



Town of Newmarket
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Tennis Bubble – Non Competitive Acquisition Staff Report to Council

Report Number: 2024-31

Department(s): Recreation and Culture

Author(s): Jeff Payne, Commissioner, Community Services

Meeting Date: May 27, 2024

Recommendations

1. That the report entitled Tennis Bubble – Non-Competitive Acquisition dated May 27th, 2024 be received;
2. That the tennis facility described in Section 1.1(c) of the Municipal Capital Facilities Agreement, discussed in this report, be designed to:
 - i. adjust the number of tennis courts from 12 to 10, at this location,
 - ii. include the bubble structure (dome) to cover 8 of the tennis courts; andfor the reasons described in this report;
3. That staff work with Shining Hill Estates Collection Inc., 16250 Yonge Street Inc., Emilio Saccucci, Concetta Saccucci, and 2512606 Ontario Inc., as applicable, on a non-competitive basis as of the effective date of the Municipal Capital Facilities Agreement, at an approximate cost of \$1.5 Million plus HST to construct the tennis bubble described in this report; and,
4. That the Commissioner of Community Services be delegated the authority to agree to further changes to the tennis facility discussed in this report if such changes are necessary and in the interest of the Town;
5. That the Commissioner of Community Services be authorized to execute any agreements or documents that are necessary to give effect to this resolution including,

without limitation, any agreements or documents related to the design and construction of the tennis facility discussed in this report; and

6. That Staff be authorized and directed to do all things necessary to give effect to this resolution.

Purpose

The purpose of this report is to seek Council approval (1) to design the tennis facility in Section 1.1(c) of the Municipal Capital Facilities Agreement as described in this report, and (2) for a non competitive acquisition in the construction and procurement of the same in the interest of cost, time and construction efficiency.

Background

On February 8, 2022, the Town entered into a Municipal Capital Facilities Agreement with Shining Hill Estates Collection Inc., 16250 Yonge Street Inc., Emilio Saccucci, Concetta Saccucci, and 2512606 Ontario Inc. (collectively, “Shining Hill Subdivisions”). Within that agreement, it was specified that Shining Hill Subdivisions would be responsible for the construction of a new twelve (12) court, lit, outdoor tennis facility that would also include a 1,500 sq ft clubhouse. This facility is intended to replace the Keith Davis Tennis Centre located north of the P3 parking lot in downtown Newmarket. The Municipal Capital Facilities Agreement did not contemplate that any of the tennis courts would be indoors or “bubbled” during the winter months.

In March, 2023, Council approved town operated, indoor winter tennis in a bubbled structure at the new tennis centre to be built within the Shining Hill subdivision. Within that report, it was identified that the facility would operate at a likely surplus of over \$100,000 per year. This included a repayment of \$80,000 per year for a bubble. This was based on an initial projected bubble cost of \$1.2 Million with the bubble projected to last 20 years. Through final design the cost was determined to be approximately \$1.5 Million for the bubble structure and related infrastructure.

The initial concept for the site included 12 courts, as set out in the Municipal Capital Facilities Agreement. The final site plan has determined the site can accommodate 10 courts. The Town will work with Shining Hill Estates Collection Inc. or related entities or agents, to negotiate an alternative in lieu of the two courts that could not be accommodated at the Shining Hill tennis facility.

Discussion

The design and construction of the revised concept for the tennis facility described in this report could include two separate consecutive phases – design and construction of the outdoor facility and design and construction of the infrastructure needed to support a bubble. However, this approach is significantly more expensive and more time consuming than completing these two phases simultaneously.

Tennis Bubble – Non-Competitive Acquisition

Shining Hill Estates Collection Inc. is required to build the outdoor facility as per the Municipal Capital Facilities Agreement. The Town is responsible to build the tennis bubble. However, in the interest of cost and construction efficiency, and to deliver the final year-round tennis facility faster overall in the interest of all residents, Shining Hill Estates Collection Inc. is willing to complete the two phases simultaneously. This would involve Shining Hill Estates Collection Inc. or related entities or agents procuring and project managing all aspects of the bubble design, construction of the supporting infrastructure and procurement of the bubble. The Town would then be required to reimburse Shining Hill Estates Collection Inc. or related entities or agents for these portions of the construction costs.

By dividing the project into two separate phases, the Town would have to then wait for construction of the outdoor facility to be completed, go back and tear up the perimeter of the facility and add in a grade beam to support a bubble, and then repair all of the areas torn up. This would lead to additional expenses and significant time delays in the overall use of the facility.

Staff are recommending that we proceed with a non-competitive approval to enable Shining Hill Estates Collections Inc. or related entities or agents to complete both phases of the project simultaneously.

Staff are seeking Council approval because the amount of the construction of the tennis bubble will be above the \$100,000 administrative approval threshold for non-competitive procurements in Schedule D, Table 5 of the Town's Procurement Bylaw 2014-27.

This non-competitive acquisition is supported by the Town's Procurement Bylaw 2014-27 and by the applicable trade treaties. Section 13.6(v) of the Town's Procurement By-Law 2014-27 permits the non-competitive purchase of services where the contractor possesses the unique and singularly available capability to meet the requirements. Shining Hill Estates Collection Inc. or related entities or agents is already constructing the outdoor tennis courts and they are therefore the only supplier that can deliver the cost, time and construction efficiency that will be provided by constructing the tennis bubble at the same time.

Similarly, the Canadian Free Trade Agreement (CFTA), Article 513, Paragraph (b), Section (iii) permits goods and services to be supplied by a particular supplier when an absence of competition exists for technical reasons. This further supports the above rationale whereby since Shining Hill Estate Collection Inc. or related entities or agents is already constructing the outdoor tennis courts, that they are therefore the only supplier that can deliver the cost, time and construction efficiency that will be provided by constructing the tennis bubble at the same time.

Conclusion

A non-competitive process that enables Shining Hill Estates Collection Inc. the opportunity to complete both processes simultaneously saves the Town a significant Tennis Bubble – Non-Competitive Acquisition

amount of time, money and resources. This approach is permitted by the Town's Procurement Bylaw and the applicable trade treaties.

The costs for the bubble structure were anticipated at the time Council approved the indoor winter tennis program and current costing is in line with the original estimates. In accordance with the business plan presented the cost for the bubble will be recouped through future operational revenues.

Business Plan and Strategic Plan Linkages

This aligns with Council Priorities: Customer first way of life - this will ensure the timely completion of the project so the community is not faced with a prolonged inability to play; Economic vibrancy – this is the most fiscally responsible option available.

Consultation

NA

Human Resource Considerations

NA

Budget Impact

This has the capacity to save considerable money. All costs associated with this project are built into the operating model with full coverage anticipated over the life of the operation of the facility.

Attachments

None.

Approval

Ian McDougall, Chief Administrative Officer

Contact

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