
Subject: 2021 Canada Summer Games Event and Project Update

Report to: Regional Council

Report date: Thursday, June 4, 2020

Recommendations

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

Key Facts

- The purpose of this report is to inform Council of the work undertaken by staff to execute the Definitive Agreements previously outlined in CAO 16-2019 and to provide an update on the progress made to date on the construction of the Canada Games Park.
- In 2017, the Canada Games Council announced Niagara Region as the successful municipality to host the 2021 Canada Summer Games (CSG) with an estimated operating budget of approximately \$35 million and a capital budget of approximately \$9.6 million. Niagara Region approved a maximum contribution of \$10.35 million, comprising of \$3.0 million for capital, \$4.0 million for operating, and up to an additional \$3.35 million in funding to cover any post-games deficit (for which the Niagara Region is responsible) and/or investment in additional legacy projects.
- Niagara Region's 2017 Bid Proposal for the Games also advised that, in addition to the new facilities and upgrades required to host the Games, Niagara hoped to build two key legacy facilities for the Games – a Sport and Ability Centre at Canada Games Park and a Rowing Centre at Henley Island. Niagara Region advised that additional funding would be required for these additional key legacy facilities.
- In May 2019, Regional Council approved an additional capital budget commitment of \$13.7 million subject to securing additional funding from other levels of government to invest in the Canada Summer Games legacy plan that included improvements to multiple facilities across Niagara region and the construction of a new Canada Games Park and Henley Rowing Centre. This increased the Region's total capital

contribution to \$20.05 million which included the previously approved but uninitiated \$3.35 million legacy project/deficit funding.

- In August and September 2019, the Federal and Provincial Governments announced their commitments to provide additional infrastructure funding of \$58 million (\$29 million each) for Canada Games Park and the Henley Rowing Centre.
- In November 2019, Regional Council approved the initiation of the funding of the Canada Summer Games project and authorized the Regional Chair and Regional Clerk to execute a number of Definitive Agreements relating to Canada Games Park.
- Since November 2019, staff has pursued the negotiation of the Definitive Agreements and has made good progress with its consortium partners (City of Thorold, City of St. Catharines, and Brock University; together the “**Consortium**”) in establishing a Consortium Agreement relating to the future use, operation and governance oversight of Canada Games Park after the 2021 Canada Summer Games is complete. This agreement is largely settled with Niagara Region poised to retain 25% ownership of Canada Games Park after construction is complete.
- In December 2019, the CSG Host Society entered into a contract for the construction of Canada Games Park and construction work commenced immediately.
- In December 2019, the CSG Host Society also entered into a contract for the project management of Canada Games Park. The cost of the project manager is shared equally amongst the Consortium and the CSG Host Society, and the Project Manager has been reporting to all partners.
- In March 2020, Niagara Region, working with Consortium representatives and the CSG Host Society, were also successful in entering into a Transfer Payment Agreement (TPA) with the Province of Ontario (who are overseeing the funding commitments by both Federal and Provincial Governments) which commits a total of \$58 million (\$29 million from each of the Federal and Provincial Governments) to the construction of Canada Games Park. That TPA also commits the Consortium to contribute approximately \$40 million to the construction of Canada Games Park.

- The Consortium members and the CSG Host Society have not been able to reach agreement on a Project Agreement that sets out the partner's rights and responsibilities relating to the remaining construction of Canada Games Park.
- An alternative initially tabled by the CSG Host Society and discussed by the partners is to transition responsibility for managing the remaining construction of Canada Games Park to Niagara Region. This would see Niagara Region being the contractual lead for managing the construction process, but delivery would continue to be reliant on the mutual coordination and cooperation with the Host Society and the Consortium partners.

Financial Considerations

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

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 (see APPENDIX 1), \$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.

At this time, the capital budget below includes an estimate of the non-recoverable HST at the 1.76% of expenses based on the municipal tax rebate. 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.

Table 1 - 2021 Canada Games CSG Host Society Inc. Capital Budget: Expense

Capital Program - EXPENSES		Nov. 2019 Budget Breakdown	Canada Games Park Allocation	Henley & Other	difference
SOURCE BUDGET NOTES (million \$)					
Canada Games Park					
Canada Games Park - Final Contract		\$80.99	\$85.58		\$4.59
Canada Games Park - Competition Equipment		\$1.71	\$4.18		\$2.47
Commissioning		\$0.00	\$0.22		\$0.22
Canada Games Park - FF&E		\$2.33	\$1.38		(\$0.95)
Building Permit Fees & Thorold Servicing Charges		\$2.46	\$2.14		(\$0.32)
Administrative Support, Project Mgmt & Other Fees		\$5.07	\$5.05		(\$0.02)
CGP Construction Contingency		\$6.82	\$2.75		(\$4.07)
Non-refundable HST ¹			\$1.95		\$1.95
Henley Rowing Centre & Other Capital Infrastructure		\$12.43		\$8.57	(\$3.87)
TOTAL PROJECT COST		\$111.81	\$103.25	\$8.57	\$0.00

(1) Non-recoverable HST of 1.76% was not included in Host budget, funding requirements have been taken out of contingency

The confirmed sources of funding for the \$8.6 million budget allocated to the Henley and other infrastructure are provided below, however it should be noted that based on the November 2019 cost estimate of \$12.4 million there may be a funding gap of \$3.9 million.

Government of Canada	\$3.000
Government of Ontario	\$3.000
City of St. Catharines	\$0.143
Other Niagara Municipalities ²	\$1.422
Naming Rights	\$1.000
Total (million \$)	\$8.565

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.

A more detailed budget breakdown is as available via APPENDIX 1.

It is anticipated that the COVID-19 pandemic will have a negative impact on the ability of the Host Society 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.

CSG Host Society is in the process of updating their overall budget reflective of COVID-19 and other considerations. CSG Host Society is expected to present a revised budget to their Board in July 2020.

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

A. Canada Summer Games: Niagara Region's Contribution

In 2017, the Canada Games Council announced Niagara Region as the successful municipality to host the 2021 Canada Summer Games with an estimated operating budget of approximately \$35 million and capital budget of approximately \$9.6 million (ED 2-2017 APPENDIX 2). Pursuant to a Transfer Payment Agreement between 2021 Canada Games CSG Host Society Inc. and Niagara Region effective January 1, 2018 (the "**Region TPA**"), the Region approved a maximum contribution of \$10.35 million comprised of \$3.0 million for capital, \$4.0 million for operating, plus up to an additional \$3.35 million in funding for post-games legacy projects.

The 2021 Canada Games CSG Host Society Inc. was created in accordance with the Corporations Act (Ontario) to constitute CGHS, and, pursuant to a Hosting Agreement with the Canada Games Council dated December 12, 2018, is charged with planning, organizing, promoting, financing and staging the Games.

In May 2019 (CAO 5-2019 APPENDIX 3), Regional Council approved an additional capital budget commitment of \$13.7 million (allocated from federal gas tax funding) in support of the construction of a marquee legacy facility dubbed Canada Games Park, subject to the commitment of additional funding from other stakeholders. Canada Games Park will include:

- Sport and Abilities Centre – with Canadian Sport Institute of Ontario Regional Centre, Centre for Health and Well-Being, Para-Sport Gymnasium, Twin-Pad Ice-Box for box lacrosse and ice sports, and sports offices;
- Outdoor Cycling and Environmental Sustainability Centre;
- Athletics Facility; and
- Beach Volleyball Centre.

The additional funding commitment brought the Region's total capital contribution to \$20.05 million which included the previously approved but uninitiated \$3.35 million legacy project/deficit funding.

In November 2019, Regional Council approved the initiation of the funding of the Canada Summer Games project and authorized the Chair and Region Clerk to execute a number of Definitive Agreements necessary for the CSG and relating to the Canada Games Park legacy usage.

Definitive Agreement Progress

As was set out in CAO 16-2019 (see APPENDIX 4) a number of legal agreements were contemplated to implement the development of Canada Games Park and to structure the contributions, roles, responsibilities and risk of each of the parties (i) during the construction of the facility; (ii) during the Canada Summer Games event itself, and (iii) the subsequent legacy period.

Specifically, it was intended that the Definitive Agreements would set out the terms and conditions upon which the financial and in-kind contributions of the parties will be made (coordinated with the financial contributions of Ontario and Canada), outline the terms and conditions upon which Canada Games Park will be developed, and outline how the Canada Games Park would transfer from the CSG Host Society to the Consortium at the conclusion of the Canada Summer Games.

The Definitive Agreements were anticipated to consist of:

1. Canada Games Park Framework Agreement (an agreement to be entered into between the municipalities, Brock and the CSG Host Society to establish a framework for the negotiation of the other Definitive Agreements).
2. Consortium Agreement and Facilities Programming Agreement (an agreement or agreements to be entered into by the municipalities and Brock to allocate responsibility for the use, operation, maintenance and repair/replacement, programming and usage fees of Canada Games Park following the Games).
3. Project Agreement (an agreement to be entered into between the municipalities, Brock and the CSG Host Society containing terms and conditions related to the construction, development and completion of Canada Games Park)

4. Offer to Lease / Lease and/or Amending and Assignment of Lease (agreements to be entered into between Brock (as landlord) and the other parties (as tenants) which shall cover two time periods, the first being the period during construction and operation of the Games and a second subsequent period following the Games.
5. Municipal Capital Facility Agreement (means an agreement designating Canada Games Park as municipal capital facility pursuant to the Municipal Act, 2001)
6. Transfer Payment Agreements and/or Joinder Agreements (agreements required by Ontario or Canada with the Region and other parties as a condition of Ontario and Canada funding contributions to the project)
7. Such other Agreements or instruments as the parties agree are necessary (at the time of CAO 16-2019 no other agreements had been identified, however it was noted that this is a complex project further agreements may be recommended by the legal teams representing the parties to ensure necessary roles, responsibilities or risk are adequately addressed).

The Region, St. Catharines, and Thorold jointly retained legal counsel (Borden Ladner Gervais LLP; “**BLG**”) to advise them in respect to the Definitive Agreements and to review and negotiate with the other parties involved. Brock University, while separately represented (Cassels, Brock and Blackwell LLP; “**Cassels**”), has worked collaboratively with the municipal parties on the preparation of Definitive Agreements. Working in this fashion, Consortium members have largely settled the Consortium Agreement.

The Transfer Payment Agreement with the Province has been executed which provides up to \$58 million in capital funding from the Federal and Provincial Governments to support the building of Canada Games Park pursuant to the Investing in Canada Infrastructure Program (“ICIP”). That TPA also commits the Consortium to contribute approximately \$40 million to the construction of Canada Games Park.

Brock and CSG Host Society have also entered into an offer to lease permitting the CSG Host Society to initiate construction of Canada Games Park on the necessary portion of Brock’s lands.

The Consortium members and the CSG Host Society have not been able to reach agreement on a Project Agreement that identifies the partner’s rights and responsibilities relating to the remaining construction of Canada Games Park.

An alternative tabled by the CSG Host Society and discussed by the partners is for the CSG Host Society to transition responsibility for managing the remaining construction of Canada Games Park to Niagara Region. This would see Niagara Region being the contractual lead for managing the construction process, but delivery would continue to be reliant on the mutual coordination and cooperation with the Host Society and the Consortium partners.

During a meeting among the parties in late March, representatives of the CSG Host Society advised that, because the Consortium has now been formed and much of the Canada Games Park project has been completed (including design, permitting, funding commitments and construction contracts), the Host Society's preferred path forward is to now transition responsibility for delivering the rest of the project to the Consortium. This will assist the Host Society, which consists mainly of volunteers, to focus on organizing and delivering other parts of the Games.

After consideration of this approach, in late April, representatives of Niagara Region proposed that this transition of responsibility for managing the remaining construction of Canada Games Park be made to Niagara Region instead, and that this transition occur before the end of June, 2020.

The Host Society Board has considered this proposal and is agreeable to this transition. Its Board has recently approved a motion to enter into a transition agreement for the continued development of Canada Games Park with Niagara Region. The Host Society Board considered the following advantages of this transition:

1. Consortium Operating and Partnership Plan - When the funding for Canada Games Park was approved last summer, the Consortium did not have their long term operating and partnership plan in place but are now close to being finalized.
2. Construction Management - The construction management protocols put in place by Urban and Environmental Management, the project manager hired by the Host Society on behalf of the Consortium, are working very well. The Consortium is now participating fully in bi-weekly construction meetings and is making decisions on construction issues brought forth by UEM and the Host Society. The construction decisions going forward will require ever greater input from the Consortium as they will focus more on finishes, warranties, FF&E and items that may have different costs than may have been originally budgeted but may have long term benefits to the Consortium.

3. Commissioning of Canada Games Park - Decisions relating to the commissioning of Canada Games Park are beginning to occur now - in fact, the commissioning agent has already been hired. The issues surrounding the commissioning of the facility should be made by the Consortium since they affect the long-term operation of Canada Games Park. There will need to be ongoing coordination with the contractor to complete this part of the project and removing the Host Society as the 'middle man' in this process is prudent.

4. HST – The Host Society has been working to resolve the HST budget issue related to the construction of Canada Games Park. It was recently notified that the Province will not be funding the unrecoverable portion of the HST and as a result, it projected a shortfall strictly related to this issue. Turning the Canada Games Park project over now reduces this shortfall.

5. In the prior history of the Canada Games, no Host Society has undertaken the responsibility to construct a major infrastructure project as well as host the Games. Now that the Consortium is now in place, this is a logical transition point in the Canada Games Park project which will allow the Host Society to focus on other capital projects and the Games themselves.

Recognizing that there is a projected shortfall in its capital budget to complete the Henley Rowing Centre project, the CSG Host Society Board has also recently approved a motion to prepare and submit a supplementary ICIP funding application for that project.

Terms of the Construction for Canada Games Park

- Contract amount of \$85,580,225 for the construction of the Canada Games Park (CGP).
- The lowest bid was received from Aquicon (GC). The CSG Host Society and the GC negotiated scope reductions from both the CGP and the Henley Rowing Centre.
- The scope reductions to the CGP were agreed to by the CSG Host Society and the Consortium partners and do not impact the successful operation of the Games.
- Construction of the CGP to proceed in three phases:
 - 1. Phase 1** - Outdoor facilities for CSG with Substantial Completion July 16, 2021
 - Outdoor athletic facilities: Track and field facilities including track, jumps, and throw areas but excluding warm up track and beach volleyball facilities.
 - Parking lot and Canada Games Park entrance

- Hard and soft landscaping: final grading, concrete walks and curbs, seat wall, planting, etc.
- Storm water management
- Mechanical, electrical and communications systems for exterior amenities.

2. Phase 2 – Games Ready Interior Amenities complete July 31, 2021

Areas include the majority of the ground floor of the building excluding administrative and service spaces:

- Wrestling facilities (Gymnasium, hardwood flooring not required)
- Lacrosse facilities (Arenas 1 and 2, refrigeration systems not required)
- Change rooms and washrooms
- HVAC, plumbing, electrical, lighting, life safety systems for the games-ready areas
- Access and egress for games-ready areas
- Will require Partial Occupancy for games-ready areas

3. Phase 3 – Substantial Completion of the work by December 1, 2021.

- There is a construction freeze from July 31 to August 31, 2021 for the Canada Summer Games.
- The most recent budget provided to Niagara Region by the CSG Host Society indicates \$4.27 M budgeted for the CSG construction contingency (not included in contract amount). This is further reduced to \$2.75 M to account for the HST not included in the November 2019 budget.
- The Transfer Payment Agreement (TPA) with the province requires Substantial Completion of CGP by October 31, 2021. It also requires games readiness - that the Project is sufficiently ready to meet the operational needs of the 2021 Canada Games on or before August 6, 2021.
- The CSG Host Society has engaged a project management consultant (UEM) to manage the different design and construction contracts, and provide monthly reporting which supports the CSG Host Society's Provincial TPA reporting requirements.

Construction of Canada Games Park – Current Status

The following are considerations provided by Region staff regarding the construction status of Canada Games Park. The CSG Host Society does not share Region staff's views concerning some of these considerations.

Construction commenced on the Canada Games Park in late 2019 utilizing the phased approach indicated above. Prior to the provincial shut down of construction sites on April 4, the UEM March Monthly Summary Report indicated that Phase 1 was tracking on schedule and that there was a moderate to high risk for the completion of Phases 2 and 3. Although early in construction, UEM likely assigned the moderate to high risk factor due to weather events, unknown site conditions, permit delays and anticipated material and labour shortages compounding an already aggressive construction schedule with fixed deadlines. The March report indicates 10 working days lost due to weather and Change Order 12 indicates a 10 day extension to the schedule.

The March Status Report further indicates a moderate to high risk to the project due to the impact of COVID-19 on construction efficiency with loss of productivity and uncertainty with labour availability and the material supply chains. Correspondence from Aquicon indicates that there will be resultant delays and added cost to the project.

On May 13, the GC provided a revised construction schedule that indicates an overall delay of 6 weeks to Substantial Completion. Although the contractor returned to work in early May, the cost of the delay remains undefined as it is not yet possible to ascertain the duration, the extent of the impact nor when work will return to normal. In terms of schedule re-alignment, there are only three choices: reduction in scope of work, construction re-sequencing and added cost for after- hours and shift work.

Based on an analysis of the Monthly Summary Reports and the two construction schedules provided by the GC (December 2019 Baseline Schedule and May 2020 Revised Schedule), staff has determined there is a low to high risk to the schedule depending on the phase.

Phase 1 - Outdoor Facilities: Low Risk

Baseline Construction Schedule – complete July 15, 2021

Revised Construction Schedule - complete July 23, 2021

The revised construction schedule further reduces the buffer to 5 working days before the construction shut down for the Games and moves asphalt paving and sod/seeding to the middle of August. As the scope of work is exterior and the completion date is over one year away, there is a high likelihood that construction can be re-sequenced to meet the July 15 date. The CSG Host Society is currently reviewing the schedule with the GC towards that end.

Phase 2 – Games Ready Amenities: Moderate to High Risk

Baseline Construction Schedule - complete July 30, 2021

Revised Construction Schedule – Completion date is not clear and partial occupancy is not identified.

Phase 2 games ready areas requires completion of the building envelope, the full use of the program areas, access to washrooms and change rooms and that mechanical, electrical and life safety systems be operational for all program areas and suitable to achieve partial occupancy. The revised schedule indicates a 6 week delay but does not indicate a date for partial occupancy nor present a critical path towards achieving it. In addition, the schedule indicates key milestone dates that are concerning:

- Mechanical / electrical rough-in delayed by 8 weeks with completion on July 15
- Roof watertight delayed by 5 weeks with completion March 19, 2021 with majority of the work during winter months
- Building envelope watertight is not indicated
- Completion of interior finishes in 16 weeks in time for start of final cleaning on June 28

As the revised schedule indicates a 6 week delay and given that the effects of COVID on construction progress remain (loss of productivity and uncertainty with labour availability and the material supply chains), there is a risk that the interior amenities will not be games ready for July 31, 2021.

To mitigate the risk the CSG Host Society is currently working with the GC to define what games ready means and to re-sequence construction. The success of this will depend on what games ready means to the CSG Host Society but, at a minimum, the use of washroom and change room facilities is required.

Alternatively, the CSG Host Society may instead elect to hold only track and field events at the CGP and negotiate the use of other facilities within the Niagara Region for wrestling, lacrosse and practice / warm up use and rent / build temporary change room and washroom facilities for use during the Games. The cost of alternate facility use will be part of the Games operating budget but the rental / build of temporary washroom / changes room will be a cost and be an extra to the Aquicon contract.

Due to unknown site conditions and the pandemic, the owner may be required to pay extra costs to accelerate the schedule.

Phase 3 – Canada Summer Games Park Complete as per TPA terms: Moderate Risk
Revised Construction Schedule – Substantial Completion September 17, 2021 and Total Completion November 26, 2021

The Transfer Payment Agreement (TPA) with the province requires Substantial Completion of the Canada Games Park by October 31, 2021. Although the revised schedule indicates Substantial Completion on September 17 (a six-week delay), there are numerous milestone and critical path dates that may put achieving this in question. And given the 1 month shut down and the previously stated ongoing schedule uncertainties due to COVID-19, an overall six-week delay seems optimistic. With no end date for COVID-19 and uncertainty around new outbreaks in Ontario, it is difficult to predict if the revised schedule is achievable.

Continued Collaboration

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.

Relationship to Council Strategic Priorities

The construction of the Canada Games Park, the Henley Rowing Centre and other facilities which will provide a legacy of health, wellness and athletic excellence in Niagara for decades after the games has concluded and support Niagara Region in meeting is strategic objectives of being a 'healthy and vibrant community'.

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Appendices

- Appendix 1 CSG Budget Funding Details May 2020
- Appendix 2 ED 2-2017
- Appendix 3 CAO 5-2019
- Appendix 4 CAO 16-2019