



TORONTO STAFF REPORT

January 19, 2006

To: Policy and Finance Committee

From: Deputy City Manager and Chief Financial Officer

Re: Exhibition Place Soccer Stadium – Municipal Capital Facility Designation

Purpose:

This report responds to a request by City Council to report on the value of the financial benefits to be bestowed upon the private sector as a consequence of declaring the proposed soccer stadium at Exhibition Place a Municipal Capital Facility.

Financial Implications:

There are no financial implications associated with the recommendations in this report.

Recommendations:

This report is provided for information purposes.

Background:

At its meeting of October 26, 27, 28 and 31, 2005, City Council considered and adopted the recommendations of staff, as amended, with respect to the construction and operation of a soccer stadium at Exhibition Place. As part of its direction to staff, City Council also adopted the following recommendation:

“That recommendation (4) contained in the staff report be deleted and the following inserted instead:

‘(4) the City Solicitor be requested to report on the legality and appropriateness of declaring the proposed soccer stadium to be a municipal capital facility for the purposes of the municipality and public use pursuant to s. 110 of the Municipal Act, 2001.’”

This recommendation replaced a recommendation in the original staff report requesting that City Council approve the designation of the proposed soccer stadium as a municipal capital facility.

In response to recommendation (4), the City Solicitor submitted a report dated November 14, 2005 to the November 22, 2005 meeting of Policy and Finance Committee. This report recommended that:

- (1) “City Council declare the proposed soccer stadium at Exhibition Place to be a municipal capital facility for the purposes of the municipality and public use pursuant to section 110 of the *Municipal Act, 2001*, and pass a by-law to authorize the entering into of an agreement for the provision of the facility”.

At its meeting of December 5, 6 and 7, 2005, City Council adopted the recommendations in this report and directed that “the Deputy City Manager and Chief Financial Officer be requested to report to the Policy and Finance Committee for its next meeting on January 23, 2006, on the value of the financial benefits to be bestowed upon the private sector as a consequence of declaring this facility a Municipal Capital Facility”.

Comments

Ontario Regulation 46/94 states that the council of a municipality may enter into a municipal capital facility agreement under Subsection 110 (1) of the Municipal Act for the provision of facilities used for cultural, recreational or tourist purposes.

Section 110 of the Act also authorizes a municipality to “provide financial or other assistance at less than fair market value or at no cost to any person who has entered into an agreement to provide facilities under this section”. However, in this case no such financial assistance has been offered.

As discussed more fully in the October 27, 2005 report from the Deputy City Manager and Chief Financial Officer, staff have carried out an analysis of the potential revenues that will be derived from this project under a variety of financial assumptions and scenarios. Based on this analysis, it appears that Maple Leaf Sports and Entertainment Ltd. (MLSEL) will be earning a fair-market return on their financial investment given the risk profile of the project. Therefore, although the municipal capital facility designation does allow for financial assistance to a private proponent, MLSEL is not receiving any benefit directly as a result of the municipal capital facility designation.

The City Solicitor reached the conclusion that the designation was necessary from the City’s perspective for two important reasons:

- (1) Authority for Agreements:

The recommendation to designate the facility was made in recognition of the nature of the project as a public/private arrangement which contemplates a contribution (\$18 million) to the costs of construction of a public facility by the private sector, which is also undertaking the construction. The operation and use of the stadium is then expected to result in reasonable benefits to both the public and private sectors as per the Letter of Intent adopted by City Council when it approved the project. The City Solicitor was therefore of the view that this type of arrangement is best authorized as a municipal capital facility and that it would be in the best interests of the City to put the designation in place as authority for the arrangement.

(2) Defence Against Allegations of Bonusing:

An added benefit of the designation is protection against any attempt to attack the arrangement which might be based upon an allegation of bonusing. While staff and City Council may in good faith believe that the arrangement is in the public interest and fair for all parties, this would obviously not preclude a third party from seeking to characterize the arrangement differently. The City Solicitor advises that this concern is supported by a recent court decision and recommends the designation of the facility to protect City interests.

It is important to make clear that this arrangement does not contemplate the provision of a property tax exemption. The Stadium is a municipal building which will be City-owned at all times and managed by Maple Leaf Sports & Entertainment Ltd. acting as an agent of the City and The Board of Governors of Exhibition Place. In fact, the City Solicitor has pointed out that the City is not entitled under section 110 to provide a tax exemption in the context of this arrangement as no portion of the facility will be located on land which is "owned by or leased to" a private sector partner in respect of which such an exemption would be given.

Conclusion

There are no financial benefits bestowed upon MLSEL as a result of designating the proposed soccer stadium a municipal capital facility. MLSEL expects that it will derive a financial return from its management of the stadium and operations of a professional soccer franchise. The financial returns to MLSEL are considered to be representative of fair market rates commensurate with the level of investment and the risk profile associated with this type of transaction.

Contacts:

Joe Farag, Director
Special Projects
392-8108

Joseph P. Pennachetti
Deputy City Manager and Chief Financial Officer