CITY OF HAMILTON

PUBLIC WORKS DEPARTMENT
Pan Am Initiatives Office

TO: Mayor and Members
    General Issues Committee  WARD(S) AFFECTED: WARD 3

COMMITTEE DATE: August 13, 2012

SUBJECT/REPORT NO:
Pan Am Stadium Facility Agreement (PW12058) - (Ward 3)

SUBMITTED BY:
Beth Goodger
Acting General Manager
Public Works Department

PREPARED BY:
Coralee Secore
(905) 546-2424, Extension 5557

SIGNATURE:

RECOMMENDATION
(a) That the General Manager of Public Works be authorized and directed to negotiate with Toronto Organizing Committee for the 2015 Pan American and Parapan American Games and Ontario Infrastructure and Lands Corporation respecting a Facility Agreement to determine the roles, relationships, joint and separate responsibilities, authorizations and obligations of the Parties for the planning and construction of the new Stadium; operation of the Stadium by City of Hamilton; Toronto 2015 Exclusive Use Period; and Post Games Legacy considerations as part of the 2015 Pan American and Parapan American Games Project;

(b) That the Mayor and City Clerk, and appropriate City staff as the case may be, be authorized and directed to sign the Facility Agreement and any other ancillary agreements between the City and Toronto Organizing Committee for the 2015 Pan American and Parapan American Games and Ontario Infrastructure and Lands Corporation required, in the opinion of the City Solicitor, to implement recommendation (a) in Report PW12058.

EXECUTIVE SUMMARY

This report seeks Council’s permission to enter into negotiations with the Toronto Organizing Committee for the 2015 Pan American and Parapan American Games
(Toronto 2015) and Ontario Infrastructure and Lands Corporation (IO) with the intention of entering into a Facility Agreement.

Hamilton, Toronto 2015 and Infrastructure Ontario executed an MOU in December 2010 which provides for the development and execution of the Facility Agreement.

Each facility project undertaken by Toronto 2015 and its facility partners requires a comprehensive Facility Agreement to be completed in order to allow Infrastructure Ontario to move forward and execute a Project Agreement.

The purpose of the Facility Agreement will be to more clearly define in a definitive facility agreement the roles, relationships, joint and separate responsibilities, authorizations and obligations of the Parties with respect to: the planning and construction of the Stadium; the operation of the Stadium by the City of Hamilton; TO2015 Exclusive Use Period and the Post Games Legacy.

The Facility Agreement to be executed by IO must be approved by the Provincial Government. The deadline for submission of the Facility Agreement to the Provincial Government is August 22, 2012, which provides for the review and approval of agreements in time to allow IO to maintain the start dates and pricing that will be secured in its current tender process which closes September 26, 2012.

If the parties do not obtain Provincial Government approval in August, the project delay will result in additional costs and therefore lost legacy opportunity.

The Facility Agreement must be submitted to Provincial Government by August 22, 2012 with accompanying statements by the parties to the agreement that they are prepared to sign the agreement in the form provided.

Staff also request that the General Manager of Public Works be authorized and directed to negotiate and finalize the Facility Agreement and any other ancillary agreements with the Toronto Organizing Committee for the 2015 Pan American and Parapan American Games and Ontario Infrastructure and Lands Corporation in order to meet the August 22, 2012 deadline for the next Provincial Government approvals.

Alternatives for Consideration - Not Applicable

**FINANCIAL / STAFFING / LEGAL IMPLICATIONS**

**Financial:** As per the Memorandum of Understanding and pending Facility Agreement, the Pan Am Ivor Wynne Capital Project Budget totals $145,667,589 which includes the Province of Ontario’s contribution to the project.

The Pan Am 2012 Operating Budget is $340,300. All future operating budgets will continue to be submitted for Council review and approval, through the regular Annual Budget process.

**Staffing:** There are no staffing implications associated with the recommendations of the Report.
Legal: Legal Services Division will be involved in the development of the Facility Agreement and any other ancillary agreements through to completion.

HISTORICAL BACKGROUND

City Council, at its meeting held on January 31, 2011, received Report CM09006(l) that approved the selection of Ivor Wynne Stadium as the site for the new Pan Am Stadium and that the Mayor and Clerk be directed to sign and execute all necessary ancillary agreements in a form satisfactory to the City Solicitor.

December 2010, the Memorandum of Understanding between Toronto 2015 Organizing Committee, Infrastructure Ontario and City of Hamilton respecting the Pan American Games Soccer Stadium was signed.

The Memorandum of Understanding is a formal agreement that establishes construction obligations between the Toronto 2015 Organizing Committee, Infrastructure Ontario and the City of Hamilton, and will help develop the framework for the facility agreement that more clearly defines each party’s roles and responsibilities.

POLICY IMPLICATIONS

There are no policy implications associated with the recommendations of the Report.

RELEVANT CONSULTATION

In preparation for Report PW12058 the Facility Agreement and another ancillary agreements, consultation and assistance is being provided by:

- City Manager’s Office, Legal Services
- Corporate Services, Finance and Administration Section
- Community Services, Recreation Division
- Toronto Organizing Committee for the 2015 Pan American and Parapan American Games (Toronto 2015)
- Ontario Infrastructure and Lands Corporation (IO)

ANALYSIS / RATIONALE FOR RECOMMENDATION

Due to the financing component for Pan Am, Provincial Government approval for the Facility Agreement is required by August 22, 2012. The August 22, 2012 date, provides for review and approval of the Facility Agreement in time to allow Infrastructure Ontario to maintain the start dates and pricing that will be secured in its current tender process.

Given the complexity of the closing process and the financial commitments from the proponents, Infrastructure Ontario must commence successful close with the preferred proponent by no later than September 7, 2012.

If approval is not obtained by the Provincial Government in August, the project delay will result in additional costs and lost legacy opportunity.
ALTERNATIVES FOR CONSIDERATION

Not applicable due to the Multi-Party and Joinder Agreement obligations officially authorized December 22, 2009, which commits the City of Hamilton to enter into the Facility Agreement.

CORPORATE STRATEGIC PLAN


Financial Sustainability
• Delivery of municipal services and management capital assets/liabilities in a sustainable, innovative and cost effective manner
• Address infrastructure deficiencies and unfunded liabilities

Intergovernmental Relationships
• Acquire greater share of Provincial and Federal grants (including those that meet specific needs)

Growing Our Economy
• A visitor and convention destination

Environmental Stewardship
• Aspiring to the highest environmental standards

Healthy Community
• Plan and manage the built environment
• An engaged Citizenry

APPENDICES / SCHEDULES

None