TO: Denis Leger, Acting Chief Administrative Officer
FROM: Lance Thurston, Commissioner, Department of Community Services
PREPARED BY: Ann Pappert, Manager, Cultural Services Division
Ed Leeman, Supervisor, Community Facilities
Mike Richardson, Capital Grant & Projects Coordinator
DATE OF MEETING: 2005-01-17
SUBJECT: SuperBuild: Arena Health and Safety Program Commitments

RECOMMENDATION:
That Council authorizes staff to proceed with all remaining capital projects approved for funding under the SuperBuild Funding Agreement for Infrastructure Projects so that they can be completed within the time frame of the agreement.

ORIGIN/PURPOSE:
The origin of this report is the City of Kingston’s contractual agreement with Ontario SuperBuild – Sports, Culture and Tourism Partnerships (SCTP). The purpose of this report is to inform Council of the contractual requirements of the SuperBuild program and to advise steps by which the City of Kingston can complete its obligations to this agreement with the least financial impact possible.

OPTIONS/DISCUSSION:
In 2002 the City of Kingston signed a contractual agreement with Ontario SuperBuild – Sports, Culture and Tourism Partnerships (SCTP) – a funding program whose goal is to improve the Health and Safety aspects of the City’s Community Centres. Currently, the City has completed 34% of its obligations.

Since the assignment of this agreement, the long term status of several community centres have been in question and many SuperBuild projects specific to these facilities have been put on hold pending the review of recommendations as per the Arena Capacity and Expansion Study, 2004.

To fulfill the requirements of the SuperBuild agreement, the remaining projects will have to be started in 2005 and completed by March 2006. Details of the requirements of SuperBuild were included in Council Report No. 04-404 entitled Multiplex Community Centre Implementation Strategy and approved by Council resolution on October 26, 2004. Appendix A provides the excerpt from this report as per information on SuperBuild, including the clarification that all dollars must be spent by March 31, 2006.

Contractual Specifications

The agreement requires that the whole project be completed by 2006 as specified and, if it is not, then the moneys provided through the grant shall be returned as indicated in the following articles:
Under Article XV of the agreement section 65. Event of Default sub section (h) it states; 

If, in the opinion of the Ministry, the Recipient has failed to proceed diligently with the Project or abandons the Project in whole or in part, or the Recipient is otherwise in default in carrying out any of the terms, conditions or obligations of this Agreement, except where such failure is due to causes which, in the opinion of the Ministry are beyond the control of the Recipient;

Under section 67. Remedies on Default sub section (b) it states; 

The Ministry may, at its option, terminate this Agreement and may, in its sole discretion, Adjust the Financial Assistance. The total amount of Financial Assistance shall be immediately due and payable by the Recipient and bear interest at the then current interest rate charged by the Province of Ontario on accounts receivable;

A further obligation is to operate those facilities benefiting from SuperBuild projects until 2027.

Specific Projects

The projects that have already been completed include additional dehumidifiers at Cook Brothers and Harold Harvey arenas, the installation of safety netting at all arenas, the replacement of boards and glass at the Memorial Centre, improved stair alignment at the Memorial Centre behind the players benches, the replacement of lift gates at Centre 70 and Cataraqui Centre and the removal of wood sheathing with sheet metal sheathing at Harold Harvey. These projects have helped to control mould and improve employee and user safety.

The program remaining involves the following projects;

- Installation of sprinkler systems in Centre 70, Cook Brothers, Wally Elmer and Harold Harvey.
- Installation of a dehumidifier at Wally Elmer.
- Improvements to front entrance for accessibility and washroom retrofits at Wally Elmer and Cook Brothers.
- Interior sheet metal sheathing at Centre 70 and Cook Brothers.

Interim Situation

The City has established a Multiplex Community Centre Steering Committee which will review the viability of some of the smaller and older community centres. The timeline for making this decision is estimated to be in mid - late 2005.

The range of options which may be considered by the Steering Committee include: 1) keep the facilities as City inventory and upgrade them for continued community / arena use; 2) decommission the facilities as arenas but retain the facilities for alternative public services; 3) decommission and sell the properties (facility and land) as surplus; 4) demolish the facilities but retain ownership of the land. Most of the community centres have other sports facilities on the same property that share the facilities, which will need consideration.

Regardless of which scenario is decided, it is assumed that the City will continue to fully operate these facilities for a period of two to three years and will continue to have a legal obligation to keep the
facilities in good repair and safe for public use. We need to ensure accessibility and respond to demand for healthy and clean environments for public gathering.

In a letter dated January 13, 2005 (attached as Appendix B), the Ministry of Culture advises that it requires written confirmation by February 15, 2005 of the City’s intentions for use of the SuperBuild funds and a commitment that we will meet the agreed upon time lines for use of those funds. Given that there are outstanding health, safety and accessibility repairs that must be corrected for these facilities to continue to operate even in the short term, it is our judgement that we should complete the list of repair projects in 2005/06 and accept that the City may need to address in its Multiplex Business Plan the costs for any forfeiture / repayment / re-negotiate costs to SuperBuild. The rationale for this position is that the repairs are required to continue operating at status quo.

The contractual agreement with SuperBuild describes the facilities as ‘community centres’ and does not specify that their activities must continue to include arena recreation. Therefore, staff are confident that their counterparts with SuperBuild will not object if the facilities are later ‘decommissioned’ from being ice rinks and ‘re-commissioned’ to service other community wellness needs. They would need to continue to operate as municipal facilities.

The remaining projects address the fire safety issues through improved accessibility of the entrances at Wally Elmer and Cook Brothers and the addition of sprinkler systems at Centre 70, Cook Brothers, Wally Elmer and Harold Harvey. They also address health issues by improving the washroom facilities at Wally Elmer and Cook Brothers and by combatting the promotion of mould by installing a dehumidifier at Wally Elmer and the replacement of wood interior sheathing with sheet metal sheathing in Centre 70, Wally Elmer and Cook Brothers.

Summary
The Cultural Services Division recommends moving ahead with all remaining capital projects approved for funding under the SuperBuild Funding Agreement for Infrastructure Projects so that they can be completed within the time frame of the agreement.

EXISTING POLICY/BY-LAW:
N/A

LINK TO THE STRATEGIC PLAN:
N/A

FINANCIAL CONSIDERATIONS:
The total program cost is $1,200,000 of which the upper tier governments are funding $801,000 or 67% to the costs of the renovations and upgrades that have been specifically identified.

We have completed $318,000 worth of the program. Final projects will account for $882,000 of which the City of Kingston will pay $291,000.

The required matching funds that are to be provided by the Municipality have been approved and carried forward from the 2001 and 2002 capital budgets.

Staff suggest that if decisions arising from the Multiplex Community Centre Steering Committee result in the decommissioning, repurposing, de-acquisition and / or sale of any of these facilities before 2027, that...
the Multiplex Business Plan addresses the forfeiture / repayment / re-negotiate costs as part of its overall financial strategy.

CONTACTS:
Ann Pappert, Manager, Cultural Services Division  546-4291 ext. 1341
Ed Leeman, Supervisor, Community Facilities  546-4291 ext. 1805
Mike Richardson, Capital Grant & Projects Coordinator  546-4291 ext. 1257

DEPARTMENTS/OTHERS CONSULTED AND AFFECTED:
N/A

NOTICE PROVISIONS:
N/A

APPENDICES:
Appendix A: SuperBuild Information as per Council Report No. 04-404
Appendix B: Letter from Ministry of Culture dated January 13, 2005

Lance Thurston, Commissioner
Department of Community Services

Dennis Leger,
Acting Chief Administrative Officer
SuperBuild Information as per Council Report No. 04-404 entitled: Multiplex Community Centre Implementation Strategy

A significant issue that must be considered as part of any such review is the City’s ongoing commitment to the Province in regards to the use of SuperBuild funds. In 2002 the City was successful in its application to receive SuperBuild funds, which were earmarked specifically for specific health and safety initiatives within the City’s community arenas, including the Memorial Centre. Access to SuperBuild funds understandably comes with certain strings attached, as specified in the 2002 agreement, including the following:

- **March 31, 2006** is the deadline for spending all eligible project costs and for them to be incurred.

- **March 31, 2007** is the deadline for requesting final payments of SuperBuild assistance from the Province.

- The City cannot transfer the ownership of all or part of a facility that has been the subject of SuperBuild assistance, without Provincial approval, prior to March 31, 2027.

- In the event such a facility was sold or discontinued, the City may be required to repay some or all of the SuperBuild assistance that was provided, in an amount to be determined by the Ministry and within the period specified by the Ministry.

- The City is not permitted to lease, license the use of, mortgage, charge or encumber a facility or any part thereof without consent of the Province.

- A specific number of health and safety projects must be completed by specific end dates each year. In 2003 we deferred spending on SuperBuild projects as we awaited completion of the Arena Capacity and Expansion Study and Council’s decision on the recommendations. SuperBuild officials have been understanding and patient with us in this regard, however, we are obligated to submit a revised list of intended 2005 projects to the Province in November, 2004. If we are not in a position to make such a commitment, due to the ongoing arena study, we will need to be in touch with Ministry officials to determine what latitude may be possible.

- The City is required to submit a long term capital management plan annually to the Province outlining how we intend to meet financial and other commitments for maintaining affected facilities on an ongoing basis - including plans to recover the full operating costs through service charges, where appropriate.

- The SuperBuild agreement requires the City to secure $46,200 from community groups cited in the City’s application. This fundraising activity was curtailed in view of the ongoing arena review.

To date, we have completed 34% of the projects specified in the agreement with the Province, as noted in the table on the following page. The completed projects are valued at about $326,000. The complete health and safety program is valued at about $1.2 million. These projects have involved most of our arenas including the Memorial Centre. The remaining projects have been on hold since last year pending Council’s decision on the arenas question.
**APPENDIX ‘A’**  
SuperBuild Information as per Council Report No. 04-404

<table>
<thead>
<tr>
<th>PROJECT MILESTONES &amp; ACTIVITIES</th>
<th>LOCATIONS (if bundled project)</th>
<th>PROJECT STATUS</th>
<th>CLAIM TO-DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Sprinkler systems, fire</td>
<td>Centre 70 Arena</td>
<td>ON GOING</td>
<td></td>
</tr>
<tr>
<td>suppression system</td>
<td>Cook Brothers Arena</td>
<td>ON GOING</td>
<td></td>
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<tr>
<td></td>
<td>Wally Elmer Youth Centre</td>
<td>ON GOING</td>
<td></td>
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<td></td>
<td>Harold Harvey Arena</td>
<td>ON GOING</td>
<td></td>
</tr>
<tr>
<td>2 Dehumidifiers-purchase and</td>
<td>Wally Elmer Youth Centre</td>
<td>ON GOING</td>
<td>$28,000.00</td>
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<tr>
<td>install units</td>
<td>Cook Brothers Arena</td>
<td>ON GOING</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Harold Harvey Arena</td>
<td>ON GOING</td>
<td></td>
</tr>
<tr>
<td>3 Front entrance accessibility</td>
<td>Wally Elmer Youth Centre</td>
<td>ON GOING</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Cook Brothers Arena</td>
<td>ON GOING</td>
<td></td>
</tr>
<tr>
<td>4 Washroom retrofits</td>
<td>Wally Elmer Youth Centre</td>
<td>ON GOING</td>
<td></td>
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<tr>
<td></td>
<td>Cook Brothers Arena</td>
<td>ON GOING</td>
<td></td>
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<tr>
<td>5 Lift gates replacement</td>
<td>Centre 70 Arena</td>
<td>COMPLETED</td>
<td>$20,315.00</td>
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<td></td>
<td>Cataractus Centre</td>
<td>COMPLETED</td>
<td></td>
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<tr>
<td>6 Stairway reconfiguration</td>
<td>Memorial Centre</td>
<td>COMPLETED</td>
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<td>7 Interior sheet metal sheathing</td>
<td>Centre 70 Arena</td>
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<td></td>
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<td></td>
<td>Cook Brothers Arena</td>
<td>ON GOING</td>
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<tr>
<td></td>
<td>Harold Harvey Arena</td>
<td>ON GOING</td>
<td></td>
</tr>
<tr>
<td>8 Spectator netting, arena</td>
<td>Cataractus Centre</td>
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<tr>
<td>glass &amp; dasherboards</td>
<td>Centre 70 Arena</td>
<td>ON GOING</td>
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<td></td>
<td>Cook Brothers Arena</td>
<td>ON GOING</td>
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<tr>
<td></td>
<td>Wally Elmer Youth Centre</td>
<td>ON GOING</td>
<td></td>
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<tr>
<td></td>
<td>Harold Harvey Arena</td>
<td>ON GOING</td>
<td></td>
</tr>
<tr>
<td>Communications</td>
<td>4 ft * 8 ft sign</td>
<td>COMPLETED</td>
<td>$1,065.41</td>
</tr>
<tr>
<td>Net Eligible Project Costs</td>
<td>$1,202,576.00</td>
<td>TOTAL $326,804.73</td>
<td></td>
</tr>
<tr>
<td>Total Number of Projects</td>
<td>23 Completed 8 = 34%</td>
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</tbody>
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*As of May 2004*

The above-noted terms of the SuperBuild agreement pose a challenge for the City. We are compelled to spend the money on specific projects by the end of March, 2007, or return it to the Province. In addition, any decision to decommission, repurpose or sell any facilities, in which we have invested SuperBuild funds, prior to 2027 will require Provincial approval and/or may necessitate the return of some or all of the SuperBuild funds expended to date.

The Province is aware of the status of our arena study and the decisions facing Council. Staff has had preliminary discussions with Ministry officials to better understand the Provincial position on this matter and the degree of latitude we may be allowed.

Compounding the situation is the stark reality that most of our facilities are in dire need of significant and costly capital repairs immediately if we are going to continue to use them as arenas, even if only for the next few years.