

Committee of the Whole (2) Report

DATE: Tuesday, June 21, 2022

WARD(S): 1

TITLE: SPORTS VILLAGE FACILITY ASSET PURCHASE

FROM:

Nick Spensieri, City Manager

ACTION: DECISION

Purpose

To seek authorization to execute the Asset Purchase Agreement of the Sports Village Facility ("Facility") for the transfer of the Facility to the City so that the City may assume operations of the Facility as set out in this Report. This Report is also to seek endorsement and authority from Council on several elements related to the purchase in order to ensure a successful transition of the Sports Village operations.

Report Highlights

- The City entered into several agreements with Mentana Group Inc. in 1999 for the development, operation, construction of the Sports Village Facility, and the lease of the City lands.
- As per earlier Council direction, staff have negotiated with Mentana for the reversion of control to the City and asset transfer of the Sports Village Facility prior to the end of the 40-year term lease.
- If Council approves of the transaction, the City will acquire and take over possession of the Sports Village Facility on September 1, 2022, or 8 weeks after signing of the Asset Purchase Agreement, whichever date is later.
- Staff also seek Council's authorization for single source procurements, and authority to extend employment offers to Sports Village existing employees, in order to maintain business continuity, while the City plans for and implements the next phase on the use of the Facility.
- Staff recommends this acquisition as it will enhance City offerings for residents and will benefit the community first and foremost.

Recommendations

1. THAT the City Manager or designate be authorized to execute the Asset Purchase Agreement and any ancillary documents with Mentana Group Inc., Vaughan Sports Village Inc., and Mentana Foods Limited (the “**Vendors**”) in accordance with this Report, on behalf of the City, in a form satisfactory to Legal Services;
2. THAT the City Manager or designate be authorized to execute agreements on behalf of the City to terminate the Lease Agreement, the Master Agreement, the City Loan Agreement, and any other applicable amending agreements, with Mentana Group Inc., in a form satisfactory to Legal Services;
3. THAT staff be authorized to extend employment offers and contracts to existing employees at Sports Village, as determined appropriate by the Chief Human Resources Officer, and to establish similar positions within the City for these employees, to ensure continuity of services at the Sports Village Facility;
4. THAT Council authorize single source procurement with suppliers and service providers that provide goods and services to any of the Vendors, as may be deemed required by the City Manager or designate, to ensure continuity of operations at the Sports Village Facility;
5. THAT Council authorize a single source procurement of consulting services with Create Healthy Food Inc., to assist the City in managing the restaurant operation located on site at the Sports Village Facility, until a long-term arrangement for the restaurant operations is confirmed at a later date;
6. THAT the Director of Procurement Services be authorized to execute any necessary agreement related to any single source procurement described in this Report, on behalf of the City, all in a form satisfactory to Legal Services;
7. THAT the Deputy City Manager, Corporate Services, City Treasurer and Chief Financial Officer or designate be authorized to take all actions necessary to pay off and terminate the project loan facility currently with the Bank of Nova Scotia, as described in this Report, including execution of applicable documentation on behalf of the City;
8. THAT staff be authorized to review and develop a proposal and business case study to determine the feasibility of establishing a municipal services corporation to operate the Sports Village Facility in the future, pursuant to the *Municipal Act*, 2001, and to report to Council on such proposal and business case study at a future date;
9. THAT the City Manager be authorized to retain external consultants as may be required to provide consulting services to the City on future business plans and operations of the Sports Village Facility; and

10. THAT appropriate staff, as determined by the City Manager, be authorized to take any other actions required to ensure the overall completion of the transaction and transition of the Sports Village Facility to the City.

Background

The City and Mentana Group Inc. entered into several agreements in October 1999 for a term expiring June 30, 2040. These agreements included a Master Agreement in relation to the development and ongoing operation of the Sports Village Facility, a Lease Agreement of the leased City lands which related to the construction and operation of the Sports Village Facility, and a City Loan Agreement to fund the construction and improvements of the Facility.

At the direction of Council, staff have been in extensive negotiations with the Vendors and the parties have reached an agreement on the transaction terms that we would like to present to Council for approval.

Previous Reports/Authority

[Council Meeting, February 17, 2021 \(Closed Session\), Update on Sports Village, Report No. 7, Item 4](#)

[Council Meeting, June 22, 2021 \(Closed Session\), Sports Village Facility Update, Report No. 33, Item 6](#)

[Council Meeting, March 22, 2022 \(Closed Session\), Update on Sports Village, Addendum 3](#)

Analysis and Options

Acquiring the Sports Village Facility

The City has immensely grown and developed into a thriving and sophisticated municipality since entering into these agreements in 1999. When the City entered into the agreements to create the Sports Village Facility for the community, it was not as well equipped as it is today to successfully run this magnitude of an operation. However, going forward, to best serve the interests and needs of Vaughan's community, it is staff's view that the City should assume the operations of the Sports Village Facility earlier rather than through to the term to 2040.

With this important opportunity, the City would have the ability to build in more amenities for the residents and be more creative in the delivery of community services. This will enable the City to operate the Facility as a world-class sports facility for the City's very own residents and beyond. This is a one-of-a-kind operation that will distinguish City of Vaughan offerings among the Greater Toronto Area and the City will strive for and work towards delivering brand new offerings and higher levels of service to its residents through this Facility.

To begin with, the City is starting construction of the skating path located at the Sports Village lands. The skating path is expected to be operational in Q4-2022. It is a key City objective to deliver service excellence and this acquisition will generate greater amenities and more opportunity for City residents. The proposed change of hands will also align the operation of the Facility with the City's current operating model on the delivery of municipal services.

The Purchase

While the City owns the lands, the Asset Purchase Agreement contemplates the City purchasing the Facility, the building itself, and its assets for \$7,000,000. The purchase will include the Vendors' interest and assets, including but not limited to, the Facility building, all of the equipment within and belonging to the Facility, intellectual property rights, transfer of the liquor license for the restaurant operations, and the assumption of the Vendors' contracts with customers and suppliers which the City will continue to deliver on the identified contractual obligations.

Both City and third-party financial assessments were relied on to establish a range of financial valuations on the purchase price. The financial consideration is based on the present value of projected cash flows for the balance of the existing agreement (until 2040). The consideration also factored in the value to the City, as the operator of the Facility, which includes the value beyond the current 2040 term. The financial valuation was highly driven by the base year revenues, estimated annual revenue growth, operating income percentage, capital expenditures, existing assets and liabilities, and other considerations. Staff believe that the parties arrived at a reasonable negotiated purchase price of \$7,000,000, subject to any price adjustments typical in sales closing, which is reflective of the current and future asset to the City.

As part of the purchase of the building, the City will pay off the project loan currently with the Bank of Nova Scotia and the outstanding amount as of the date of this Report is \$2,542,332, subject to any prepayment penalties determined by the Bank of Nova Scotia. The City Loan Agreement with Mentana Group Inc. will also be terminated, such that the original forgivable loan of \$9.5M for the construction of the building will be forgiven, as the City will now become the owner of the building. For clarity, under the terms of the City Loan Agreement, the forgivable loan was meant to be forgiven at the end of the lease term. Given that the Lease Agreement will be terminated now with this purchase, this loan is also forgiven earlier than what was originally contemplated.

Other aspects of the Asset Purchase Agreement include:

- Settlement of any operational expenses and variable rent calculations through the current available cash of the business prior to closing.
- A pre-closing inspection will be conducted by the City to confirm the state of the Facility to be purchased and for any items requiring rectification to be addressed.

- Assumption of current Mentana employees by the City after closing – this would enable the City to maintain a comparable workforce with in depth knowledge of the operations while the transition of the Facility is happening to ensure business continuity.
- Liability of up to 50% of the purchase price if Mentana breaches certain representations and warranties with regards to the business operations.
- Holdback amount of 5% of the purchase price to be released 6 months after the closing date, on the condition that the final audited financial statements for Fiscal year 2021-2022 of the current Mentana operations are delivered and that no outstanding indemnity claims are made by the City.

If Council approves of the transaction, the agreements will be executed as soon as they are finalized, and the transaction will close on September 1, 2022 or eight weeks following the date of signing, whichever is later. This timeline allows the City to prepare for the assumption of the operations which is further explained in the next section of this Report.

Operations into the Future

Upon execution and successful closing of the Asset Purchase Agreement, the City's assumption of operations will generate further phases of planning and implementation in order to effectively transfer the Facility to the City in a manner that allows the business to further succeed and grow under City management in the long term.

Potential for a Municipal Services Corporation

As part of the exploration of the longer-term business plan for the maximized use of the Sports Village Facility, staff proposes to commence a business case study to examine the potential benefits of establishing a municipal services corporation (“**MSC**”) to operate the Facility. An MSC could provide additional flexibility on how to operate the Facility and potentially bring in specialized expertise on a board to provide guidance on the business operations.

In accordance with legislative requirements, once a business case for a MSC is prepared, it shall be presented for public consultation and then to Council for decision. And so, if Council endorses staff to prepare a business plan at this time, it is anticipated that this will be brought back to Council in the new year for consideration.

Single Source Procurement – Existing Contracts

To ensure business continuity, it would be in the best interests of the City to have the flexibility of contracting with the same suppliers and service providers that are currently contracted by Mentana. Some of these contracts will be assumed as part of the Asset Purchase Agreement. There may be some other instances where, for continuity purposes and particularly where the City does not currently have a vendor of record providing similar goods and services, it would be important for the City to have the ability to procure

from the same vendors that have provided goods and services at the Facility. Therefore, staff are asking Council for delegated authority to the City Manager or designate to authorize single source procurement as appropriate as the City takes over the Facility.

Single Source Procurement – Restaurant Consultant

Currently, the Sports Village Facility operates the Hot Shots Bar & Grill. The restaurant is included in the asset purchase and after closing, the City will assume operations of the restaurant. To provide for the required expertise and a successful transition of the restaurant operations, staff propose to enter into a single source procurement of consulting services with Create Healthy Food Inc. The City has a strong working relationship already with Create Healthy Food Inc., being the City Hall's current cafeteria operator. In the immediate transition phase, staff recommend that the City enters into an agreement with them for consulting services on the operations of the restaurant at Sports Village. This will allow time for the City to consider and prepare for the procurement of the long-term operations of the restaurant. Staff believe that this will entice distinguished restaurant operators and/or restaurant franchises to submit a proposal for this unique long-term business opportunity.

Other Business Planning for the Future

Senior staff will continue to plan for the future business development of the Sports Village Facility to further establish its presence as a premier sports and entertainment facility in the City of Vaughan and will report back to Council throughout this process. External consultants may be required from time to time to provide advice and as such, staff are seeking Council's approval for the City Manager to retain such consultants as needed.

Financial Impact

Purchase of the Sports Village complex and assets and payment of the project loan will be funded from the City's discretionary cash reserves.

Following completion of the transition period, the complex is expected to generate net income and positive cash contributions to the City's operations. Financial implications will be included in future operating and capital budgets for Council consideration and approval

Broader Regional Impacts/Considerations

N/A

Conclusion

Staff have been in negotiations with Mentana Group Inc. for an asset purchase agreement to purchase their assets and interests at the Sports Village Facility so that the Facility can revert to City control and operations going forward. If Council endorses the proposed transaction, the Sports Village Facility will revert to City control as of September 1, 2022, or eight weeks after signing of the Asset Purchase Agreement, whichever is later. Staff

believe that this transaction will provide for greater City control and direction on the operations of an important municipal facility, and will provide important opportunities for the City to expand its municipal services offering for Vaughan residents and community.

For more information, please contact:

Michael Coroneos, Deputy City Manager, Corporate Services, City Treasurer and Chief Financial Officer

Wendy Law, Deputy City Manager, Legal and Administrative Services & City Solicitor

Vince Musacchio, Deputy City Manager, Infrastructure Development

Anna Dara, Director of Recreation Services

Attachments

N/A

Prepared by

Taylor Frank, Legal Counsel, ext. 8537

Approved by

A handwritten signature in black ink, appearing to read 'Nick Spensieri', with a long horizontal line extending to the right.

Nick Spensieri, City Manager