2022 Games Wrap-up Report. Mr. Hamilton's presentation will also speak to the development of the Legacy Plan, describe the purpose and role of Sport Niagara and provide an outlook for the legacy of sport development and future sporting events in Niagara.

Financial Considerations

Section B of the analysis section of this report outlines a number of key financial considerations with respect to the final reconciliation of the Canada Games Park capital budget for which \$2.63 million in CVP funding is being requested. The total capital budget for the Region's portion of Canada Games Park (Project #20000751) is proposed to be increased from \$102,711,235 to \$104,491,235 (Appendix 1 to Report CAO 3-2023).

The proposed increase will be funded from the CVP. Staff confirms the current balance of uncommitted funds in the CVP prior to the current request was \$6.5 million. Council approval is required per the Budget Control By-Law for the \$2.63 million increase as the amount exceeds \$250,000.

Subject to approval of the current request through this report CAO 3-2023, the Niagara Region will have committed capital funding to the project of \$26.9 million as follows:

Report	Funding Source	Amount
CAO 16-2019 (Project initiation)	Federal Gas Tax, Debt, Capital Reserve	\$20,036,786
CAO 10-2021	CVP	100,000
CSD 55-2021	CVP	4,131,344
CAO 3-2023	CVP	2,630,000
Total NR Capital Funding		\$ 26,898,130

Additionally, the Niagara Region has provided a total of \$4 million in operating funding from 2017 through 2021. Including the additional \$2.63 million requested through this report, the Region’s investment totals \$30.9 million.

Analysis

A. Canada Games Park – Construction Project

The following provides a high-level chronology of key milestones associated with the Canada Games Park project:

- Aquicon Construction commenced construction of Canada Games Park at the southwest corner of the intersection of St. David’s Road and Merrittville HWY through a contract executed with the CSG Host in December of 2019 (Report CAO 16-2019).
- The Region executed a Transition Agreement with the CSG Host to transition the responsibility for managing the balance of construction of Canada Games Park in June of 2020 (Report CSD 42-2020).
- While Provincial Consent to proceed with the transfer of responsibility was not executed until May 12, 2021 and therefore the transition was not completed until May 31, 2021 (Report CAO 10-2021), the Region worked closely with the CSG Host and Consortium partners throughout the 12 months of construction activities.
- A Canada Games Park “Consortium” was created through legal agreement in May 2021. The Consortium Agreement (Report CAO 16-2019) established the Region, City of St. Catharines, City of Thorold and Brock University as 25%

ownership partners of the Park and defines the Terms for all operational and financial oversight of the Park for the next 40 years.

- The consortium partners undertook an extensive procurement process late in 2021 to retain ASM Global as the Independent Operator for the overall operation of the Park.
- The Canada Games Park construction project was deemed substantially complete in February 2022, at which time the independent operator, ASM Global assumed responsibility for start-up and the day-to-day operation of the Park on behalf of the Consortium. The construction project was not deemed complete at that time as approximately \$1M of work was pending completion.
- Canada Games Park was made exclusively available to the CSG Host in August 2022 for the 2022 Canada Summer Games.
- Only minor deficiency works remain outstanding (<\$100k) due to material availability. Final completion of the Canada Games Park construction project is anticipated in April 2023.
- The Consortium Management Committee has and continues to meet regularly through the start-up year of the Park. In summary, the capital and operational performance of the Park has been very successful.

B. Canada Summer Games Park – Financial Reconciliation

Several reports were considered by Regional Council since 2018 regarding financial considerations and commitments for the Canada Summer Games. Report CSD 4-2022 was the most recent of those reports. The following points capture key financial considerations with respect to the final reconciliation of the Canada Games Park capital budget:

- Canada Games Park Construction Contract – The construction contract with Aquicon Construction is anticipated to be complete in April 2023, for a total approved contract price of \$107.8M (including 13% HST) as per Report CSD 4-2022. A full budget breakdown for the Region's portion of the Canada Games Park construction project has been attached as Appendix 1 to Report CAO 3 - 2023.

- Capital Fundraising – The Consortium partners undertook a procurement process that ultimately resulted in the retention of Lang Partnerships Network for the purpose of raising capital funding for the Park via Naming Rights. A sponsorship Committee, comprised of Consortium partners, was established to oversee Lang and assist in meetings with potential Naming partners. An executive summary of the work undertaken by Lang and the funding commitments generated has been attached as Appendix 2 to Report CAO 3-2023. While a capital fundraising total of \$5.8M was very successful and achieved what would be considered the typical target amount for a community facility, the net amount of funding was \$800k short of the budgeted forecast. Lang has indicated that there are a number of smaller namable assets yet to be sold that will close this funding gap. However, they recommend that those remaining assets be sold by ASM Global as they establish and develop their relationships in the community. The agreement with ASM Global does contemplate this transition and the Consortium partners are in agreement with this course of action. Funds raised by ASM Global moving forward will be utilized for future capital investment at the Park.
- Non-Refundable HST - The estimation and final determination of Non-refundable HST (ie. NET amount payable to Canada Revenue) has been extremely complicated and difficult for the Canada Games project. This has been flagged as a financial risk throughout the series of update reports since 2019. This complexity and difficulty was largely related to the Region, St. Catharines & Thorold as municipalities, Brock University as a public institution, and the Host Society as a corporate entity respectively having varied HST obligations / entitlements. The Niagara Region has retained Deloitte to provide advice on the matter and a ruling request has been submitted to the CRA in order to resolve the matter. While a final determination remains outstanding, approximately \$930k has been identified as a high risk unfunded liability.
- Outstanding Legal Matters – Regional Council recently considered Confidential Report CSD 17-2023 regarding a matter of litigation. The financial implication associated with that matter remains, at the present time, unascertainable. There has been no new progress to report since the consideration of that report.
- Outstanding Brock University Campus Works – the following two matters remain outstanding with respect to the Brock University campus:

- Parking Spaces – The Canada Games Park was constructed on lands leased from Brock University. The agreement to lease the lands for the Park included a commitment to replace the parking spaces displaced by the Park’s proposed location one for one, like for like. The CSG Host constructed a new parking lot on the Brock campus prior to the start of Park construction. Unfortunately, during the construction of the parking lot, unforeseen environmental constraints altered the size and configuration of the parking lot and resulted in the loss of 121 parking spaces. The cost of constructing those parking spaces, elsewhere on the campus, is estimated to be in the order of \$500k.

- Excavated Fill Material – By far, the most significant factor contributing to unforeseen costs during the construction of the Canada Games Park was unstable / unsuitable soil conditions for the foundations of the facility. In order to address this condition, approximately 46,000 cubic meters of soil was removed from the building location and placed at the southern portion of the site. Removal of the material to a suitable site would have been the preferred course of action, however, neither budget nor time within the critical path of the project was available to accommodate this. The fill material has effectively sterilized a portion of the Brock campus that would otherwise be available for future University development. The cost of removing this material and restoring that portion of the site to its original condition is estimated to be in the order of \$400k.

Summary of Key Considerations:

	Amount (in Millions)
Capital Fundraising (net of commission)	\$0.80
Non-Refundable HST	0.93
Brock University Campus Works	0.90
Total CVP Funding Requested*	\$2.63

C. Canada Games Park – Legacy Plan Matters

The Hosting Agreement between 2021 CSG Host Society and Canada Games Council requires the Host to develop a Legacy Plan that includes, among other things, (i) an asset disposal plan and (ii) a financial legacy plan. The Hosting Agreement requires that Asset and Financial legacy plans be carried out within one year of the Games. Copies of the Financial Legacy Plan and 2022 Canada Games Asset Disposal and Transfer

Plan (CSG Host Board approved May 2022) has been attached as Appendix 3 to Report CAO 3-2023. These Plans contemplate the following:

- Any financial surplus from the games be directed towards the Legacy Plan through a legacy fund.
- The not-for-profit organization, “Sport Niagara” be responsible for implementing much of the Legacy Plan after the Host Society dissolves, including the management of the legacy fund.
- The CSG Host complete a business plan for Sport Niagara, including, but not limited to:
 - Potential on-going funding support from Canada & Ontario
 - The development a sport performance centre at Canada Games Park in partnership with Canadian Sports Institute, Ontario (CSIO)
 - A revenue generation plan through the operation of a sport performance centre at Canada Games Park
 - The hosting of future national scale sporting events at Canada Games Park and across all Niagara communities.
- Negotiating an appropriate Legacy Use Agreement (lease) with the Consortium for the use of a portion of Canada Games Park.

The not-for-profit organization “Sport Niagara”, has been created by the CSG Host. Sport Niagara has reached tentative agreement for sub-lease terms with CSIO for the utilization and programming of the David S. Howes Sport Performance Center at Canada Games Park. Sport Niagara will be required to enter into a lease agreement for the use of the Sport Performance Center based on the operating Pro-Forma developed for Canada Games Park. While the total surplus amount from the 2022 Canada Summer Games is subject to the CSG Host final budget and was not confirmed that the time this report was authored, the CSG Host has indicated that sufficient funds shall be available for the establishment of the Legacy Fund and the stand-up of the Sport Niagara business plan. Appendix 4 to Report CAO 3-2023, illustrates the utilization of space within Canada Games Park by various partners including the David S. Howes Sport Performance Centre to be leased to Sport Niagara.

As reported in Report CAO 20-2021, while the bulk of the total capital budget for Canada Games Park (\$97.4 million) was transferred to the Region for the construction of the facility at the time of transition, the CSG Host continued to manage a budgeted amount of \$5.9 million of Canada Games Park capital funding, for the procurement of certain games equipment and for the completion of certain site servicing work. The

games equipment includes such things as scoreboards, clocks, pylon signs, lacrosse floors, combative mats and a wide range of sport and athletic equipment. This equipment valued at approximately \$2.5M, is to be transferred to the Consortium for legacy use at the Park and across Niagara as per the CSG Host approved Asset Disposal Plan.

Alternatives Reviewed

There are no alternatives for Council to consider with respect to funding the Capital Budget for the Canada Games Park. As Council is aware, the Region is required under legal agreement, to fund any shortfall with respect to Canada Summer Games. In addition, the Hosting Agreement between the CSG Host and Canada Games Council does not permit operating surplus funds to be utilized to fund capital investments. Operating surplus funds are to be utilized for Legacy Plan program funding. Notwithstanding any legal implications, should the operating surplus funds not be directed to the Legacy Plan, there would be a certain risk that both the Federal and Provincial government would require portions of their funding commitment be returned.

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 17-2023 (Confidential) – Canada Games Park – Litigation Matter, February 15, 2023
- CSD 4-2022 – Canada Summer Games – Amendment to Construction Agreement, February 9, 2022
- CSD 55-2021 – Canada Summer Games Budget Increase, October 13, 2021
- CAO 10-2021 – Canada Summer Games Park – Transition Performance, May 20, 2021
- CSD 64-2020 – Canada Summer Games – Transition Update, October 14, 2020
- CSD 67-2020 (Confidential) – Canada Summer Games Agreements Update and Next Steps, October 14, 2020

- CAO 11-2020 – 2021 Canada Summer Games Event and Project Update, June 4, 2021
- CSD 42-2020 (Confidential) – 2021 Canada Summer Games Agreements Update and Next Steps, June 4, 2020
- CAO 16-2019 – Canada Summer Games Capital Budget Initiation, November 21, 2019
- CAO 5-2019 – Canada Summer Games, May 16, 2019
- ED 2-2017 – Canada Summer Games Final Bid Submission, January 11, 2017

Prepared, Recommended and Submitted, by:

Ron Tripp, P.Eng.

Chief Administrative Officer

This report was prepared in consultation with Todd Harrison, Commissioner Corporate Services, Nicole Wolfe, Director, Construction Energy and Facility Management and Donovan D'Amboise, Acting Associate Director, Reporting & Analysis.

Appendices

Appendix 1 Canada Games Park Total Estimated Project Cost

Appendix 2 Capital Fundraising Summary, Lang Partnerships Network, Sales Executive Summary

Appendix 3 Financial Legacy Plan and 2022 Canada Games Asset Disposal and Transfer Plan

Appendix 4 Canada Games Park – Facility Utilization Plans