

September 24, 2018

To: His Worship the Mayor
And Members of City Council

Re: Executive Committee: Regina Revitalization Initiative Stadium Project Stadium Project

RECOMMENDATION

**RECOMMENDATION OF THE EXECUTIVE COMMITTEE
- SEPTEMBER 12, 2018**

That this report be received and filed.

EXECUTIVE COMMITTEE – SEPTEMBER 12, 2018

The Committee adopted the following resolution:

That this report be forwarded to the September 24, 2018 meeting of City Council for information.

Mayor Michael Fougere, Councillors: Bob Hawkins (Chairperson), Lori Bresciani, Sharron Bryce, John Findura, Jerry Flegel, Jason Mancinelli, Joel Murray (teleconference) and Barbara Young were present during consideration of this report by the Executive Committee.

The Executive Committee, at its meeting held on September 12, 2018, considered the following report from the Administration:

That this report be received and filed.

CONCLUSION

Within report CR12-134, Council approved Administration to develop an operation and maintenance (O&M) agreement with the Regina Exhibition Association Ltd. (REAL) for the new stadium. The O&M agreement has been signed, and it outlines the services REAL will provide, the standard for these services, preventative maintenance requirements and the fee REAL will be paid to provide these services.

The leases with the Saskatchewan Roughrider Football Club (SRFC) and SaskSport Inc. have been signed with all terms meeting the requirements of the Provincial Funding and Contribution Agreement and the memorandum of understandings signed previously.

In April 2018, the City was advised by the Ministry of Parks, Culture and Sport that the City had met all conditions of the Provincial Funding Agreement signed in March 2013.

BACKGROUND

Operations & Maintenance Agreement (O&M) with REAL

Within report CR12-134, Council approved Administration to develop an agreement with REAL to operate and maintain the new stadium. Based on the affordability of the results of the stadium financial model, Administration recommended to proceed with a Design/Build/Finance (DBF) Public Private Partnership (P3) for the replacement of the old stadium. With the placement of the stadium adjacent to property currently managed by REAL, Administration recommended this model as there are synergies of combining the operating and maintenance components under one provider.

Saskatchewan Roughrider Football Club (SRFC) Lease

As per the Provincial Funding Agreement, entered into by the City of Regina and the Province of Saskatchewan in March 2013, the City and SRFC were to enter into a commercial lease of not less than 30 years with respect to the use of the stadium and related premises.

SaskSport Inc Stadium (SS) Lease

As per the Provincial Funding Agreement, entered into by the City of Regina and the Province of Saskatchewan in March 2013, the City and SaskSport Inc. were to enter into a long-term binding agreement of not less than 30 years with respect to access by amateur sport to the stadium and the inclusion of a lease to administrative space.

DISCUSSION

Under reports CR13-6 and CR17-23, authority was delegated to Administration to negotiate and execute the O&M agreement, the SRFC lease and the SS lease. The following provides a summary of each of the agreements:

Operations & Maintenance Agreement (O&M) with REAL

Council provided Administration the authority (CR12-134) to develop an O&M agreement with REAL. The recommendation to Council to engage REAL, as the operator of the stadium, was based on the expectation that through such an arrangement, the City could leverage the capabilities of REAL while ensuring the desired community benefits were achieved. An agreement engaging REAL as the operator would allow a shared services approach to be implemented while providing both management and event resources as required for the varied uses of the stadium.

For operational requirements the development of the O&M agreement required consideration had to be given to the provision of services for day to day business, major events, game day and community user events. Maintenance requirements had to include the \$278.2 million base building and assets constructed through the City's contract with PCL as well as contributed assets provided through agreements with other parties. Examples of contributed assets include information technology assets, broadcast and cabling infrastructure as well as food and beverage systems. The terms and conditions which the City agreed to in both the SRFC and SS tenant

leases had to be captured in this O&M agreement. This added another level of detail which was not initially contemplated at the beginning of the stadium project.

The terms and conditions of this agreement were based on the premise REAL is responsible for providing **all** services in accordance to mutually agreed upon operating procedures and at a level of service that aligns with industry standards for comparable facilities. REAL is responsible to ensure all systems, processes and reporting requirements are in place, so they can effectively manage, operate and maintain the stadium with the ability to report back to the City on their performance.

The O&M agreement effectively captures all the services to be provided, the standards to which REAL is expected to provide these services as well as detailed reporting requirements. This will allow the City to effectively manage the contract and performance of REAL. Some of the more significant terms that evolved through the course of negotiation with REAL included:

- **Term** – Given the details required for this agreement, the initial term has been set to terminate on December 31, 2021 with options to renew for five consecutive terms of five years each. An initial shorter term will allow for updates or changes to be made based on the annual review of how effective the agreement is. The conditions allow for both parties to renew or exercise an option to not renew with a significant notice period in order to make alternate arrangements for the operation and maintenance of the stadium.
- **Scheduling Protocol** – through both the O&M agreement and the tenant leases, the City has committed to a scheduling protocol that establishes overall booking and scheduling priorities and processes. The City is retaining the responsibility for scheduling the field of play in order to ensure the community has access to the building and the terms in the leases are met. REAL is responsible for the booking of the lounge spaces and has been granted a license to schedule REAL Events in accordance with the Scheduling Protocol.
- **Commercial Event License Fee** – as per the Funding and Contribution Agreement between the City and the SRFC, REAL shall pay the City a Commercial Event License Fee for REAL events. The Commercial Event License Fee can be used for various purposes, such as payments on the project loan, maintenance costs or improvements to the stadium, etc. The amount of the fee and how it is to be charged will be mutually agreed to by the City and REAL on a case by case basis – fee per ticket, percentage of gross sales, percentage of net profit, etc. This approach provides both the City and REAL the flexibility to determine an appropriate fee to utilize the stadium based on the type of REAL event being hosted. In a situation where REAL declines an event, which the City wishes to be hosted, the City can direct REAL to host the event based on a mutual agreement that addresses the financial risk of hosting the event.
- **Service Fees** – the agreement is structured to pay REAL an operating and maintenance fee for provision of services to the Base Building, SRFC Game and SaskSport Events. The total annual operating and maintenance fee is \$4.1 million which was defined in collaboration with the City.

- **Performance, service standards and operational policies** – REAL is required to deliver services that are consistent with industry standards, in compliance with applicable laws and are provided in accordance with the service standards that are established. The standards in which these services are to be delivered are to be prepared in consultation with the City, SRFC, SaskSport and REAL, are operated in accordance with industry standards and will be monitored and reviewed by the City to ensure compliance. REAL (in consultation with the City) is responsible for the development and implementation of all stadium operational policies. Policies include, but are not limited to, entry, prohibited items, alcohol, etc.
- **SRFC Lease and SS Lease** – all relevant terms of the tenant leases which impact REAL have been captured which include access to leased spaces, parking, sponsorship and naming rights, etc.
- **Maintenance** – the agreement clearly defines the plans and services required to operate the stadium and maintain all the stadium assets. REAL is required to implement a comprehensive preventative maintenance program for all preventative, predictive and reactive maintenance, including the requirement to administer the program through a computerized maintenance management system (CMMS) that has the ability to provide detailed reporting. In addition, they are to implement a comprehensive asset management plan using manufacture's recommendations and warranty requirements. The plan is to contemplate a facility condition index of 7.5 per cent for deferred maintenance (indicator or measurement of the condition of the stadium), shall be a five-year rolling plan, is maintained in the CMMS and is updated annually during the City's budget approval process.
- **Operations** – the agreement also clearly defines the services that are to be provided by REAL. These services include:
 - Base Building – day to day services
 - Maintenance Services – preventative, reactive and pro-active services
 - Capital Services – planned for capital renewal and improvements
 - Leased Premises Services – general services to the leased areas, including common areas
 - Stadium Event Services – services required for Stadium Events
- **Food and Beverage Services** – as per the Offer to Lease and the Memorandum of Agreement between REAL and the SRFC, F&B will be delivered by REAL to the main and upper concourses, Confederation Park and all premium areas. The net profit for F&B delivery will be split between REAL and SRFC. Under the O&M agreement, for premium areas REAL will pay the City 20 per cent and for all other areas 80 per cent of the net profit reported by REAL. The net profit transfer from the City to the SRFC is contracted via the lease agreement. REAL is required to use stadium sponsored products for alcoholic and non-alcoholic beverages, confectionary and other items as agreed to. Under report CR17-23, Council approved the withdrawal of \$9 million from the reserve to fund the food and beverage construction based on the fact that REAL would repay the City for this withdrawal. The O&M agreement includes a section that requires REAL to repay the withdrawal in annual

installments of \$300,000. This section further clarifies the payment obligations of REAL survive the expiry or termination of the O&M agreement unless otherwise agreed to in writing by the City and REAL.

- **Rights, Powers & Obligations** – to ensure REAL has the opportunity to provide all services in the most cost-effective manner, REAL has been granted the right to enter into third party contracts to provide the services. REAL was also granted the right to make repairs, alterations, replacements, decorations or improvements at their cost but only with prior written approval from the City. The agreement clarifies that all stadium assets are owned by the City and that the City has the right to enter the stadium at any time to observe or assess the performance of REAL.
- **Termination** – although both parties are committed to this agreement, both parties also agreed a termination of the agreement could occur if REAL were to become bankrupt, is in material default of the agreement etc., and REAL could terminate if the City is in default of its obligations under the agreement. A clause for termination for convenience was also included with the requirement of the party issuing the termination to provide a minimum of nine months notice.
- **Reporting, Record Keeping and Inspection** – to ensure the stadium is managed appropriately, REAL is required to provide numerous reports as it relates to capital, maintenance, operating and financial results. This reporting provides the City the information needed to ensure the stadium is being operated in the most cost effective and efficient manner and maintained to ensure longevity of the base build and all other stadium assets.
- **Dispute Resolution** – should any disputes arise during the term of this agreement the initial stage is to attempt to resolve the issue with the appropriate managers and senior executives for the City and REAL. If the dispute is unable to be resolved at this level, the second stage is escalation to the City Manager and REAL's CEO with the final stage being mandatory mediation, expert determination and then arbitration.

SRFC Stadium Lease

In February 2017, the City entered into a formal commercial lease with the SRFC. The following summarizes the key business items agreed to with the SRFC:

- **Term** – the commencement date of the lease is February 13, 2017 and it expires March 31, 2047. Given the term of the lease agreement, a provision has been included requiring the lease to be reviewed, at a minimum, every five years with reports to be provided by SRFC and the City to the Stadium Oversight Committee.
- **Lease Rate** – the lease is a gross lease, which includes property taxes, at an annual lease rate of \$1,500,000 for the leased premises plus \$53,000 for the ticket office. The gross lease payment is subject to an escalation factor which takes into consideration property tax increases and the Consumer Price Index. The SRFC is responsible for additional rent payable as it

relates to increased utility consumption and for expenses related to the stadium video boards on days outside of SRFC games and events.

- **Facility Fee** – as per section 3.2 of the Funding and Contribution Agreement between the City and the SRFC, the SRFC are to charge a \$12 facility fee on all game day tickets on behalf of the City. All facility fees collected will be held by SRFC in trust for the City and paid to the City as detailed in the lease. The Facility Fees are for the purpose of payment towards the project loan.
- **Sponsorship & Naming Rights** – as per the Offer to Lease, signed in January 2013, the SRFC has the exclusive and complete rights to market the naming rights and sponsorships to the stadium for an annual amount payable to the City of \$500,000. Not less than every five years, the value of this right (\$500,000) shall be reviewed and adjusted to account for inflation and other market changes. Sponsors remain in place for non-SRFC events apart from an international event. An international event is defined as an event that is international in nature and occurring over more than one day such as FIFA World Cup, Pan Am Games, etc.
- **Licensed Areas & Game Day Services** – SRFC has been granted an exclusive license to occupy the stadium which includes the club and loge seating, premium suites and Confederation Park for SRFC games, events and playoff games. This license grants control of the facility to SRFC. The City will provide game day services, via the O&M agreement with REAL, which include but are not limited to janitorial, custodial, waste management, turf maintenance and repair, seat maintenance and repair and general operations with exception of sponsorship activation. Provisions have been included in the lease to charge back certain game day service costs to SRFC for events and playoff games.
- **Parking** – parking spaces for day to day operations have been included as part of the lease value; however, for game day 800 parking spaces (or other amount as may be agreed to from time to time) have been provided to the SRFC for marketing and sale for games.
- **Food & Beverage (F&B)** – as per the Offer to Lease and the Memorandum of Agreement between REAL and the SRFC, F&B will be delivered by REAL to the main and upper concourses, Confederation Park and all premium areas. The net profit for F&B delivery will be split between REAL and SRFC. For premium areas the City will pay the SRFC 20 per cent and for all other areas 80 per cent of the net profit reported by REAL. The net profit transfer from REAL to the City is contracted via the O&M agreement. REAL is required to use stadium sponsored products for alcoholic and non-alcoholic beverages, confectionary and other items as agreed to.
- **Contributed Assets** – the lease captures the assets that have been contributed by the SRFC which include IT infrastructure, broadcast cabling, LED package, broadcast control room, concourse displays and loge deck furniture. These contributed assets are owned and the responsibility of the City. Other assets such as the statues, pageantry and removable structures are owned and the responsibility of the SRFC.

- **Other Provisions** – other provisions included relate to damage and destruction, insurance and indemnity, default and remedies, dispute resolution, confidentiality, notice and general are all consistent with current commercial leasing agreements.

SaskSport Lease

In November 2017, the City entered into a long-term lease agreement with SaskSport. The following summarizes the key business items agreed to with SaskSport:

- **Term** – the commencement date of the lease is April 1, 2017 and continues for a term of thirty (30) years. SaskSport has been granted the option to terminate the lease should any or all of the annual grant no longer be provided to them by the Provincial Government. SaskSport is required to provide the City three hundred and sixty-five (365) days notice and also to use reasonable efforts to seek alternative sources of funding to avoid termination.
- **Annual Grant** – as contemplated in the License Agreement between SaskSport and the Saskatchewan Lotteries Trust Fund, SaskSport receives annually a grant of \$2,500,000 which is for payment to the City in consideration for the use of the leased premises and for access to the stadium and field of play for amateur sports associations, members of the public and the community at large.
- **Additional Rent** – in addition to the annual grant, SaskSport also pays the City an additional rent amount of \$50,000 which is used to pay for property taxes and the provision of services necessary to support the SaskSport events that are not included in the SaskSport Event Services.
- **License and Field Access** – SaskSport has been granted a license to access and occupy the stadium and licensed areas for SaskSport events and special events. Scheduling of these events follows a scheduling protocol which acknowledges the requirement for the City to provide six hundred (600) hours each year for SaskSport events which are minor sport bookings that fall under the SaskSport umbrella such as minor football.

RECOMMENDATION IMPLICATIONS

Financial Implications

With all agreements being completed, the financial model has been updated to reflect the financial components included in these agreements.

Environmental Implications

None related to this report.

Strategic Implications

The terms and conditions in the O&M agreement are aligned with the City's Official Community Plan (OCP).

Other Implications

None related to this report.

Accessibility Implications

None related to this report.

COMMUNICATIONS

All agreements will be posted on the City's Open Data portal by the end of the third quarter of 2018.

DELEGATED AUTHORITY

Respectfully submitted,

EXECUTIVE COMMITTEE

A handwritten signature in black ink, appearing to read 'Jim Nicol', is written over a horizontal line.

Jim Nicol, Secretary