

Design Development. If these negotiations do not produce an agreement that is satisfactory for the CGS the procurement can be cancelled, which represents another off-ramp. Given the time and cost to both the City and the proponents for the procurement to this point, staff recommend that the Event Centre PDB procurement remain open for a period of one year. Should Council decide within the next year to pursue the KED site, keeping the procurement open will save both time and money. Staff will not engage the preferred Proponent on any services unless directed by Council. There is no cost to the City if the Event Centre procurement remains open for a one-year period.

If there is no direction from Council, the procurement will be closed on July 31, 2023. No further action would be required from City Council.

The Fairness Monitor was retained by the City for the Event Centre procurement process. The Fairness Monitor indicated it is satisfied with the fairness of the process to date. It provided an initial report, which was shared with City Council on July 8 and is available on the City's website. A final report is expected following the conclusion of the procurement debriefs. Once the City is in receipt of the Fairness Monitor's final report, their services will no longer be required, and the purchase order will be closed.

Venue Operator

As directed by Council on May 10, 2022, the City started negotiations on a contract with a preferred Venue Operator proponent. These negotiations were in an early stage and are now stopped. The venue operator proposal submissions were non-binding, meaning that the submission does not expire and there is no legal obligation for the City to award the Project. Considering the time and cost to both the City and the proponents for the procurement, it is recommended that the Venue Operator procurement remain open. Should Council decide at a later date to pursue a similar event centre project, keeping the procurement open could save both time and money. The procurement will be closed by July 31, 2023, if there is no activity on the file. Staff will not engage the preferred Proponent on any services unless directed by Council and there is no cost to the City if the Venue Operator procurement remains open for a one-year period.

PricewaterhouseCoopers LLP (PwC) was retained by the City in an advisory role to assist with the Venue Management process. PwC's services will conclude following the proponent's debriefing.

Partnerships

The KED partners, which include Gateway, Genesis Hospitality, the Developer, and the City, were meeting on a weekly basis and were working on a number of items prior to July 12, 2022:

- the Project Completion Agreement (PCA);
- the Cost Sharing Agreements; and
- the Municipal Property Assessment Corporation (MPAC).

The KED partners had been meeting since January 2022 to work out the terms for the PCA and, as of July 12, 2022, were in the process of finalizing terms and conditions. The PCA was to be a decision point for Council and it would have been required before any other the other steps, such as site preparation, could have been finalized. The PCA negotiations have ended, as an agreement will not be required at this time.

There are three Cost Sharing Agreements between the partners for the Event Centre Project. One agreement addressed work that is complete, while another addresses work that will be complete subject to some final invoicing in July. The third agreement, the Comprehensive Cost Sharing Agreement, is ongoing as many of the costs identified above are still required to be invoiced to the partners. In addition, there are outstanding invoices to be issued from the partners to the City that have not yet been received for work previously completed. Upon issuing and receipt of outstanding invoices, the City will issue notice to terminate its involvement in the agreement.

The KED Partners had also been working with MPAC to obtain a preliminary assessment estimate for the KED development. This request has been cancelled, with no financial obligations accruing to any of the KED Partners.

Site Preparation

The site grading contract (ENG18-37) with Bot Construction & Engineering Ltd., (Bot) was terminated before the end of July. As reported to Council in the June 16, 2022, Event Centre Update, there was a negotiated settlement to compensate Bot for costs incurred, standby for labour and equipment, and other ongoing costs until such time that work could be secured, or the contract started. Since the contract no longer has a predicted start date, the contract was terminated. The total settlement is \$1,300,000, of which \$787,800 is the City's share. There are no future obligations for the City with the ENG18-37 Contract. Any future site preparation will require a new public tender.

The City retained JLR to provide contract administration and inspection services for the ENG18-37 contract. As part of their services, JLR completed a site survey and administered payments to Bot as part of the settlement. Cost for JLR's services for contract administration and inspection are part of the Comprehensive Cost Sharing Agreement. JLR is not proceeding with any services and the purchase order for JLR's services will be closed upon receipt of their final invoice.

Minnow Lake Restoration Group Lawsuit

The City was successful in the lawsuit filed by the Minnow Lake Restoration Group. The decision states:

"The application was entirely without merit. The impact was limited to more delay in a long-standing planning process and the cost to the City of Greater Sudbury in having to respond. If an argument is to be made that a process was flawed and the subject of bad faith, there should be some evidence that justifies the allegation. Costs are awarded to the City of Greater Sudbury in the amount \$37,000."

The court's award of costs totaling \$37,000 remains outstanding. Work to settle this outstanding obligation is underway.

City Land at the KED

On January 14, 2019, the City exercised an option for land at the Kingsway Entertainment District and was transferred ownership of the Event Centre land, the storm water management pond land, the road allowance, and an easement for parking, for a nominal fee. The land option agreement requires the City to transfer the land back to the Developer if the City does not commence development of the Event Centre within five years of exercising the option agreement.

As with the open RFP procurements, staff recommend that if there is no additional direction from Council, the City initiate a transfer of the land back to the Developer on July 31, 2023.

Costs to Date

The following table is a summary of costs to date as of June 30, 2022, for the Greater Sudbury Event Centre.

Expense	Total	City Share	Cost Shared By Others
Feasibility and business case, site evaluation	\$353,639	\$353,639	-
Integrated site design	\$595,988	\$258,680	\$337,308
Detailed site design, engineering, professional fees, external legal fees	\$4,173,429	\$2,942,266	\$1,231,163
Salaries	\$645,200	\$645,200	-
Basketball floor, related equipment	\$259,668	\$129,834	\$129,834
Total	\$6,027,923	\$4,329,618	\$1,698,305
Percentage of total \$100 million budget	-	4.33%	-

This summary includes invoices received as of June 30, 2022. There are some outstanding invoices for services as indicated in this report, and obligations to reimburse partners according to the cost sharing agreement. Staff that were assigned to the project will return to their home positions and their salary/benefit costs will no longer be charged to the project. Once all of these costs are accounted for, the estimated total costs to the CGS will be approximately \$5,200,000, which represents 5.2% of the original \$100 million budget.

Achievements of the Process to Date

Notwithstanding the project was stopped before its intended outcome was achieved, the Corporation's approach to this large project produced noteworthy, positive results that reflect innovation and effective risk management by Council and staff. Several initiatives and processes were introduced that should be recognized for their success and incorporated, as appropriate, into future project delivery and CGS. Here are a few high-level examples:

- Extensive public engagement, especially at the start of the project
- Innovative approaches to land acquisition and contract developments to ensure that the City's risks were minimized, and off-ramps developed to protect the public interest
- Dedicated project staff who could focus on advancing the work
- The development of cost sharing agreements which resulted in lower costs to all partners for a significant local development
- The collaboration with private partners, including a shared approach to legal proceedings and costs
- Our successful policies and project documentation, as demonstrated by results from several planning/legal challenges
- The level of Council engagement and ongoing public disclosure
- The development of an innovative Progressive Design Build process to construct the facility resulting in extensive knowledge and experience acquisition by CGS staff that can be applied in future projects

Considerations for a Future Event Centre

As stated earlier in this report, more than \$84 million, borrowed specifically to fund the construction of a new event centre, is expected to remain available for future investment in tangible capital assets. Prior to reassigning these funds, Council should further review options to address the documented need for a marquee spectator venue in Greater Sudbury.

The process which led to the current project at the KED, began with a discussion of the limitations of the Sudbury Community Arena, including concerns about the condition of the building, the fan experience, and the potential to renovate to meet current standards and business models for CHL facilities. From this point, previous Councils decided to focus on a new build facility and, eventually, on the specifications and location that staff have been pursuing over the past five years.

Over the past several weeks, public discussion has continued to put forward the same options that were identified previously, namely a newly built facility either downtown or in some other location, or some form of renovation of the current arena. The windup of the current project does not suggest the idea of an improved/replacement facility is being abandoned.

To this end, staff have made some no-cost, no-obligation recommendations regarding the RFPs related to the current project. These recommendations are not intended to perpetuate the current project but to keep some options open for Council's consideration in the future. At the same time, staff recommend that a background report be prepared to update the building condition assessment and analysis of the operational effectiveness of the Sudbury Community Arena and to consider general options and criteria for replacement or renovation. This work would be intentionally high-level in nature and any incidental costs for expert analysis will be covered through the regular operating budgets. A report on this effort will be presented to Council in Q2 2023.

Next Steps

Staff continue to wrap up the project in an efficient manner and will not advance any component of the Event Centre project unless further direction is provided by Council. Staff will report final project costs on the City's website by Q4 2022.

Should, as recommended, Council direct staff to undertake additional background work and reporting, this will be completed as described above.

Resources Cited

Council Report, "Event Centre Update" – July 12, 2022

- <https://pub-greatersudbury.escribemeetings.com/FileStream.ashx?DocumentId=47129>

Council Report, "Greater Sudbury Event Centre Next Steps" – July 14, 2021

- <https://pub-greatersudbury.escribemeetings.com/FileStream.ashx?DocumentId=40480>