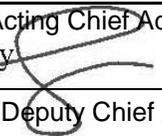


TO: Mayor Savage and Members of Halifax Regional Council
Original Signed by 

SUBMITTED BY: _____
John Traves, Q.C. Acting Chief Administrative Officer
Original Signed by 

Jane Fraser, Acting Deputy Chief Administrative Officer

DATE: July 26, 2016

SUBJECT: RFP No. 15-150 – Dartmouth 4-Pad Arena Design-Build; Tenant Space

ORIGIN

- Long Term Arena Strategy, approved by Regional Council on August 14, 2012.
- The approved 2015/16 Project Budget, see Supplementary Sheet page A15
- May 26, 2015 Regional Council motion:

MOVED by Councillor Fisher, seconded by Councillor McCluskey that Halifax Regional Council direct staff to:

1. Proceed with a Request for Proposals (RFP) for the Design, Build and Operation (DBO) of the new Dartmouth 4-Pad with components as outlined under the summary of RFP requirements in Table 1 and return to Regional Council for contract award;

2. Include the potential for provision of space requested by private sector and provincial sport organizations on a cost recovery basis in the RFP; and

3. Continue to explore potential partnership opportunities with private sector and provincial sport organizations. THE MOTION, AS AMENDED, WAS PUT AND PASSED UNANIMOUSLY.

MOVED by Councillor Fisher, seconded by Councillor McCluskey that the motion be amended to include:

4. That the RFP include a provision that the proponent must include energy modelling for heat and water recovery and that the RFP evaluation criteria include a category for energy performance of the design solution indicative of its importance to the Project. MOTION PUT AND PASSED UNANIMOUSLY.

5. Begin immediately to investigate all naming rights opportunities including the building (facility), individual ice pads, and individual meeting rooms. MOTION PUT AND PASSED UNANIMOUSLY.

- December 1, 2015 Regional Council motion:

MOVED by Councillor McCluskey and seconded by Councillor Karsten that Halifax Regional Council direct staff to:

1. Award RFP No.15-150 (design-build component) to the highest scoring proponent, EllisDon Corporation with a Guaranteed Maximum Price of \$40,773,729 (HST fully refundable) with funding from Project No. CB000049 – Dartmouth Multi-Pad, as outlined in the Financial Implications section of this report, and authorize and direct the CAO or his delegate to negotiate and execute the design-build agreement on behalf of Halifax Regional Council which achieves the key business terms set out in Attachment B to this report to the satisfaction of CAO or his delegate, subject to review by Legal Services
2. Award RFP No.15-150 (operate component) for pre-opening and operating services, and furniture, fixtures, and equipment acquisition, to the highest scoring proponent, Nustadia Recreation Inc. at a cost of \$1,683,210 (HST fully refundable) with funding from Project No. CB000049 – Dartmouth Multi-Pad, as outlined in the Financial Implications section of this report, and authorize and direct the CAO or his delegate to negotiate and execute an operating agreement on behalf of Halifax Regional Council which achieves the key business terms set out in Attachment C to this report to the satisfaction of the CAO or his delegate, subject to review by Legal Services;
3. Authorize and direct the CAO to execute agreement(s) with Nova Scotia Environment and others in respect of wetland compensation requiring HRM to set aside lands adjacent to the building site from future development, in form and content necessary to meet the terms and conditions of the Wetland Alteration Approval to be issued by Nova Scotia Environment;
4. Direct staff not to include any or all of the optional building components at the estimated additional total cost of \$ 1,940,000.00 (HST fully refundable) as outlined in the discussion section of this report in the design of the Dartmouth Multi-pad as per the approved May 26th 2015 Regional Council report; and
5. Direct staff and the building operator to continue to explore potential partnership components at an estimated total cost of \$935,000.00 (HST fully refundable) through cost recovery agreements as outlined in the Discussion section of this report with any required negotiations to be completed by March 1, 2016 in order to be included in the design of the building. MOTION PUT AND PASSED.

LEGISLATIVE AUTHORITY

- Halifax Regional Municipality Charter, Section 79(1): Council may expend money required by the Municipality for:
 - k) recreational programs; (x) lands and buildings required for a municipal purpose; (y) furnishing and equipping any municipal facility; and (ah) ... ice arenas and other recreational facilities.
- Administrative Order No. 35, the Procurement Policy, requires Council to approve the award of contracts exceeding \$500,000 for Tenders and RFPs.
- Halifax Regional Municipality Charter, Section 111(5): the Municipality cannot enter into a commitment to pay money over a period extending beyond the end of the current fiscal year where the total commitment exceeds five hundred thousand dollars, unless the proposed commitment has been approved by the Minister.
- The Halifax Regional Municipality Charter, Section 35(2)(d)(i), states the CAO may “enter into contracts on behalf of the Municipality and may delegate this authority to employees of the Municipality”.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Authorize an increase of \$55,000 to the current Tenant 1 Allowance of \$270,000 to a total of \$325,000.00 (HST fully refundable), included under the executed Design-Build Contract with EllisDon. Funding is available within Project Account No. CB000049 –Dartmouth Multi-Pad, as outlined in the

Financial Implications section of this report, and subject to the facility operator confirming that a lease can be established with Tenant 1;

2. Approve the naming of the HRM sports campus located on Commodore Drive, as the "Harbour East Recreation Campus", as per Administrative Order No. 46, HRM Asset Naming Policies;
3. Direct staff and the facility operator to continue to explore potential naming rights for the building, as per Administrative Order No. 56, HRM Sale of Naming Rights Policy.

BACKGROUND

The Long Term Arena Strategy (LTAS), presented to Regional Council in August of 2012, took a broad view of all aging arenas in HRM, resulting in Council directing staff in July 2014 to advance with planning for a 4-Pad arena in Dartmouth.

The July 2014 Council direction indicated that the new 4-Pad is to be located on Commodore Drive (Harbour East All-weather Fields) and is intended to be open for the fall of 2017. As part of the Regional Council motion, staff was directed to continue to explore opportunities for "funding from other levels of government and potential private sector partners."

On May 26, 2015, Regional Council approved the motion (above) providing direction to staff regarding the initiation of the Design-Build-Operate process to construct a 4-Pad arena in Dartmouth. As discussed at that time, the project proceeded with the base building assumption similar to the BMO Centre design with improvements, and included consideration of proposed or requested enhancements.

On December 1, 2015, Regional Council approved the motion (above) providing direction to staff regarding the award of the Design-Build contract to EllisDon. As discussed at that time, staff was directed to return to Regional Council after exploring the partnership components.

Staff has successfully completed negotiations and executed a design-build agreement with EllisDon and an operations agreement with Nustadia. Included and funded in the executed design-build contract with EllisDon are owner's allowances for Tenant 1 and 2 spaces, in the amounts of \$270,000 and \$90,000 respectively.

DISCUSSION

Pursuant to the December 1, 2015 direction from Regional Council, staff and the facility operator have been exploring potential partnership components through cost recovery agreements. An update on those potential partnerships is outlined below.

Additional Tenant Space

Tenant 1

Staff has explored and had further discussions through the Operator concerning the leasing of the approximately 4,700 square feet of space. Staff has determined that there is sufficient interest from Tenant 1 for in a market rate lease agreement with the Operator of the facility. Further, staff has concluded that there would be demand for this space from other possible tenant(s) due to the use and location of this building, should Tenant 1 cease to use the space in future. The capital cost will be recovered over time from the base market rent that Nustadia is authorized to negotiate and recover on HRM's behalf, based upon the construction cost provided by EllisDon. Tenant 1 will also pay for the operating cost of the space as defined in the lease. The increase to the allowance is to offset any potential additional costs when awarding the Tenant 1 space work. Staff will negotiate with the Design-Build Contractor to minimize the overall expenditure.

Tenant 2

Tenant 2 has decided not to enter into a lease agreement for space at the Dartmouth 4-Pad. After review of the design, staff has determined that additional circulation space is required for facility users and the area allocated for Tenant 2 will now be part of the general circulation space on the second floor of the facility.

Seating in the proposed Olympic field of play (300-500)

Staff indicated to Regional Council that additional seating is not required for municipal purposes, but could be explored through a partnership. The proposed design has provided consideration and pricing as an option for 300-500 seats in the Olympic arena, as requested by Speed Skate NS and other ice sports. Speed Skate Nova Scotia indicated in their support letter of April 22, 2015 that, "Speed Skate NS, with our partners in sport, also commit to helping (HRM) secure funding to help pay for the enhancements described above (i.e. Olympic arena and seating)". To date, Speed Skate NS has not indicated capacity to assist in the funding, but are consistent in the desire to have 300-500 seats in the facility design. The estimated cost for the additional seating is \$575,000.

To date, no partnerships have been made to complete this work. The space will remain available for future opportunities.

The December 1, 2015 direction from Council authorized staff to undertake the various partnership components, based on cost recovery agreements, provided they were able to be completed prior to the March 1, 2016. That timeline was based on the proposed pricing for all of the components of \$935,000 (HST included). As outlined above, some of the proposed partnership features have not proceeded to completion, so those features will not be completed as previously outlined. The negotiations with Tenant 1 were not able to be completed by March 1, 2016. But, as outlined in the private and confidential information report "Dartmouth 4-Pad Tenants", the negotiations are close to completion. Therefore, updated direction to staff is required for authorization to complete the construction of the tenant space.

Campus Name and Building Naming Rights

A variable messaging pylon sign for the campus of facilities at the Dartmouth East site is included in the scope of work for this project. Design of this pylon has begun, however staff requires direction from Halifax Regional Council on the administrative name for the campus as per Administrative Order No. 46, HRM Asset Naming Policies.

Staff is recommending the following administrative name be approved for the HRM campus of facilities located on Commodore Drive: "Harbour East Recreation Campus".

Halifax Regional Council should direct staff and the facility operator to continue to pursue opportunities for the naming rights for the building and return to Council for approval, as per Administrative Order No. 56, HRM Sale of Naming Rights Policy. This direction is consistent with the previous December 1, 2015 motion.

FINANCIAL IMPLICATIONS

Based on the approved Recommendation #5 from the December 1, 2015 award report, the following allowances were included in the executed agreement with EllisDon, but subject to Halifax Regional Council's approval:

Tenant 1 Space - \$ 270,000
Tenant 2 Space - \$ 90,000

Since negotiations were not completed by March 1, 2016 additional costs for the construction of the Tenant 1 space may occur as the design of the building is complete. Staff have mitigated these costs by including the building envelope for this space in the overall design. The estimated value of the construction of the Tenant 1 space is \$325,000. Funding is available in the Approved Capital Budget from Project No.CB000049. This cost will be fully recovered from the tenant through the lease agreement The budget availability has been confirmed by Finance.

Budget Summary:	<u>Project Account No. CB000049 – Dartmouth Multi-Pad</u>	
	Cumulative Unspent Budget	\$ 155,163
	Less: Additional Tenant 1 Allowance	\$ 55,000*
	Balance	\$ 100,163

This project is eligible to claim 100 percent HST.

The resulting increase to the contract resulting from RFP No.15-150 (design-build component) is 0.13% based on the original contract value of \$40,773,729 (HST fully refundable)

RISK CONSIDERATION

Risk#1 – Tenant 1 space is not leased in future

Mitigation - Real Estate has completed a Market Demand analysis which determined that there is demand for this type of space.

Risk#2 – Capital Cost of Tenant 1 space

DB Contractor has agreed to hold the Tenant 1 allowance until March 1, 2016. Detail design of the space and sign off by tenant may get out of step with the construction activity resulting in additional costs.

Mitigation – Building form enclosing the Tenant 1 space has been accommodated within the Guaranteed Maximum Price.

COMMUNITY ENGAGEMENT

Community consultations related to the design of the building have been completed with key stakeholders and user groups. Broad discussions have not taken place with the sport or business community relating to the possible provision of lease space other than with the two potential proponents indicated in this report.

ENVIRONMENTAL IMPLICATIONS

HRM has received an approved Wetland Alteration Permit, in compliance with the regulations of the Nova Scotia Environment (NSE).

ALTERNATIVES

Alternative 1: Regional Council may choose not to increase the award to EllisDon as recommended in this report. This is not recommended as there is a cost recovery through a fair market lease.

Alternative 2: Regional Council may choose not to approve the administrative name “Harbour East Sports Campus” and bring forward another naming option.

Alternative 3: Regional Council may choose not to direct staff to look at naming rights for this building.

ATTACHMENTS

None

A copy of this report can be obtained online at <http://www.halifax.ca/council/agendasc/cagenda.html> then choose the appropriate meeting date, or by contacting the Office of the Municipal Clerk at 490-4210, or Fax 490-4208.

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