



Report to: General Committee

Date Report Authored: January 31, 2012

SUBJECT: Markham Pan Am Centre – Agreements
PREPARED BY: Gary Adamkowski – x2678

RECOMMENDATION:

- 1) **THAT** the Markham Pan Am Centre – Agreements report, dated January 31, 2012, be received;
- 2) **AND THAT** Council authorizes the Mayor and Clerk to sign a Memorandum of Understanding (MOU) among Toronto Organizing Committee for the 2015 Pan American and Parapan American Games (the “Toronto 2015”) and Ontario Infrastructure and Lands Corporation (“IO”) and The Town of Markham, on behalf of the Town of Markham, other agreements to be negotiated in the future, including but not limited to the Facility Agreement and any other documents necessary to implement Markham’s Pan Am facilities and the operation of the 2015 Games, in a form and content satisfactory to the Commissioner of Community and Fire Services and the Town Solicitor;
- 3) **AND THAT** Council authorizes the Mayor and Clerk to negotiate and enter into a long term Energy Service Agreement between the Town of Markham and Markham District energy Inc. (MDEI) for the provision of thermal energy services to the Pan Am facility, said agreement to be in a form and content satisfactory to the CAO, Commissioner of Community and Fire Services and the Town Solicitor;
- 4) **AND THAT** Staff be authorized and directed to do all things necessary to give effect to this resolution.

And that Staff be authorized and directed to do all things necessary to give effect to this resolution.

PURPOSE:

To obtain Council approval to negotiate and execute the agreements required to construct Markham’s Pan Am facilities and to operate the 2015 Pan American and Parapan American Games (the “Games”), including but not limited to an MOU and Facility Agreements with Infrastructure Ontario and the Games organizer, and an agreement with MDEI for district heating and cooling

BACKGROUND:

At the October 27, 2009 meeting, Council authorized the CAO to enter into a multi-party agreement for the Games which, among other things, established a framework for Markham to construct facilities for certain Games events with the expectation that the Town would ultimately enter into a specific Facility Agreement. While the Facility

Agreement is under development by Toronto 2015, the Memorandum of Understanding is an interim agreement among the parties involved to allow the project to proceed to the next steps in facility approval and construction.

Council approved the functional program on May 25th, 2010 on the Town site adjacent to the YMCA. In January 2011, due to site constraint issues as a result of the addition of a planned new road dividing the Town site, Council approved a new site at the recently acquired 16 Main Street and confirmed the functional program. At the May 31st 2011 Council meeting the schematic design as presented by B+H Architects was approved and approval was granted to proceed with the original program of a single pool for water polo and a field house for badminton pending outcome of the decisions with Toronto 2015 regarding substituting a second pool for the field house.

At the June 28th 2011, Council meeting the scope was reconfirmed as a single pool and badminton hall with the schematic design approved that included additional provisions that would allow for a future additional pool and connection to the MISTA project when it is constructed. Council approved an increase in the Town's contribution to deal with the overall estimate (subject to confidentiality until the awarding of the RFP) and to accommodate integration of the future MISTA project. These accommodations include wider corridors, redesigned pool foundation, increased mechanical and electrical capacity. The detailed design process has been underway since that approval was granted and now the drawings are ready for release of the Request for Proposal (RFP) in the middle of February. Council also provided delegated approval for the site plan to the Commissioner of Development Services and gave positive support for the design presented at Development Services Committee in November 2011.

OPTIONS/ DISCUSSION:

In order to proceed to issue the Request for Proposal the Town needs to have a Memorandum of Understanding in place. The MOU will be an interim agreement prepared until a Facility Agreement is undertaken. The information will be similar in both with the addition of information on the legacy operation of the Markham Pan Am Centre in the Facility Agreement.

Memorandum of Understanding (MOU) – Highlights:

Purpose of the MOU: to set out the roles, relationships and joint and separate responsibilities of the parties to enable the efficient and effective implementation of the venue, including the legacy configuration.

Project Costs: remain exactly as approved by Council on June 28th 2011. It is agreed the costs are capped. There is no provision for over-expenditure, however, it is expected that value engineering, scope reduction and/or other mitigations will be employed to keep the project on budget if necessary. Once the project is awarded it will be done as a fixed

price with no over-expenditures to be charged to the owners unless owner initiated scope changes occur.

Effective Project Management: the parties agree the project will be implemented using a project management and controls framework. The approach includes the Build Finance model and employs reporting and technology tools to allow efficient, effective and transparent management of the project.

Signage Rights: the parties agree that until the completion of the Games, Toronto2015 may name the site and the facility, or assign the rights to a sponsor, and at its expense may erect any by-law compliant signage. The Town may erect signage, with Toronto2015 approval, during construction, identifying its role. Signage and naming rights lapse at the close of the Games and revert to the Town. The Town could approach the sponsor to retain its naming rights if it chooses following the games.

Timeline: issue of the RFP is expected in February 2012, closing in May 2012, handover of site ready for construction in June 2012, commercial and financial closing and construction start in July 2012, and, substantial performance by July 2014.

Remediation Program: requires that the Town provide the site ready for construction including a Record of Site Condition (RSC), if necessary, ensuring that the site meets the Ministry of Environment Table 3 Standards for the intended use.

Enabling/Early/Post/Offsite Works: Enabling Works include provision of services to the site and soils remediation at Town expense to deliver the site construction-ready. Early Work includes the construction of the culvert crossings and driveway connections from Main St and YMCA Blvd by the Town but charged to the project. Post Work covers any remaining hard and soft landscaping works, left incomplete for the convenience of the Games, to be completed by the Town but charged to the project. Offsite Works recognizes that the Town, at its own expense, is relocating Tributary 5 to enlarge the site for the Markham Pan Am Centre.

In conclusion, the MOU doesn't have any issues that would prevent the Town from signing. The document contains clauses that reflect the intentions of the original Joinder Agreement signed by the Town in October 2009. A staff team comprised of the Town Solicitor, Treasurer, Commissioner, Community & Fire Services, Director of Asset Management, and Director of Recreation reviewed the document and are recommending that Council authorizes the Clerk and Mayor to sign the agreement.

MDE Energy Service Agreement

The Markham Pan Am Centre site is within the service area of an existing MDEI Energy Plant. It has been established that the benefits of a long term Energy Services Agreement includes reliability, operating cost savings, capital cost savings, reduced greenhouse gas emissions, etc. This arrangement would be similar to what has been established for the

East Markham Community Centre & Library, Fire Station 99, 8100 Warden Avenue and Markham Civic Centre. Hence, the Markham Pan Am Centre is being planned for thermal energy provided by MDEI. As such, staff recommends that the Town enter into a long term agreement with MDEI for supply of thermal energy for the Markham Pan Am Centre and request authorization to negotiate and enter into an Energy Services Agreement.

FINANCIAL CONSIDERATIONS AND TEMPLATE: (external link)

Not Applicable

HUMAN RESOURCES CONSIDERATIONS

Not Applicable

ALIGNMENT WITH STRATEGIC PRIORITIES:

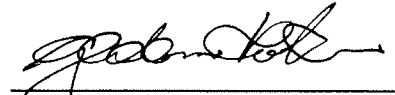
The development of the Pan Am facility in Markham Centre will align with the Integrated Leisure Master Plan by creating additional leisure opportunities in the community.

BUSINESS UNITS CONSULTED AND AFFECTED:

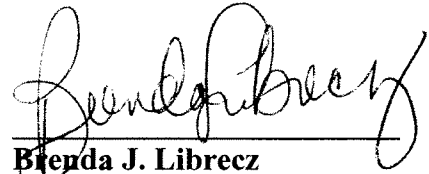
Finance, Legal, Recreation, and Engineering

RECOMMENDED

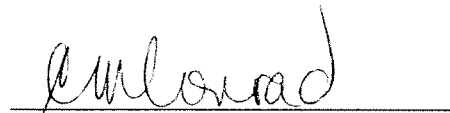
BY:



Gary R. Adamkowski
Director of Asset Management



Brenda J. Librecz
Commissioner, Community
& Fire Services



Catherine Conrad
Town Solicitor

ATTACHMENTS:

Not Applicable

