SUBJECT: Mohawk 4Ice Centre – Review of Operating and Maintenance Agreement with Hamilton Arena Partners (CM07032) (City Wide)

RECOMMENDATION:

(a) That Report CM07032 respecting Internal Audit’s Report on the review of the Operating and Maintenance Agreement with Hamilton Arena Partners Inc. be received; and

(b) That the General Manager of Finance and Corporate Services and the General Manager of Community Services direct the appropriate staff to address the “Comments” and “Issues” as identified in Appendix “A” of Report CM07032.

Ann Pekaruk
Director, Audit Services
City Manager’s Office

EXECUTIVE SUMMARY:
The 2007 Internal Audit work plan approved the review of the management and administration of the long-term contract with Hamilton Arena Partners for the operation of the Mohawk 4Ice Centre. The results of this review are documented on an agreement clause-by-clause basis in the report attached as Appendix “A” of Report CM07032.
BACKGROUND:
The Mohawk 4Ice Centre is a four pad arena whose land, buildings and equipment are owned by the City of Hamilton. The City entered into a ten-year agreement with Hamilton Arena Partners Inc. (HAP) to operate and maintain the Centre from March 5, 2004 to March 5, 2014 with a City option for a further five-year term and another five-year option which can be exercised by HAP. There was a further amending agreement made in 2006 to add, delete or change some of the clauses in the original agreement.

The review of the agreement was completed in late June 2007. The review focused on the terms and conditions in the agreement and the determination of the level of compliance in each case.

The Audit and Administration Committee receives and approves final audit and review reports as part of its responsibilities for the oversight of governance and control.

ANALYSIS/RATIONALE:
Within the original and amending agreements, there are many articles which define selected terms and conditions to be met. Under the main subject headings of Management Services, Management of Money and Accounting and Budget, each clause was reviewed, observations and supporting documentation noted and the level of compliance assessed.

Management Services
This section deals with the responsibilities of HAP and the City in carrying out the management and operation of the Centre. Compliance was noted for: HAP’s annual management fee and additional commission; availability to the City of a set amount of prime time hours at a rate approved by Council; establishment of an operating stabilization account but no contributions have been made as there has been no surplus from which to draw; and responsibility for deficits with the City absorbing the entire first year deficit and the 50:50 sharing between the City and HAP for subsequent deficits. Non-compliance was established by: the late or non-provision of key documents such as business plans or a disaster recovery plan; a Facility Management Review Team (FMRT) whose makeup and quorum rules are not in line with those specified in the agreement; and the non-existence of a Liaison Committee as per a condition of the agreement.

Management of Money and Accounting
This section deals with banking and accounting for the operations of the Mohawk 4Ice Centre. Clauses relating to the provision and repayment of start-up funds, the maintaining of adequate books of account and accounting records and the acquisition of specified types of insurance were all complied with. There was non-compliance with the clauses dealing with the weekly transfer of funds exceeding a $150,000 threshold into a bank account held in trust for the City and the non-availability of evidence of current insurance coverage.
Budget
This section deals with matters relating to the operating and capital budgets as well as the reporting of operational results. There was compliance with the requirements of providing audited financial statements for the Mohawk 4Ice Centre by a specified date and contributing a set annual amount to a capital reserve controlled by the City. Non-compliance resulted due to submissions of business plans, operating and capital budgets and monthly reports for results compared to budget and prior year significantly beyond the due dates as specified.

Further details for each clause and the compliance/non-compliance result is provided in the report attached as Appendix “A”.

As the agreement leaves operational matters in the hands of HAP, no specific recommendations were made. However, “Comments” and “Issues” sections have been included in the attached report which identify areas where the City can improve or take actions for items under its authority or responsibility.

**ALTERNATIVES FOR CONSIDERATION:**
Not applicable.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**

**Financial**
Improved collection efforts by HAP would provide more cash resources for the City as would the City’s more timely collection of amounts due from the Centre. The City should remove the amount of the first year’s loss ($186,227) from its accounts receivable as there is no binding agreement for recovery.

**Staffing**
None.

**Legal**
Housekeeping changes to the Operating and Maintenance Agreement as indicated under the “Comments” section of the report attached as Appendix “A” will require the execution of an amending agreement.

**POLICIES AFFECTING PROPOSAL:**
None.

**RELEVANT CONSULTATION:**
Throughout the review, Internal Audit consulted with staff in the Budgets and Finance area under Corporate Services and staff in Culture and Recreation under Community Services. In addition, the contents of the report (Appendix “A”) were discussed with management in the Budgets and Finance division.
CITY STRATEGIC COMMITMENT:

By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

Community Well-Being is enhanced. ☑ Yes ☐ No
The provision of efficiently and economically run recreation facilities is important to the residents of the community.

Environmental Well-Being is enhanced. ☐ Yes ☑ No

Economic Well-Being is enhanced. ☑ Yes ☐ No
City Council’s strategic commitment to “Best Practices – Best Value” under “A City That Spends Wisely and Invests Strategically” is addressed through audits and reviews and their subsequent follow up to ensure controls are in place to protect the assets of the City and promote efficient, effective and economic services and programs.

Does the option you are recommending create value across all three bottom lines? ☐ Yes ☑ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants? ☐ Yes ☑ No

ap:dt
Attachment