

Additional Information: Greater Sudbury Event Centre Update

Presented To:	City Council
Meeting Date:	July 12, 2022
Type:	Managers' Reports
Prepared by:	David Shelsted Strategic Initiatives, Communications and Citizen Services
Recommended by:	Chief Administrative Officer

Report Summary

This information report provides additional context to the Event Centre Update Report already on the Council agenda for July 12, 2022. There is a more complete description of the Progressive Design Build RFP process, as well as the results of the Phase 1 evaluation which has just been completed. There are also letters from the project partners.

Relationship to the Strategic Plan, Health Impact Assessment and Community Energy & Emissions Plan (CEEP)

This report is additional contextual information to the main report and recommendations and mirrors the impacts described there.

Financial Implications

There are no financial implications to this report. It is additional contextual information to the main report and recommendations.

Background

Greater Sudbury Event Centre – Progressive Design-Build Procurement – Phase 1 Summary

The Greater Sudbury Event Centre Project (Project) started back in 2013 when Council requested Staff to explore opportunities to replace the Sudbury Community Arena (SCA) based on results from the Arena Renewal Strategy. In 2015, this process was accelerated when Council requested ideas from the community for transformational projects. In April 2016, Council selected a new event centre as one of five, “Large Projects” that Council would champion. Since that decision, several reports have been completed at the direction of Council, including the 2017 PricewaterhouseCoopers LLP (PwC) business case which concludes the Greater Sudbury market could support an Event Centre with approximately 5,800 seats to service demand.

In 2017, three (3) Proponents were short-listed for the design-build RFP (DB RFP) as part of a request for pre-qualification procurement process (RFSQ CAO17-163):

- Ball/TESC Construction Inc. (in Joint Venture) / Architecture 49

- EllisDon / BBB Architects Toronto Inc. in conjunction with J.L. Richards & Associates Limited
- PCL Constructors Canada Inc. / Parkin Architects Ltd.

Shortly after the selection of the short-listed Proponents, Council selected the Kingsway as the location for the Greater Sudbury Event Centre.

In 2018, the City retained a Fairness Monitor through a competitive procurement process for the design-build of the Event Centre (RFP CAO18-86). The Fairness Monitor has remained engaged in the procurement process since the onset to ensure a fair, open and transparent procurement process.

The issuance of the DB RFP was delayed since 2017 due to several legal challenges and the COVID-19 pandemic. Details of the delays, including legal challenges are available on the City's website (<https://www.greatersudbury.ca/largeprojects>) and are summarize as follows:

- In 2018, 12 appeals were filed with the Local Planning Appeal Tribunal (LPAT). The appeals were heard Case Management Conferences in November 2018 and August 2019, and a hearing was held in September 2020. In December 2020, all appeals were dismissed.
- An application to have the by-laws quashed on the Event Centre at the KED was also filed to the Superior Court of Justice in 2019. The Superior Court of Justice hearing was held in June 2020 and in November 2020 the Superior Court of Justice concluded that the applicant's failed to meet his onus and that his application to quash the by-laws must be dismissed.
- In August 2021, the Minnow Lake Restoration Group (MLRG) filed a notice application for judicial review regarding the outcome of the July 14, 2021 Council meeting. The matter was heard in court in April 2022 and the City is still awaiting the decision.
- In September 2021, an Ontario Provincial Police (OPP) investigation was launched as per Council resolution CC2021-254 as results of allegations by a City Councillor. In May 2022, the OPP investigation was concluded.

In June 2021, an update to the 2017 Business Case (PwC) was presented to Council which included updated project costs estimates.

Council's commitment on July 14, 2021 was to advance the Project without further delay and Staff proceeded to issue a Request for Proposal (RFP) for the design and construction of the Greater Sudbury Event Centre. At the time, the DB RFP was being finalized and City Staff committed to return to City Council for the confirmation of the final Project budget based on the DB RFP proposals (Council resolution CC2021-227).

In November 2021, the City reached out to the short-listed Proponents to confirm their interest in participating in the DB RFP and all three (3) of the pre-qualified Proponents confirmed their interest. An RFP for the design-build of the Greater Sudbury Event Centre was issued to the pre-qualified Proponents on January 28, 2022.

Following the release of the DB RFP, Proponents had an opportunity to ask questions and provide comments on the RFP prior to attending the scheduled Project Initiation Meeting. The City received consistent requests to revise the procurement process. The requests for a change in procurement process were due to current market risks, particularly with respect to inflation effects; supply chain reliability; and labour availability. In addition, Proponents felt the scope of work for the DB RFP was significant and that the honorarium did not adequately compensate them for their efforts. Staff consulted with industry advisors and legal procurement experts, who confirmed the industry is seeing a switch in procurement processes due to market risks. Specifically, Staff was informed that the construction industry is resisting fixed-price contracts and a switch to a progressive design-build (PDB) procurement was a solution to manage risks for large projects like the Greater Sudbury Event Centre.

In March 2022, City Staff met with each of the short-listed Proponents to review the proposed shift in procurement process and all three proponents welcomed the shift in the procurement process.

On April 8, 2022, the procurement process changed via addendum from a traditional design-build (DB) to a progressive design-build (PDB). Details of the change from a DB to a PDB procurement process were released through a public service announcement on April 8, 2022, and are summarized in the Event Centre Update report to Council on June 16, 2022.

The PDB procurement has three (3) phases: RFP (Phase 1), Design Development (Phase 2), and Design-Build (Phase 3). The PDB procurement process of the Greater Sudbury Event Centre is currently approaching the end of Phase 1.

Progressive Design-Build – Phase 1

Phase 1 of the PDB Procurement is the Greater Sudbury Event Centre RFP process and is also referred to as to as the Design Concept Phase. The RFP required the Proponents to submit deliverables in accordance with the Concept Design (CD) Deliverables as defined in the CD Agreement of the RFP.

A summary of the deliverables for Phase 1 are as follows:

- Conceptual design.
- Preliminary Budget (Class D Estimate, non-binding).
- Design costs for each Phase as follows:
 - o Phase 1 - design fee;
 - o Phase 2 - upset limit of design costs; and
 - o Phase 3 - and non-binding estimate for remaining design fees.
- Hourly rates for all team members.
- Profit Margins and Overhead Rates.
- Project schedule.

Proponents that submit a compliant Proposal are paid a \$150,000 honorarium for this work.

As part of Phase 1, Proponents were also provided with the Detailed Design (DD) Agreement Term Sheet, which serves as the basis for the DD Agreement (Phase 2). Proponents had the opportunity to provide written comments and suggested revisions to the DD Term Sheet as part of their Proposal submission.

The following is a summary of the timelines of key milestones of Phase 1 of the Greater Sudbury Event Centre RFP procurement process. Any changes that altered the procurement process were done through official addendums and made public on the City's procurement website (<https://greatersudbury.bidsandtenders.ca/>).

- January 28, 2022 - Design-Build RFP Posted
- April 8, 2022 - RFP procurement changed to Progressive Design-Build
- May 3, 2022 – City extends RFP Closing Date by one (1) week (June 9 to June 16, 2022).
- May 26, 2022 – City issues Design Development Term Sheet
- June 8, 2022 – City issues a revised Financial Proposal Evaluation Criteria
- June 16, 2022 – RFP Closing Date

When the RFP closed on June 16, 2022, the City received Proposals from the Ball/TESC and PCL teams. Both of these submissions were determined to be compliant with the RFP requirements. EllisDon chose not to submit a Proposal.

An evaluation team comprised of City Staff and an external Compliance Team conducted a structured evaluation process as detailed in the RFP. Several subject matter experts (SME) retained by the Compliance Team analyzed the Proposal submissions and provided the evaluation team with information detailing value added components and any potential deficiencies in the Proponent's design.

The Compliance Team included a Quantity Surveyor (QS), who was retained by the Compliance Team as part of the procurement process to ensure an independent, subject matter expert could review and validate the quality and methodology of the Class D estimate.

The evaluation followed the criteria stipulated in the RFP and as approved by Council in 2018 (resolution CC2018-63) and is summarized as follows:

1. Quality of the Event Centre Design and Specification – 35%
2. Construction, Methodology and Approach – 10%
3. Approach to the Project Design – 10%
4. Design and Construction Schedule – 10%
5. Financial Proposal – 35%

Criteria one (1) through four (4) represent the technical evaluation and total of 65% of the evaluation. As outlined in the RFP, the evaluation team evaluated several sub-components of each criterion. The detailed technical evaluation included a review of many qualities of the submission including the quality and functionality of the building, as well as a requirement to meet the City's Community Energy and Emissions Plan (CEEP).

Criterion 5 represents the financial evaluation and is 35% of the total evaluation. The Proponents submitted a Class D Estimate, their Design Fees (Phase 1 and Phase 2), as well as their Margins and Overheads. The Proponent's Profit Margin is to apply to both Phase 2 and Phase 3, and the Proponent's Overhead Margin is to apply to Phase 3 only. For the Design Fees and Margins, a formula was applied to the values submitted and therefore there is no input on the points given to the Proponents from the evaluation team. For the Class D estimate, the focus was for the Proponents to provide a complete and transparent estimate and not attempt to provide the City with a lowest cost proposal. The estimates were reviewed by the QS and evaluated as per the methodology outlined in the RFP.

The City's Fairness Monitor participated in all evaluation meetings as an independent third-party to continue to ensure that the procurement process was fair, open and transparent.

The evaluation methodology was consistent with City RFP evaluations in which each evaluator completes an independent evaluation prior to meeting as a team to determine a consensus score for each item.

At the conclusion of the evaluation, the Ball/TESC team scored higher in both the technical and financial criteria. Thus, the Ball/TESC team has been declared the Preferred Proponent and will progress to the next stage of the PDB Process.

The Ball/TESC team is a joint venture team between Ball Construction Ltd. (Ball Construction) and TESC Contracting Company Ltd. (TESC). They are joined by Architecture 49 Inc. (Architecture 49) for their proposed development of the Event Centre. Ball Construction is one of the leading construction companies in Ontario and an industry leader in design-build projects. Ball has built over 28 ice rinks in Ontario and together with Architecture 49 they have designed and built approximately 20 multi-use sports and recreation facilities, including the Meridian Centre in St. Catharines, Ontario, the Guelph Sports & Entertainment Centre in Guelph, Ontario, the Sarnia Sports & Entertainment Centre in Sarnia, Ontario and the Yardmen Arena & Expansion in Belleville, Ontario.

Based on the costs received as part of Phase 1 of the Event Centre RFP, staff have presented an overall project budget in the Event Centre Update to Council (for July 12, 2022). The project budget includes the cost submitted by the Preferred Proponent for the Event Centre design and construction fees. The following table outlines the Project Costs Summary and the sources of the cost estimates used to develop the Project Budget.

Project Costs Summary		
<i>Costs to date (City Share shown):</i>		<i>Source of Cost Estimate</i>
Feasibility and business case, site evaluation	\$353,639	Actual cost
Integrated site design	\$258,680	Actual cost
Detailed site design, engineering, professional fees,	\$1,768,998	Actual cost

External Legal Fees	\$628,009	Actual cost
Basketball floor, related equipment	\$129,834	Actual cost
Salaries	\$624,909	Actual cost
<i>Subtotal</i>	\$3,764,069	
<i>Phase 2 and Ongoing Costs:</i>		
Detailed site design, engineering, professional fees, external fees, salaries	\$1,000,000	Based on existing Purchase Orders and estimates to complete
Preferred proponent design development fees	\$2,000,000	From bid of preferred proponent
<i>Subtotal</i>	\$3,000,000	
<i>Phase 3 Costs:</i>		
<i>Building Construction Costs and Design Fees:</i>		
Building Construction (per Class D Estimate +/- 15%)	\$113,000,000	From bid of preferred proponent
General Requirements and Fees	\$16,000,000	From bid of preferred proponent
Hydro Connection to Event Centre	\$1,500,000	Estimate from GSU plus contingency
Phase 3 Detailed Design Fees	\$5,000,000	From bid of preferred proponent
<i>Subtotal</i>	\$135,500,000	
<i>Internal Site Construction Costs:</i>		
Site work (parking and landscaping)	\$11,300,000	From bid of preferred proponent
Festival Square and Bus Loop	\$5,200,000	From bid of preferred proponent
General Requirements and Fees	\$2,500,000	From bid of preferred proponent
<i>Subtotal</i>	\$19,000,000	
<i>Building and Site Allowances:</i>		
Design allowance	\$15,000,000	Percentage allowance recommended by Quantity Surveyor applied to bid of preferred proponent
Escalation allowance	\$12,700,000	Percentage allowance recommended by Quantity Surveyor applied to bid of preferred proponent
Construction allowance	\$3,900,000	From bid of preferred proponent
<i>Subtotal</i>	\$31,600,000	
<i>Cost Sharing Agreement Costs:</i>		
Early Works	\$8,500,000	As per unit prices of awarded contract
Intersection Improvements	\$2,200,000	Estimate from Consulting Engineering Firm based on detailed design
Road Construction	\$8,100,000	Estimate from Consulting Engineering Firm based on detailed design
Storm Water Management Pond	\$2,500,000	Estimate from Consulting Engineering Firm based on detailed design
<i>Subtotal</i>	\$21,300,000	
<i>Total Net HST</i>	\$214,164,069	
<i>HST Payable by Municipality</i>	\$400,000	
Project Total	\$214,564,069	

Unlike a traditional design build procurement process, the City is not locked into the above costs. The PDB procurement process is a collaborative approach that has the design build team work with the owner to get to a target price. This process will further the detailed design and provide the opportunity to reduce the allowances shown above by either acknowledging them as required costs and moving them to the building cost or reducing the risk and allowing the budget to be reduced. In addition, the scope of the project can be reassessed to reduce the project budget. In fact, the Preferred Proponent has provided suggestions for design changes and savings in their bid documents that will be considered in the design development stage.

Next Steps

Upon approval of the project budget, the City will finalize the terms of the Design Development Agreement with the Preferred Proponent as part of Phase 2 of the PDB procurement process. It should be noted that the Design Development Agreement will not be signed until the Project Completion Agreement is finalized and executed.

The project remains on schedule and Staff will continue to advance the Greater Sudbury Event Centre PDB procurement with the direction of Council.

Appendices

- A. Letter from Genesis Hospitality dated July 4, 2022
- B. Letter from Gateway Casinos dated July 6, 2022
- C. Letter from Dario Zulich dated July 4, 2022



Members of Council:

Genesis Hospitality would like to confirm to the City of Sudbury our intent to construct a hotel at the KED, consisting of a minimum of 135 rooms together with amenities such as conference facilities and restaurant.

Genesis Hospitality, a family owned company, is approaching 50 years of building, owning and operating select service and full service hotels in markets similar to Sudbury. We continue exploring markets where Genesis can grow and prosper and feel strongly that Sudbury is such a market and that our hotel will be successful at the KED alongside Gateway Casinos and the City of Greater Sudbury.

Genesis Hospitality is excited to be part of the KED and are hopeful that the City Council can come together and give this project the final commitment to commence.

Best Regards,

Kevin Bower

Area Business Development Manager

Genesis Hospitality

3000 Victoria Avenue Unit H, Brandon MB R7B 3Y3

C: 204.724.2223 P: 204.578.6321

www.genesishospitality.ca | kevinb@genesishospitality.ca

July 6, 2022

City of Greater Sudbury
City Council
200 Brady Street.
Sudbury, Ontario P3A SP3

Open Letter to members of Council, City of Greater Sudbury,

I would like to take this opportunity in advance of the July 12 Council meeting to advise members of Council and Mayor Brian Biggar that Gateway Casinos & Entertainment Limited ("Gateway") remains supportive of the Kingsway Entertainment District ("KED") project.

As you are all aware, this project has been delayed by a number of legal challenges over the course of the last four years - from the Land Planning Appeal Tribunal case to the Superior Court challenge by Tom Fortin and the Casino Free Sudbury Group. At this time, we are still awaiting a resolution of the Minnow Lake Restoration Group court action. All of these actions have added considerable expense and time to proceeding with this development. Yet despite these setbacks and costs, we have not wavered in our decision to pursue the KED as the location for our new Sudbury casino. To date, Gateway has have invested over \$4 Million in design, development and legal costs at the KED site.

We continue to look forward to advancing the project, the favourable resolution of the Minnow Lake Restoration Group court action, and finalizing the Project Completion Agreement with the City of Greater Sudbury and Partners.

Gateway is as excited as the other KED partners to move this project forward. That's why the partners have been meeting collectively every week for almost a year to establish a timeline and Project Completion Agreement that will let the arena/events centre, Festival Square, hotel and casino open at approximately the same time in 2025.

We are looking for all parties to work together to provide certainty to allow this project to proceed as soon as possible.

Sincerely,

Gateway Casinos & Entertainment Limited



Jagtar Nijjar
Executive Vice President, Development & Construction



Sudbury, July 4, 2022

City of Greater Sudbury
200 Brady St,
Greater Sudbury, ON
P3A 5P3

Attention: Mr. Ian Wood

Dear Mr Wood:

RE: Continued support for the KED

This is to confirm that Kingsway Entertainment District LTD (formerly 1916596 Ontario Limited) has always been and remains fully committed to developing the property on the Kingsway together with Genesis Hospitality Inc., Gateway Casinos & Entertainment Limited, and the City of Greater Sudbury.

We look forward to commencement of construction in the fall.

Sincerely,

A handwritten signature in black ink, appearing to be 'DZ' followed by a long horizontal stroke.

Dario Zulich