



cutting through complexity

Draft Report

Winnipeg Police Service Headquarters Construction Project Audit

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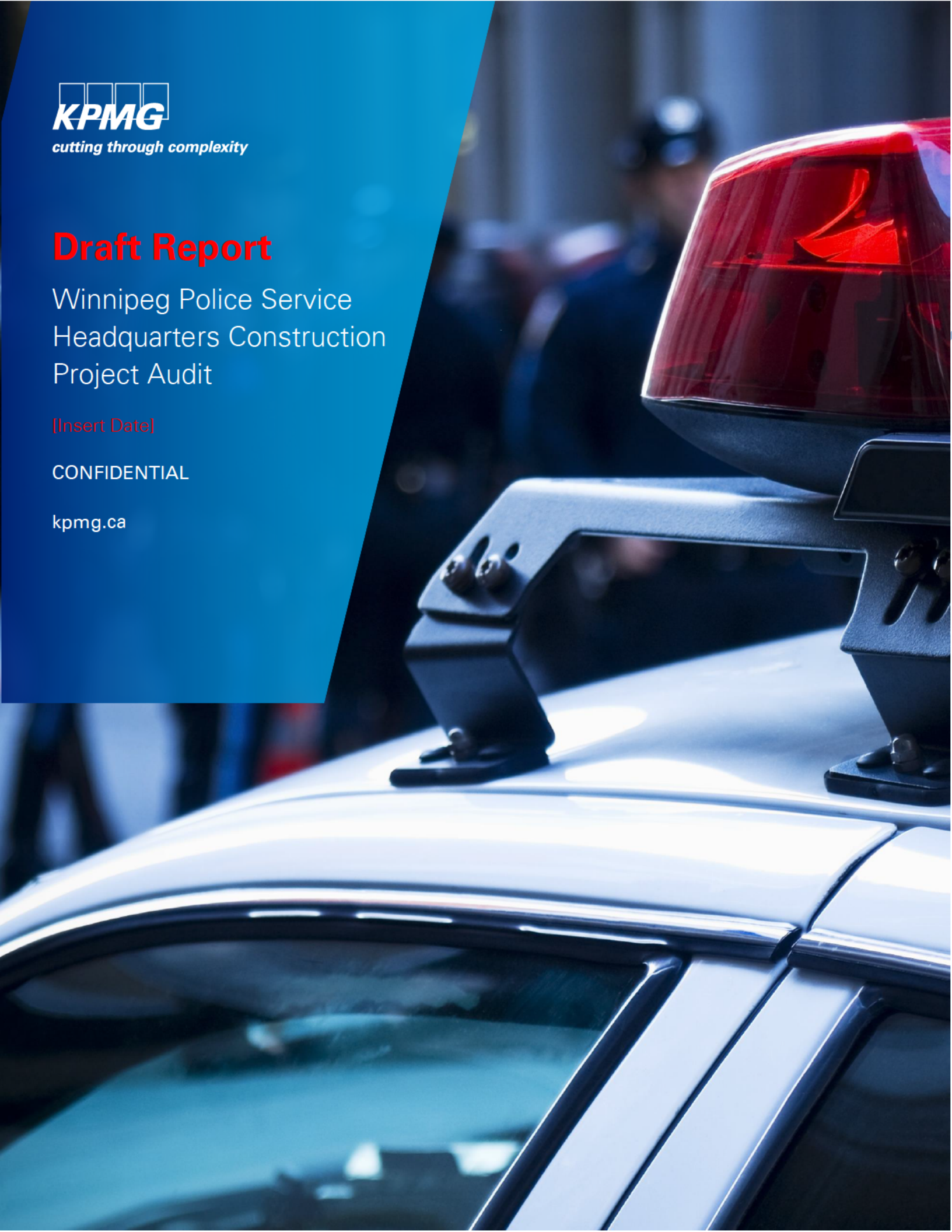




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Notice

This report (the "Report") is provided to The City of Winnipeg (the "City") pursuant to our engagement to conduct a construction project audit of the capital project to relocate the Winnipeg Police Service ("WPS") Headquarters to the former Canada Post facilities at 245 Smith Street (the "Project").

If the Report is received by anyone other than the City, the recipient is placed on notice that the Report has been prepared solely for the City for its own internal use and its contents may not be shared with or disclosed to anyone by the recipient without the express written consent of the City and KPMG LLP ("KPMG"). KPMG does not accept any liability or responsibility to any third party who may use or place reliance on our report.

Our scope is limited to the procedures conducted over a ten (10) week timeframe from April 22, 2014 to June 25, 2014. The procedures we performed were limited in nature and extent, and those procedures will not necessarily disclose all matters about the Project, or reveal errors in the underlying information.

Our procedures consisted of inquiry, review, discussion and analysis of City-provided Project information and documentation. In addition, we considered capital project leading practices employed at other comparable organizations.

These services are not intended to be an audit, examination, attestation, review or agreed-upon procedures engagement as those services are defined in Canadian Institute of Chartered Accountants (CICA) literature applicable to such engagements conducted by independent auditors. Accordingly, these services do not result in the issuance of a written communication to third parties by KPMG directly reporting on internal control or expressing an audit conclusion or any other form of assurance. Furthermore, comments in our Report are not intended to be, nor should they be interpreted to be, legal advice or legal opinion.



Summary

This report is being issued for the City Auditor of the City of Winnipeg (the “City”) following completion of an independent and objective audit of the processes followed to construct the new Winnipeg Police Service (the “WPS”) Headquarters building. It is presented to the City by KPMG LLP (“KPMG”) pursuant to our appointment under RFP No. 84-2014: Audit of Winnipeg Police Station Headquarters Construction Project pursuant to a January 29, 2014 motion of City Council to engage an external auditor to review the WPS Headquarters Construction Project. The scope of this report covers capital project oversight and reporting, estimating and budgeting processes, procurement and project management, as well as the results of our examination of key contracts entered into by the City and compliance with legislation and established City policy and processes.

The Project

The WPS Headquarters Construction Project (the “Project”) involves the renovation and conversion of the former Canada Post building at 245 Smith Street to serve as the new WPS Headquarters building, and the Project is currently nearing completion. The Project is expected to bring together and house 14 WPS divisions and approximately 1,250 people over approximately 606,000 square feet.

Observations

We identified a number of gaps between the City’s capital project governance, processes and controls and leading practice during the performance of our procedures. As we identified gaps they were documented and assessed to determine the degree of risk each gap represented to assist in the development of remediation recommendations. The key gaps or themes identified include:

- Inconsistent compliance with the City’s capital project management policies and requirements as outlined in Administrative Directive FM-004: Capital Project Administration
- Reporting on project status against the baseline budget, scope and schedule was not consistent, timely or at an appropriate level of detail to allow for effective oversight by senior City staff and committees of Council
- Inadequate project management discipline related to contract management, scope and change management, schedule management, risk management and design management
- Lack of appropriate segregation of roles and responsibilities between project management personnel and end-user department representatives during the design and construction phases
- Lack of consistent understanding and application of the City’s procurement policies and guidance to promote open, competitive and transparent procurement related to major capital projects

For the construction of the WPS Headquarters building, a project charter was established but not approved; and the Project encountered significant issues that prevented it from meeting several of the key budget, scope and schedule objectives that may define successful delivery or performance.

- Regarding performance against budget, over the four years from November 2009, Council approved additional funding amounting to \$67m, excluding a further \$7m in construction period interest charges.
- Reporting to Council currently anticipates on time occupancy by WPS by “summer 2014”. In terms of

construction progress, the anticipated Scheduled Completion Date of June 30, 2014¹ is six months later than the Scheduled Completion Date that was specified in the original construction contract².

- The Project will not deliver the planned on-site shooting range, instead an outdoor range has been constructed about 20 km away, a scope compromise that may be expected to have operational implications.

Recommendations

We provide recommendations that address the gaps or issues identified during our procedures in order to assist the City align its major capital project practices and processes with leading practices. The key recommendations include:

- To promote improved governance and transparency, consider developing a standard major capital project report format which includes the basic information required by oversight bodies and/or key stakeholders to understand project status, including: a baseline schedule with progress to date; detailed budget versus cost incurred, committed cost to date, and forecast total estimated cost that takes into account approved/pending scope changes and trends; and the status of key risks and issues.
- For major capital projects that involve both a department responsible for delivery as well as another City department as the end-user and/or budget holder; clarify their respective project-related roles and responsibilities to ensure appropriate segregation of project manager and end-user representative roles.
- Evaluate options for ensuring that internal City project managers have access to a documented project management governance and control framework and/or a project management centre / support function that provides training, support and infrastructure (policy, process, procedure, templates, etc.).
- Develop and implement a suite of standard construction contracts for the City's preferred contract strategies, including appropriate training for internal project managers and team members to better protect the City's interests and manage its retained risks.
- Revisit the City's procurement policy and develop and deliver training sessions for City personnel involved with capital projects to improve understanding and consistent application of policy and to achieve increased competition and transparency of the City's procurement activity related to capital construction projects.

Action Plan

A detailed action plan should be developed to address the observations and recommendations in this report, possibly combined with the validation of the proposed implementation roadmap, with a view to improving or developing an effective capital project governance and control framework at the City's desired level of maturity for capital project management.

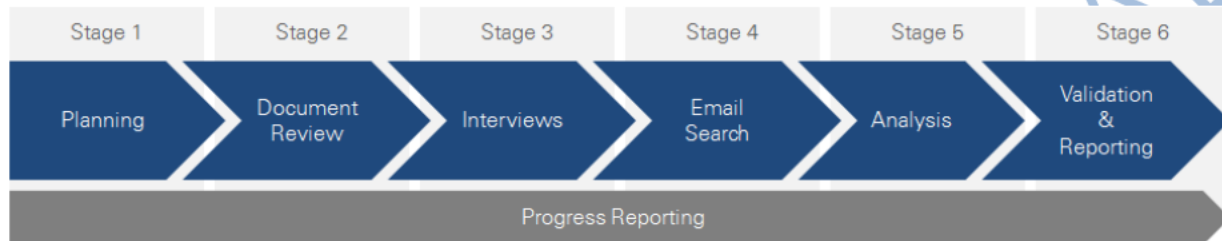
We recommend that a detailed action be prepared to clearly articulate the vision of the transformation and the steps required to reach the City's desired future state for capital project management. Such a roadmap should outline the vision, objectives, and key initiatives to move the City from its current state to its desired state; the roadmap must take into consideration its relationship with any other planned or ongoing transformation initiatives at the City.

¹ *Supplemental Agreement between the City and Caspian Projects Inc.* dated December 11, 2013

² *GMP Contract between the City and Caspian Projects Inc.* dated November 18, 2011

Approach

We leveraged our team's hand-on experience in the delivery of major capital projects in a number of industry sectors combined with relevant aspects of our Internal Audit and Major Projects Advisory methodologies in the performance of our work; we adopted a six stage approach to deliver the scope of work for this engagement. These stages were not sequential in nature, but serve to identify the distinct activities that were performed.



Step 1 Planning

KPMG reviewed publicly available information on the Project and developed a preliminary audit plan to conduct the engagement based on key lines of inquiry. This plan identified the broad scope of the documentation that we would require from the City, as well as the key individuals who may have information relevant to our lines of inquiry.

Step 2 Documentation Review

The City Auditor provided KPMG with the requested Project-related documentation from Step 1. We conducted a high-level review of this documentation and identified additional documentation and information requirements. The documentation and information was then reviewed and a set of preliminary issues were identified to guide the interviews and our subsequent analysis. These issues were aligned to the Scope of Work set out in the RFP and represented our primary areas of focus. [Appendix A](#) provides a non-exhaustive list of the key documentation provided by the City upon which this report is based.

Step 3 Interviews

Based on the documentation review, the initial list of key individuals developed by KPMG in Step 1 was refined, and we met with the key individuals who had significant involvement in the Project. The interviews were structured as a formal question and answer session, and interviewees were given the opportunity to volunteer any additional information that they deemed relevant to the Review. Interviewees were informed at the start of each interview that their answers would be documented, and that any information provided may be disclosed in the Report. [Appendix B](#) provides a full list of interviewees.

Step 4 Email Search

A list of key words was provided to the City's Information Technology department to conduct a search of City email accounts to locate email correspondence that may be of relevance to this engagement. We reviewed the emails identified through the search for relevant information to be considered during our analysis.

Step 5 Analysis

KPMG analysed the documentation and information obtained against the following evaluation criteria:

- Compliance with City policy
- Compliance with documented City process and procedure
- Compliance with generally accepted leading practice
- Compliance with law

Step 6 Validation & Reporting

Throughout the engagement, KPMG liaised closely with the City Auditor and specifically provided weekly updates of progress to ensure alignment with the City's expectations. Our draft report was issued to the City Auditor on June 25, 2014 for validation and to obtain comments or feedback from City Administration.

[NTD: Comments or feedback received will be reviewed and assessed, and where relevant incorporated into the final version of this report].



Observations

During the performance of our procedures, we identified a number of gaps between the City's capital project management processes and controls and leading practice. As gaps were identified during the audit, they were documented and assessed. This section summarizes the results of our procedures and our findings in terms of the key themes, risks and issues identified.

1. Project Oversight & Governance

1.1 Oversight Committee

"Capital projects must be planned giving due regard to appropriate project management techniques, reporting and administrative structure including the Major Capital Project Steering Committee required for projects that are expected to exceed \$10m ... the Committee should be comprised of the department head, two other Directors from other departments, a representative of Corporate Finance, the Manager of Capital Projects and project managers from the department."

**Administrative Directive FM-004:
Capital Project Administration**

The requirement for a Major Capital Project Steering Committee was one result of the recommendations from a previous internal audit conducted by the City Auditor. While the terms of reference of the Steering Committee for the Project (referred to as the "Oversight Committee") do not provide specific guidance, it is understood that, in line with good governance practice, the intent of this Committee is to provide oversight of the work of the Project Team and review project status in advance of any reporting to the Chief Administrative Officer ("CAO") and committees of Council.

The CAO duly formed a steering committee for the Project, however, its effectiveness was impacted by the Oversight Committee membership³; the failure to maintain minutes of Oversight Committee meetings; and a lack of evidence of consultation with and concurrence by the Oversight Committee with the Project status reports to the committees of Council on the

minimum periodic basis as required by Administrative Directive FM-004: Capital Project Administration ("FM-004").

The CAO is responsible for making the appointments to the Oversight Committee under FM-004. We learned that rather than appoint the Director of Planning, Property and Development ("PPD"), the department responsible for delivering the Project, the CAO appointed the Chief of the Winnipeg Police Service ("WPS"), the end-user of the facility.

Furthermore, the membership of the Project Director and certain members of the WPS Redevelopment Project team (the "Project Team") directly responsible for delivering the Project reduced the Oversight Committee independence that FM-004 envisions.

Leading practice would dictate the Project Director and select

"The department responsible for the capital project must report quarterly or at any other interval as determined by the Standing Policy Committee on Finance and the Standing Policy Committee on Infrastructure Renewal and Public Works."

"Roles & Responsibilities (of the) Chief Administrative Officer ... ensure compliance with this Directive."

"Roles & Responsibilities (of the) Chief Financial Officer ... ensure compliance with respect to reporting."

**Administrative Directive FM-004: Capital
Project Administration**

³ *WPS Headquarters Redevelopment Project – Financial Status Report No.1 for the Period Ending September 30, 2012* - "The project team reports to an Oversight Committee on a regular basis (bi-weekly). The Committee has been formed and its members are: the Chief Administrative Officer; Chief Operating Officer; Chief Financial Officer; Police Chief; Project Director; WPS Project Manager; and Manager of Capital Projects – Corporate Finance."

members of the Project Team attend the Steering Committee meetings in order to report on the progress of the project, discuss issues and receive feedback and/or direction from the Steering Committee; however, they would not be members of the Steering Committee.

We were told that minutes of the Oversight Committee meetings were not maintained and, as a result, there is no record of the discussions which took place or the recommendations and decisions made. In our view, this contributed to an environment lacking transparency and accountability for Project outcomes, and also represented a significant barrier to gathering information during the execution of this audit.

1.2 Reporting to Council and Committees of Council

The “department responsible for the project” is required under FM-004 to report to the Standing Policy Committee on Finance and the Standing Policy Committee on Infrastructure Renewal and Public Works, having consulted and sought concurrence from the Oversight Committee. Reporting should be quarterly or at any other such intervals as the Committees determine, however, the risk profile of this Project would not suggest reporting at an interval any less than quarterly would be appropriate.

It is not clear for the Project whether the responsible department should be PPD or WPS as there is no project charter, nor does FM-004 appear to provide additional guidance or definition around how the “department responsible” is to be determined. We were also told that standard practice is for PPD major capital projects not to report to the Standing Policy Committee on Infrastructure Renewal and Public Works, but rather to report to the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management (“DDHRM”), however this decision does not appear to be documented.

The Director of the department responsible for the project, the CAO and the Chief Financial Officer (“CFO”) all have specific responsibilities under FM-004 in respect of reporting, however, the frequency of reporting on the status of the Project was inadequate and did not meet the requirements of FM-004.

- Five project reports have been submitted to date to the Standing Policy Committee on Finance (12 quarterly reports would be expected for a three year construction project per FM-004).
- Two additional reports were submitted to date to the Standing Policy Committee on DDHRM, both of which related to issues of over-expenditure against budget.

As a result of the reduced frequency of reporting to Council or Committees of Council, the issues discussed in [Section 3.4 \(number and cost of change orders\)](#) and [Section 4.1 \(final GMP breakdown on completion of design\)](#) were not reported on a timely basis.

1.3 Basis of Approval of the GMP Contract

We learned that a key factor in the performance of the Project against budget was the decision to enter into a GMP Contract based on an incomplete design. We also identified inaccuracies in the reporting to Council of why this decision was taken.

The November 2013 Administrative Report⁴ submitted to Council via the Executive Policy Committee (“EPC”) and the Standing Policy Committee on DDHRM, summarizes the Project history and contains the statement that the decision was taken by the Public Service to enter into a Guaranteed Maximum Price (“GMP”) contract on the basis of a 30% complete design in order to prevent a two year delay to the

⁴ [Administrative Report](#) dated November 18, 2013 prepared by the Manager of Capital Projects and the Director of PPD, and authorized by the CFO and Acting CAO.

Project to allow completion of the design. We understand that, in July 2011 when the decision was taken to enter into the GMP Contract, the Project Team anticipated completion of the design by November 2011, a time period of approximately 3 months.

The design was completed in April 2013. Issues with the completeness and quality of the design that ultimately led to unanticipated delay in completion of the design activity to April 2013 were not known in July 2011 and could not, therefore, have been a factor in the decision to proceed with the GMP Contract based on a 30% complete design.

The statement in the November 2013 Administrative Report that the GMP Contract was “approved by Council” appears inconsistent with what occurred. From our documentation review, we understand that Council did not explicitly approve a recommendation to enter into this contractual arrangement in the July 2011 Administrative Report, rather Council approved a request to delegate authority to the CAO to award (unlimited and unspecified) contracts for the Project, and it was only on the final page of the “history section” of the appended Administrative Report that there is any mention of a GMP contractual arrangement⁵.

The question of why the City decided to enter into a GMP Contract based on a 30% complete design at a time when the design was understood to be nearing completion is an important one, and it is one for which responsibility lies with the Project Team and the Oversight Committee. [Section 3.5](#) of this report provides additional context, issues and the budget implications of proceeding based on an incomplete design.

Interviews performed as part of our procedures identified an issue with the effectiveness of communication between Committees of Council and City Administration when dealing with complex and high risk issues such as construction contracting and procurement. If Council and/or the Committees of Council are to be effective performing their oversight role, they may require access to independent specialist subject matter advice to assist with their interpretation of information and reports they receive.

“The Guaranteed Maximum Price (GMP) contractual arrangement approved by Council in July 2011 was based on conceptual design drawings, which were determined to be approximately 30% complete. The Public Service proceeded at that time in order to mitigate the risk introduced by the long wait to complete the design (work would not have proceeded for 2 years).”

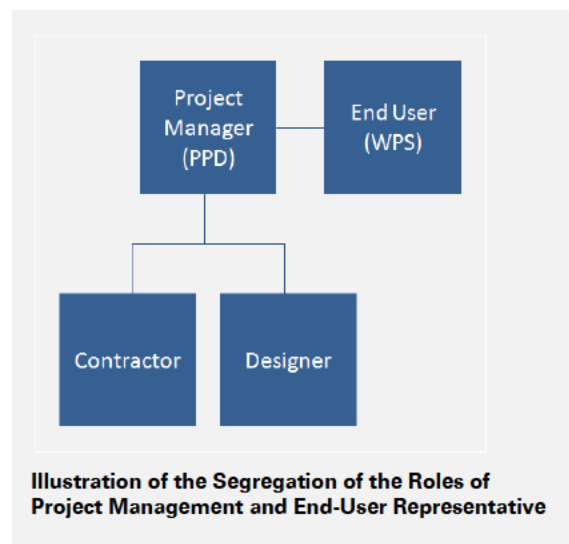
November 2013 SPC on DDHRM Report to Council

⁵ [Administrative Report](#) dated July 13, 2011 – “The contractor has presented a guaranteed maximum price (GMP) of \$137,100 million”

2. Project Roles and Responsibilities

2.1 Segregation of Roles

Successful delivery of a complex capital project requires clear definition of the roles and responsibilities of key stakeholders; in particular the clear separation of the project management role from that of the end-user representative.



The project management role requires the skills of a construction industry professional, while the end-user role is intended to represent the department which will ultimately occupy the facility that is being designed and constructed.

Clearly, the skills and experience required of a project manager and an end-user are very different, as are their objectives, roles and responsibilities.

At a high-level, the project manager is a professional responsible for managing the construction contractors and design consultants to deliver a solution to the end-user's requirements (the scope), safely, on-time and on-budget.

The end-user representative's role, on the other hand, is limited to the scope – they are responsible for taking ownership of their department's requirements and for ensuring that as the design develops, it continues to meet their previously defined requirements.

The project manager should be the interface between the end-user representative(s) and the design consultant and construction contractor to manage / help ensure that there is no increase/creep in scope, intentional or otherwise, which could impact cost, schedule or quality without following a documented change control process that evaluates each change request on its own merits and obtains the necessary authorization of the owner to proceed with changes as defined at the outset of the project.

This segregation of project management and end-user roles is a foundation-level principle of capital project management practice, yet this was not implemented on the Project, a fact which influenced all aspects of Project delivery. PPD, the City department normally responsible for capital building projects, were effectively not involved in Project delivery or oversight until the external Project Director was replaced as Project Director by a PPD employee at the end of 2013. Serving and retired Police Officers, appointed by the WPS to act as WPS end-user representatives were also given project management titles, roles and responsibilities⁶ on the Project – despite having no formal training or qualifications in capital project management. This arrangement allowed the end-users to directly influence the Project scope throughout the Project on a daily basis by dealing directly with the design consultant and construction contractor, a situation which we understand continues to date.

⁶ [Names removed at request of the City of Winnipeg]: *Chronology of Involvement in the WPS Headquarters Project*

2.2 Project Management Role

The Project Manager originally assigned to the Project is a Professional Engineer (PEng) with experience in developing police facilities, but who had not previously delivered a project of this size and complexity. In view of this and the challenges being experienced in progressing the Project, the City engaged a consultant with the title of Project Director to effectively replace the original Project Manager.

The City engaged Dunmore Corporation ("Dunmore") effective June 2011 to perform the Project Director role. However, we observed that this appointment did not result in the structured project management discipline that the Project required; for example, a project management process in line with leading project management practices was not put in place.

Dunmore is no longer involved with the Project, having been replaced at the end of 2013 by a Project Director from PPD who, while experienced in the procurement of major projects, has not delivered a project of this size or complexity through the complex design, construction and commissioning phases.

2.3 Manager of Capital Projects – Roles & Responsibilities

FM-004 sets out 20 detailed roles and responsibilities to be performed by the Manager of Capital Projects, and while many of these are finance oriented, there are also responsibilities directly related to: capital project quality assurance; review of detailed drawings and specifications; value engineering; and asset management. Many of these responsibilities could only be effectively discharged by experienced and technically qualified construction professionals.

The incumbent Manager of Capital Projects is a finance professional (Chartered Accountant) who holds a Masters Certificate in Project Management⁷ but does not have direct construction project management experience. The reality is that it would be difficult for any one person to effectively fulfill and discharge all 20 of the documented roles and responsibilities for the Manager of Capital Projects as this role is currently defined.

⁷ University of Winnipeg Continuing Education / Schulich School of Business, York University Masters Certificate in Project Management (five month course).

3. Project Management Maturity

3.1 Project Management Framework

In our experience, we have found that having a documented framework at the municipal level within which capital project managers deliver the organization's major capital projects is often a key determinant of achieving successful project outcomes. A framework also provides the context against which project management maturity can be assessed and monitored.

We have found some evidence that documented project management processes and procedures (the "framework" above) have been established by the City or followed in the execution of the Project. The City has a draft Manual of Project Administration Practice dating back to 1992. This document was never formally adopted by the City, and it is now largely out of date in terms of current industry leading practices such as specifically linking a risk item to a contingency allowance, where applicable.

"the Draft Manual of Project Administration Practice ... should be updated to reflect contemporary practices in the construction industry in the following areas ... scope control; project schedule (time) management; project cost budgeting and cost control; project human resources management; project procurement management" (and should also address) "scope planning, definition, verification and work breakdown structure; project cost estimating; project quality management and control; project progress reporting; project risk management"

Capital Project Management Audit Final Report, November 2008

The City Auditor conducted a Capital Project Management Audit in 2008; the resulting report highlighted shortcomings of the draft Manual of Project Administration Practice, and provided a series of recommendations aimed at improving upon the City's project management policies, processes and procedures.

In response to the report, the CFO told Council on November 7, 2008 that staff would "update and deliver the Project Management Manual". The delivery and implementation of a revised project management manual incorporating the recommended project management guidance and methodologies (see extract in text box to the left) could have addressed many of the issues and risks that appeared on the Project.

We are informed that efforts are underway to update the draft Manual of Project Administration Practice; at the date of this report, the recommendations from the 2008 Capital Project Management Audit remain outstanding.

3.2 Schedule Management

The current "Scheduled Completion Date" as set out in the Supplemental Agreement⁸ with Caspian Projects Inc. ("Caspian") is June 30, 2014, six months later than the Scheduled Completion Date of December 31, 2013 set out in the original GMP Contract⁹. Neither construction contract included the provision or requirement for Caspian to submit a detailed contract (baseline) schedule, nor for the submission of detailed monthly updates of schedule progress against that baseline schedule; contract requirements that are industry standard for a project of this size and complexity. As a result, the Project Team did not receive, and were unable to analyse, key information that is necessary to foresee potential construction delay events, evaluate direct and indirect cost and time impacts of those potential delay events, or to address any delay claims submitted by Caspian.

The Supplementary Agreement documents that Caspian was entitled to 577 days as an Excusable Delay,

⁸ *Supplemental Agreement between the City and Caspian Projects Limited*, dated December 11, 2013

⁹ *GMP Contract between the City and Caspian projects Limited*, dated November 18, 2011

and grants Caspian relief from Liquidated Damages that the City might be entitled to assert in an instance where Caspian was responsible for the failure to complete the Project within the time constraints established in the GMP Contract.

There is evidence to suggest that the City's failure to effectively manage the progress and quality of the design may have caused delays to Caspian, however, the extent to whether this delay amounted 577 days cannot be verified due to the lack of any meaningful schedule management provisions in the GMP Contract and the Project team's resulting inability to perform schedule analytics.

3.3 Risk Management

Risk management is the systematic process of identifying, evaluating and managing risk, and typically makes use of tools and techniques such as risk workshops, risk registers, risk mitigation plans, key risk reporting, etc. Risk management is a cornerstone of effective capital project control and governance, which helps to bring together and link all the other aspects of project management including schedule management, design management, contract management, and cost management.

Renovation of an existing building carries many inherent risks, such as unknown or unexpected site conditions which could result in the design having to be revised once the condition is discovered. Neither the Project Manager nor the Project Director were able to provide us a formal risk management plan for the Project as required in FM-004. They told us that a live risk register and a risk mitigation plan were not developed or maintained, and that while risks were discussed with the Oversight Committee, their status was not monitored with reference to a formal, documented risk management plan.

"All major capital projects require a formal risk management plan completed by internal staff or external consultants that will highlight potential risks. The contract administrator or project manager should review, consider and address these risks during the course of the project. The risk analysis represents a dynamic process that should be reviewed regularly throughout the project to identify and address new risks that might arise".

Administrative Directive FM-004: Capital Project Administration

3.4 Change Management

Change management is a critical aspect of project management that deals with ensuring that the scope of a capital project, as well as the scope of individual contracts or work packages remain fixed, as far as practicable, and that any change is only implemented following a thorough evaluation, analysis and approval of the change, and the subsequent formal instruction to proceed.

The Project had a total of 81 Change Orders amounting to a net value of some \$19.89m, or 14% of the value of the GMP Contract. In our experience, this denotes a significant volume and degree of change during the course of design and construction. These changes included ongoing changes to the end-user requirements as well as changes to accommodate design that was either late or not constructible – foreseeable risks that a Project Team would be expected to manage proactively.

We observed that the Project did not have a clear, documented change management process for either internal or external change control purposes.

- In terms of internal change, by allowing direct and unrestricted end-user access to the design consultant and construction contractor, the WPS was able to dictate their requirements largely unchecked throughout all stages of design and construction.

- In terms of external change control, we found that the contractual change management processes set out in the GMP contract were not complied with and approval by the City, Project Director and Caspian was not obtained prior to commencing with the change.

In addition, we observed no evidence of periodic reporting of the number or value of potential or actual change orders to the Oversight Committee and/or Committees of Council. The timely disclosure of either the number of change requests or the total estimated provisional cost of the change requests would have given those responsible for Project oversight the additional information on which to have proactive discussion regarding alternatives prior to the work commencing on the requested changes.

In many cases on the Project, the change order value was agreed upon following implementation of the change, rather than being evaluated when the change requests were submitted; the Project Team failed to take definitive action, sometimes for many months, until those change requests were finally validated and valued retrospectively in the Supplementary Agreement dated December 11, 2013 after they had been incorporated into the Project, despite the fact that the GMP Contract clearly and explicitly states that such retrospective approval is not permitted.

“Change Orders will only be valid if signed in advance by all of the City, the Project Director and Caspian”

GMP Contract, dated November 18, 2011

The effect of not proactively managing and acting upon change requests as they were received is that the pricing, review, approval or rejection of millions of dollars in changes were effectively deferred and not reported upon to Committees of Council for many months. This not only resulted in under-reporting of the Project’s total estimated cost for an extended period of time, but also meant that the City lost the opportunity to proactively negotiate, monitor and respond to the actual cost of implementing these change requests. Instead, values assigned to these changes in the Supplementary Agreement were based on a high-level retrospective review of Caspian’s quotations. We observed that in a number of cases, the design consultant tasked with undertaking the review was careful to advise the City of the limitations of their review and the need to engage specialist cost consultant resources, advice which does not appear to have been acted upon by the Project Team.

3.5 Budget & Contingency Management

The City commissioned a consultant to prepare a “Class C” estimate of the Project’s “direct and indirect construction costs” which was delivered on December 22, 2010. The status of the design upon which this estimate was based is not known, however, it appears reasonable to assume that the design would have been at an early stage of development since it was prepared five months before the Project design was reported to have reached 30% completion.

The Class C estimate of \$135,644,300 was based on the assumption of a competitively procured

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| Estimate | \$ 122,699,500 |
| Design & Pricing Allowance | \$ 12,270,000 |
| Escalation Allowance | \$ 674,800 |
| Sub-total | \$ 135,644,300 |
| Client Contingency (recommended) | \$ 3,391,108 |
| December 22, 2010 “Class C” Estimate | \$ 139,035,408 |

construction management contract, and includes a 10% contingency to cover design and pricing unknowns (see table “Design & Pricing allowance”).

In addition, the consultant who prepared the Class C estimate advised the City to provide an additional 2.5% client contingency for potential change orders (see table “Client Contingency”).

In our experience, this level of contingency (12.5%) is at the lower end of the expected range given the stage of the Project at which the Class C estimate was prepared; an overall project contingency of 30% would not have been unreasonably conservative after taking into account the very early stage of design progress and the complexity of the Project both in terms of the intended use of the facility and the inherent risk involved with a building renovation.

The “guaranteed maximum price” of \$137,100,000 was subsequently agreed to with Caspian on the basis of a design that is reported to have been nominally 30% complete. In the GMP Contract, Caspian did not accept the risk of design development to take the design to completion, so this GMP price did not include an associated design risk contingency allowance. Contrary to the intent of the GMP contract strategy, this design risk was retained by the City. In this situation, basic capital project estimating and budgeting principles would dictate that the City should have made a separate contingency allowance for this risk in the Project capital budget presented to Council, but we learned that no such contingency was identified or allocated.

Failure to provide an allowance to develop the design from 30% to completion had the effect of understating the likely total estimated cost of the Project.

The original GMP Contract value agreed upon with Caspian included \$20.13m of allowances – which essentially represented elements of the Project scope of work which Caspian was unwilling to price given the early stage of the design. These specifically identified allowances, however, did not contribute to the Project’s cost over-run since the actual cost incurred against these allowances came in within budget at \$18.325m. The items that directly contributed to the Project cost over-run are discussed in [Section 3.4 Change Management](#).

“The original report to Council was for the redevelopment of the building only and did not contemplate the costs to move Police Divisions into the building. A capital project for furniture, fixtures and equipment (FF&E) of \$22.102 million was added to the 2011 Capital Budget ... the FF&E budget is an integral part of the redevelopment and is required to bring the building to an effective operational state. This estimate has since been reduced to \$2.7 million due to program refinements with the difference being transferred into the redevelopment cost”.

July 13, 2011 Administrative Report to the Standing Policy Committee on DDHRM; EPC; and Council

In addition to the original \$105m redevelopment budget for design and construction, the Project Team requested an additional budget of \$22m to fund furniture, fixtures and equipment (“FFE”), and City Administration later requested approval to combine the FFE budget with the redevelopment budget (an increase of 21% on the original budget).

The Project Manager told us that in his view the \$105m redevelopment budget was inadequate, however requesting additional funding for the redevelopment budget was not seen as an option. The combination of the original redevelopment budget and the FFE budget effectively secured additional funding for the Project. We understand (see extract from July 13, 2011 Administrative Report) that the majority of these FFE funds were

ultimately transferred to other areas of the redevelopment budget.

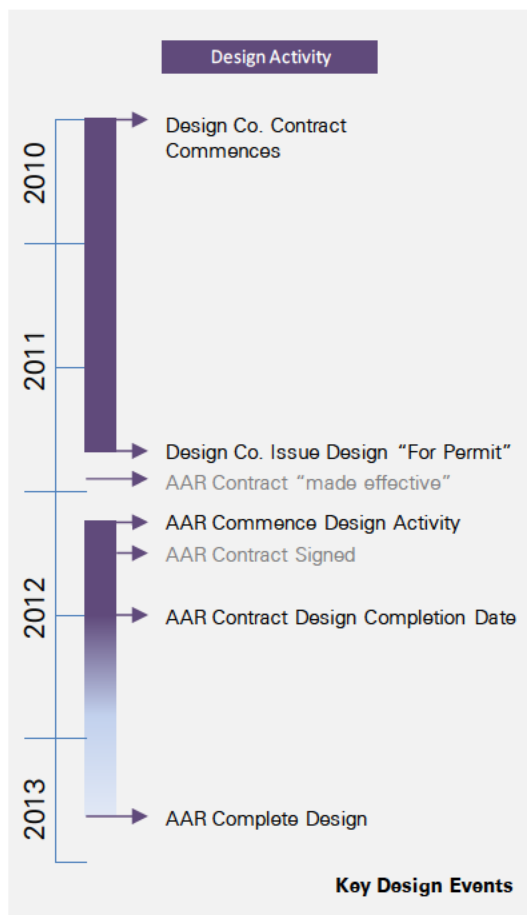
3.6 Design Management

Our scope does not cover the performance of the Project’s design consultants, and accordingly we provide no comment on their performance. In respect of the City’s performance in managing the Project’s design consultants, we have a number of observations that we have set out below.

Design management is a key project management activity which provides assurance that the design is progressing in line with defined time, cost and quality criteria and end-user requirements. We found no information to suggest that documented design management procedures appropriate to a project of this size and complexity had been established by the Project team. We also observed instances of payments being authorized to the design consultants without appropriate review and due diligence being performed on the quality or completeness of their work output. Ultimately, the Project Team's performance in managing the design had a significant impact on the Project schedule and cost.

Design Co.¹⁰ was engaged, based on their proposal, to deliver the final design by July 15, 2011, however, the design was not ultimately completed until April 2013¹¹. The combined cost of the design services of Design Co. and Adjeleian Allen Rubeli Limited ("AAR") is currently estimated to be 50% (\$3.6m) higher than the original design proposal submitted by Design Co.

The Supplementary Agreement with Caspian provides evidence of significant Project cost over-runs and schedule delays incurred by the Project which in our view directly relate back to the quality, completeness and timely delivery of the design. These issues were a key contributory factor in the delay and cost over-run against the original GMP Contract, currently forecast to be at least 6 months and \$19.3m respectively.



The adjacent graphic and following narrative provides context to the development of the Project's design:

Design Co. was engaged on August 19, 2010 as the design consultant, pursuant to RFP 66-2010 for Phases 1 to 4¹², namely the Pre-Design, Schematic Design, Design Development and Contract Document Preparation phases.

On November 2, 2011, Design Co. issued drawings and specifications described as "Issued for Permit", and which correspond to 100% design on their invoices.

AAR was approached by the City and submitted a proposal on November 22, 2011 for Phases 5 to 7 of the Project, namely the Procurement, Contract Administration and Post-Construction Services phases; AAR noted its understanding that the design was 100% complete at that point in time.

On January 24, 2012, AAR reported to the City their assessment of the status of the November 2, 2011 design issued by Design Co. – in summary, the report noted that the design was incomplete. On March 1, 2012 AAR submitted a further proposal to complete the design to 100%. AAR was engaged to complete the design by July 2012¹³ under a contract made effective December 23, 2011.

Issues were subsequently identified with the design (such as

¹⁰ Name of original design consultant not included at the request of the City of Winnipeg

¹¹ AAR replaced Design Co. in 2012 as the design consultant and took over responsibility for completion of the design.

¹² This contract was awarded in two phases – Phases 1 to 3 (August 2010), and Phase 4 (January 2011).

¹³ As per Peter Chang, Principal at AAR.

the need to re-design a large part of the HVAC distribution system) that contributed to the July 2012 design completion date not being achieved; and the design was not ultimately completed until April 2013.

The actual time taken to complete the design and the fact that the Project Team believed that the design was complete in November 2011¹⁴ (when in reality it was not complete) raises questions regarding the effectiveness of design management by the Project Team. In our experience, the actual (rather than reported) status of the design should have been assessed independently by the Project Team and appropriate and timely corrective action should have been taken to address design quality and schedule issues.

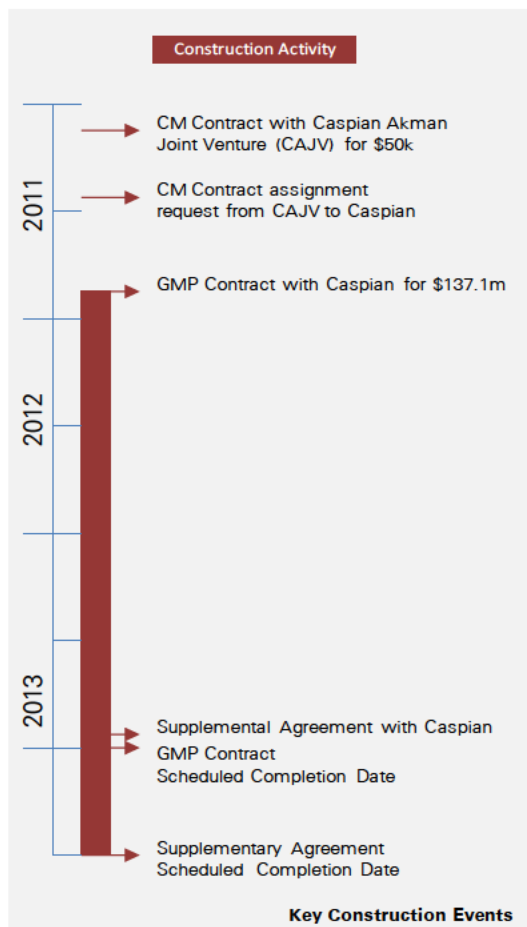
¹⁴ *Administrative Report* dated April 16, 2012 prepared by the Manager of Capital Projects and authorized by the CFO and the Director of PPD states “on December 23, 2011, the Chief Financial Officer approved the award of contract to AAR for a fee not to exceed \$2,600,000.00 plus GST and MRST. That award of contract was based on 100% design drawings being completed by Design Co.”

4. Procurement & Construction Contracting

4.1 Construction Contracting Options Analysis

There are many options available to the City in terms of how the City might procure and contract for construction services, and the most appropriate contract and procurement strategy depends on each individual project's particular risks and objectives. The decision of how to procure and contract construction services is often cited in industry surveys as the most important decision an owner can make to influence project outcomes; leading practice would suggest that a thorough evaluation of the options for the particular project and a transparent and documented decision-making process should normally be performed.

We learned that the City opted to procure a Construction Management contractor to provide pre-construction services for the Project with the option to subsequently enter into a Guaranteed Maximum Price ("GMP") contract for delivery of the construction work. We were unable to identify documentary evidence to indicate that this decision by the City was based on a robust, documented and transparent analysis of project risk and objectives.



The adjacent graphic and following narrative provide context to the Project's construction contracting:

On February 10, 2011, the City entered into contract with the Caspian Projects Inc. and Akman Construction Ltd. Joint Venture ("CAJV") for Construction Management Services for Phase 1 (Pre-Construction Services) of the Design and Development of the Winnipeg Police Service Headquarters. The value of this phase of the contract was \$50,000.

On June 14, 2011, CAJV requested assignment of their contract to Caspian, which was approved by the City, and then Akman ceased to be involved in the Project.

On November 18, 2011, the City entered into a contract with Caspian for Phases 2 and 3 (Construction and Post-Construction Services), although this contract was entitled the "Guaranteed Maximum Price Contract for the New Winnipeg Police Headquarters and Outdoor Shooting Range". Subject to the terms and conditions of this contract, the City committed to pay Caspian a contract price not to exceed a **Guaranteed Maximum Price ("GMP") of \$137,100,000** with a **Scheduled Completion Date of December 31, 2013**.

On December 11, 2013, the City and Caspian entered into a further contract entitled the Supplemental Agreement.

Subject to the terms and conditions of this contract, the City

committed to pay to Caspian a **Final Contract Price of \$156,374,911.67**, with a **Scheduled Completion Date of June 30, 2014**.

There are a number of variants of the Construction Management contract strategy, however a common

characteristic is early construction contractor involvement – this involves payment to a construction contractor (in this case \$50k) on a consultancy basis during the pre-construction stage to help ensure that the design, the budget and the schedule are realistic and achievable.

Given the design and constructability issues experienced on the Project, and the extensive delays and cost over runs, it cannot be said that the strategy of early contractor involvement was successful in delivering a realistic and achievable design, budget and schedule.

The intent of subsequently engaging a Construction Management contractor under a GMP contract is typically to gain cost certainty and to transfer the risk of any additional cost over and above a defined contract value to the contractor.

The Final Contract Price paid by the City will be more than \$19m higher than the original GMP contract value, therefore it can be said that cost certainty was not achieved on the Project.

“Caspian will within forty five (45) Days of completion and acceptance by both parties of the designs, drawings, Plans and Specifications provide a final detailed cost breakdown for each element of the Work that will be the basis of approving progress payments in a format reasonably consistent with industry standards and acceptable to the Project Director”.

Clause 4.a).vi). of the GMP Contract

There are numerous reasons for the GMP having proved to be inadequate, however, the principal reason why the additional cost over and above the GMP was not contractually transferred by the City to Caspian can be found in Clause 4.a).vi). of the GMP Contract (refer to text box to the left).

The design upon which the GMP Contract was originally based was nominally 30% complete; this clause provided Caspian with the right and the obligation to provide a “final detailed cost breakdown” within 45 days once the design was 100% complete; Caspian did not deliver the final detailed cost breakdown within the contractual timeframe of 45 days from design completion in April 2013 – in fact this information was not received until after

two letters (dated September 17, 2013 and October 4, 2013) were issued by the City demanding delivery; at this point the information was at least 102 days late.

An additional crucial point is that the contract is silent on whether the “final detailed cost breakdown” should be within the GMP. The GMP Contract therefore did not appear to provide the City with a firm commitment to deliver the Project for a guaranteed maximum price, and as such is similar to a “Cost Plus Fee” arrangement, but without the rigour that such a contract strategy would normally require in terms of actual cost verification and validation.

In basing the GMP contract value on an incomplete design, providing the contractor with the opportunity to revise the price above that value upon completion of the design, and by failing to distinguish clearly between design development and design change, the contract exposed the City to risks that a true GMP contract strategy would normally have transferred to the contractor.

Much of this risk could have been mitigated by basing the GMP contract value on a 100% complete design, rather than 30% complete design, prior to entering into the GMP Contract. The documented explanation in the November 2013 Administrative Report is that this would have delayed the Project by 2 years – however, this explanation is inconsistent with the facts, since at the time of formalizing the GMP Contract in November 2011, Design Co. had already delivered what the Project Team told us that they understood to be a 100% complete design.

4.2 Design Co.: Professional Consulting Services for Design and Development

The RFP 66-2010 process resulted in the appointment of Design Co. as the design consultant for the Project, however, the procurement process does not appear to have been well planned or executed, with the requirements of the bidders changed significantly as follows:

- a total of 18 addenda to the original RFP were issued
- the submission deadline was revised 6 times
- the design completion requirements were also changed numerous times: initially the requirement was for 100% design; this was revised to 30%; then it was then changed back to 100%; and finally it was revised to 80% upon issue of the construction RFP with the remaining 20% to be issued 3 months later as an addendum.

In accordance with the City's rights reserved under Section B23.6.1 of the RFP, Design Co. were initially awarded the first three of a total of seven phases, namely Pre-Design; Schematic Design / Program of Requirements; and Design & Specification Development.

4.3 AAR: Professional Engineering Services

Decisions to single source multi-million dollar contracts can increase the perception of, and opportunity for, dishonest and/or corrupt practices. These decisions can also act to restrict competition, and in doing so, can undermine the City's obligations to ensure that the taxpayer receives optimal value for money.

The City has two key documents which govern procurement, the Materials Management Policy and Administrative Standard FM-002 Pursuant to the Materials Management Policy ("FM-002"). Together, these documents permit single sourcing in any of a wide range of circumstances. In terms of the Policy itself, Section B4 states that a supply to the City may be negotiated without the solicitation of competitive offers where the CAO determines that it is "appropriate / necessary" and that it meets one of a number of conditions. One of these conditions is listed under Clause B4.1 (h), which permits single sourcing of contracts where the services are exempt from competitive procurement under the Agreement on Internal Trade ("AIT"); another is listed under Clause B4.1 (j), which permits single sourcing of contracts in an "emergency" situation.

On the understanding that the design was 100% complete¹⁵, the City decided not to engage Design Co. beyond Phase 4 (Contract Document Development). At this point, rather than take the post-design scope for Phases 5 to 7 "Procurement, Contract Administration and Post-Construction Services" back to the market, the City approached AAR for a proposal on a single sourced basis.

The process that led to AAR being engaged began on November 22, 2011 when AAR submitted their letter proposal which included an offer to conduct a review of Design Co.'s design for a fee of \$85k. The proposal stipulated that this fee would be waived if AAR were to be subsequently awarded a "Contract Administration Services" scope of work aligned to Phases 5 to 7 of the Professional Consulting Services

¹⁵ *AAR Memo* dated November 22, 2011 to the Project Director (copied to the WPS Project Manager) states "Based on our meeting on Friday, November 18, 2011, it is our understanding that the project has been completed to 100% document stage by the design team hired by the City of Winnipeg."; and *Administrative Report* dated April 16, 2012 prepared by the Manager of Capital Projects and authorized by the CFO and the Head of PPD states "on December 23, 2011, the Chief Financial Officer approved the award of contract to AAR for a fee not to exceed \$2,600,000.00 plus GST and MRST. That award of contract was based on 100% design drawings being completed by Design Co."

(RFP 66-2010) for a fee of \$2,265,000, such sum being quoted as a lump sum with no breakdown against the services to be provided.

The WPS Project Manager chose to describe these “Contract Administration Services” as “Professional Engineering Services” in an Administrative Report¹⁶, which was subsequently authorized by the Director of PPD, the CFO, and the CAO, before being issued to the EPC, recommending single source negotiations with AAR. This report stated that the services were exempt from AIT as they would be carried out by “licensed professionals”.

In addition to citing the AIT exemption clause B4.1 (h) of the Materials Management Policy, the same Administrative Report also invokes the “emergency” clause B4.1 (j) – without a better definition of what constitutes an emergency, we cannot state that this clause was misused; however, limited justification is provided and no explanation as to why the requirement to replace Design Co. was not foreseen in time to accommodate a procurement process as required by the City’s Materials Management policy.

Rather than the \$2,265,000 AAR proposal price, a \$2.6m “not to exceed” figure was presented to the EPC on December 7, 2011 in order to secure expenditure authorization from the EPC. The recommendation did not make it clear that the amount being approved included a \$335k contingency in addition to the firm proposal price from the consultant.

An over expenditure report is typically prepared and authorized by the relevant individual with delegated authority, setting out the reasons for the over expenditure and confirming under what authority they are acting.

The City didn’t finalize the AAR contract until April 16, 2012¹⁷, however the contract was “made effective” December 23, 2011 for a total fee of \$4.4m. Despite the contract with AAR being approved by the EPC on the basis of it being for a “not to exceed” fee of \$2.6m, the CFO exercised his authority to authorize a further \$1.8m in over-expenditure to cover design services to complete the design work outstanding from Phases 1 to 4 –

design that was previously understood to be complete. We were told by AAR that they began work on the design in February 2012¹⁸, at this time, it appears that AAR were performing a scope of work for which the over-expenditure was not approved nor was the contract in place.

We learned of a further contract with AAR executed effective December 18, 2013 for additional services to the value of \$470k for which the CFO told us that he acted on the advice of Legal Services in not authorizing an over expenditure report. The scope of these services includes contract administration and engineering in relation to the outdoor shooting range as well as assistance with the specification and procurement of FFE.

The current forecast for AAR costs on the Project is \$5,465,137, more than double the original not to exceed value of \$2.6m.

4.4 AAR: Sub-contract with Former WPS Employee ¹⁹

An over-expenditure report was recommended by the Manager of Capital Projects and was authorized

¹⁶ *Administrative Report* dated November 29, 2011 and submitted on December 7, 2011, prepared by the WPS Project Manager and authorized by the Head of PDD, the CFO, and the CAO.

¹⁷ *AAR (Indent Execution - April 16 12)*, unsigned.

¹⁸ Peter Chang, Principal at AAR advised that they commenced design work in February 2012

¹⁹ Name removed at the request of City of Winnipeg

(retrospectively) by the Acting CFO²⁰ on June 6, 2012 for an additional \$150k “for consulting fees to acquire the services of a former WPS employee as a sub-trade to AAR”, the report states that this over-expenditure was necessary “to complete the scope of work under contract”. This individual was a WPS Police Officer who had previously worked on the Project without a formal role or job description and who had retired in April 2012 and who was hired as a sub-consultant to AAR the following month on a 20 month contract for a fee of \$150k.

This procurement may contravene the City’s obligations under the AIT as the contracted services do not appear to meet the exemption requirements. It may also constitute a breach of Clause B6 (Ethics) of the Materials Management Policy on the basis that this individual was approached by the WPS Project Manager “to consider coming back under contract to continue work on the project” at a time when he was still a City employee²¹.

This former WPS employee was effectively sub-contracted as a consultant to the City under AAR’s existing contract. This was inappropriate as the AAR contract is unrelated to his Project role. In addition, this sub-contract creates a conflict of interest given that his Project role included responsibility for coordination and management of Project consultants – which would include AAR.

No mention was made in the over-expenditure report that this sub-contract arrangement could represent either a violation of procurement policy or a potential conflict of interest.

4.5 Dunmore Corporation: Project Director Services

Dunmore was contracted by the City as a single sourced appointment to secure the services of a Project Director.

An Inter-Office Memorandum dated February 16, 2012 from Legal Services to the CAO establishes the chain of events regarding the appointment of Dunmore. According to the memorandum, Legal Services advised the CAO in June 2011 that Dunmore could be contracted under the City’s Materials Management Policy as a single sourced appointment for engineering services up to a maximum value of \$100k.

Approximately six months later, on November 17, 2012, when it was disclosed to Legal Services that Dunmore was not providing engineering services, but rather contract administration services, Legal Services noted that based on this new information that the appointment was not exempt from the AIT, and would therefore require a public solicitation. The memorandum went on to advise the CAO that “the legal risks of going outside this amount (\$100k) and against AIT are fairly minimal in this circumstance”.

For the seven months from June 2011, when the CAO first approached Legal Services, until January 2012, when the Dunmore contract is understood to have been executed, the Project Director worked on the Project on behalf of the City without a contract in place, helping to develop and negotiate the GMP Contract alongside both Legal Services and external legal counsel reporting to Legal Services. The payment terms of the single sourced contract increased Dunmore’s monthly fee for the services of the Project Director from \$3,225.81 per month for the initial seven months of work to \$10,000 per month for a further 24 months. The total value of this single source contract was \$262,580.

²⁰ J. Ferrer

²¹ [Names removed at request of City of Winnipeg]: *Chronology of Involvement in the WPS Headquarters Project*

4.6 Caspian: Construction Contractor

4.6.1. Assignment of Rights

A competitive procurement process (No. 833-2010) was delivered for Construction Management Services for the Project, and the entity chosen as the successful proponent was a joint venture of Caspian²² and Akman²³ ("CAJV").

CAJV was awarded an initial \$50k pre-construction services consultancy contract, and the City retained its right to award the Construction Phase Services for the Project at a later date. Shortly after the award of the pre-construction contract, the Joint Venture was dissolved and Akman's rights under that contract were assigned to Caspian with the City's agreement. The City subsequently entered into a separate construction contract with Caspian for \$137.1m on November 18, 2011, which was later amended via a Supplementary Agreement with a contract value of \$156.4m on December 11, 2013.

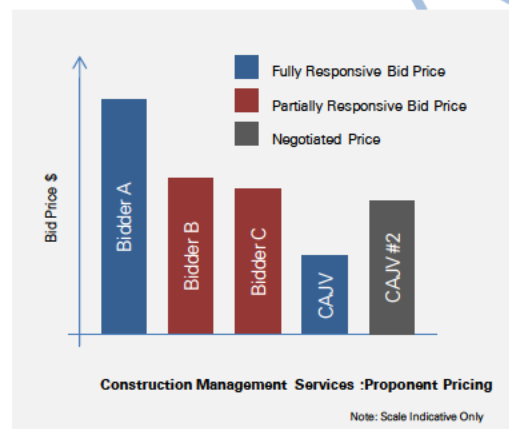
We observed that the winning proponent of RFP 833-2010 was CAJV – we note that Caspian did not submit a proposal, and that Caspian was awarded the construction contract, when the City was under no obligation to do so.

A **joint venture** is a common arrangement which enables multiple parties to bring together their skills, capabilities and experience to form a much stronger proposal than any of the constituent parties would be able to submit individually.

A **Construction Manager** can be either a consultant, a contractor, or both. In this case, the procurement strategy was to select a proponent to enter into an initial consultancy contract to provide pre-construction services, and to reserve the right to subsequently enter into a construction contract with that same proponent for the construction stage of

4.6.2. Proposal Evaluation

There is a concern that the CAJV proposal pricing submitted to the City was changed after the advertised RFP closing date and time. More specifically, the price for the Construction Management Fee²⁴ for Phase 2 (Construction) was increased by \$2.52m from \$1.6m to \$4.12m.



Information that we gathered indicates that change to CAJV's original proposed pricing did occur after the RFP closing date. The RFP closed on January 18, 2011 and four bids were received. On February 9, 2011, a letter²⁵ was received by the City from CAJV seeking to add \$70k per month, over 36 months (amounting to \$2.52m) to their price to cover the cost of "temporary facilities and controls" of the General Requirements. This 'revised price' is shown as CAJV#2 in the adjacent graphic.

The submission of a proposal in response to an RFP issued by the City creates binding obligations on both the City and the proponent submitting the proposal. According to Clause B9.3,

"all components of the proposal shall be fully completed and should be provided ... and submitted by the

²² Caspian Projects Inc.

²³ Akman Construction Ltd.

²⁴ Construction Management Fee accounted for the majority of CAJV's total bid price

²⁵ Three different versions of this letter were provided by the City.

Bidder no later than the Submission Deadline, with all required entries made clearly and completely, to constitute a responsive Proposal.” After the submission deadline, the submitted proposal is an irrevocable offer (Clause B22) that cannot be altered or withdrawn after the advertised closing date of the RFP. The City is bound to comply with the terms of the RFP in the evaluation of the proposals. Given that the proposal submitted by CAJV made no mention of any costs or services being excluded, CAJV should have been held to their original offer.

The additional fees added for the provision of temporary facilities and controls accounted for the majority of CAJV’s fee for Construction Management of the construction phase. Without the inclusion of this amount, the proposal was in essence incomplete and therefore might have been viewed as non-responsive in accordance with Clause B9.3.

We reviewed how the evaluation team performed the evaluation of bid prices, which was assigned 40% of the overall weighting. Records²⁶ show that the evaluation of pricing was conducted in accordance with the formula provided by Materials Management, which results in a score for each proponent relative to the lowest price. While the formula was applied correctly, the data input into the worksheet with the formula includes both CAJV prices – their original overall proposal price of \$2.95m, and the increased overall proposal price of \$5.47m – the inclusion of both CAJV prices in the worksheet has the effect of distorting the evaluation and affecting the fair apportionment of scoring among the bidders. The one fully compliant bid received was the highest of the four bids received.

4.6.3. Procurement Recommendation

The Administrative Report²⁷ recommending the appointment of the CAJV explained the sequence of events with reference to the terms of the RFP. The essence of the explanation is that the offers were evaluated in accordance with the evaluation criteria specified in the RFP. We looked at the elements of the explanation and have the following observations.

In the Administrative Report, the Project Manager states that the evaluation team found that *“none of the proposals were found to contain a clear imbalance among the prices.”* However, our review of the bid evaluation worksheet and the proposals indicates that the highest price for the Construction Management fee²⁸ for the construction stage was more than four times that of the lowest.

The Project Manager also states that the evaluation team found that none of the four bids received were deemed to be non-responsive. However, our review of the evaluation workbook indicates that three bids (from CAJV and two other proponents) either excluded or did not fully price the provision of services under General Requirements as

“All offers were evaluated in accordance with the evaluation criteria specified in the RFP. The evaluation matrix is attached to this Report. None of the proposals received have been recommended to be determined non-responsive for an imbalance of prices, as none of the proposals were found to contain a clear imbalance among the prices submitted for Phases 1 to 3. The proposals from Caspian Projects Inc. and Ackman Construction Ltd. as a joint venture, Graham Construction and Engineering, a JV, and PCL Constructors Canada Inc. were found to contain a deviation, in that the cost of the Division 01 General Requirements were addressed, but not fully included in their pricing. It was determined that, based on the language of the requirements in the RFP, this deviation would be considered to be acceptable for the purpose of determining compliance which was a pass/fail criteria.”

Administrative Report dated February 10, 2011 prepared by the Project Manager, authorized by the Director of PPD

²⁶ *Consensus Evaluation Report 833-2010*

²⁷ *Administrative Report*, dated February 10, 2011 prepared by Project Manager and authorized by the Director of PPD.

²⁸ Construction Management Fee accounted for the majority of CAJV’s total bid price

required in the RFP. This would make the evaluation between the four bidders difficult as each bid would have been based on different assumptions. As mentioned above, we were provided three different versions of the CAJV letter adding the cost to provide the General Requirements.

4.7 Consultant / Vendor Management

The Project Manager and Project Director stated that the consultant / vendor performance evaluations are only performed once the consultant's engagement has been completed. This is contrary to the requirements of FM-002, which requires a vendor / consultant performance evaluation be performed at least once a year for all engagements over \$100k, and that poor performance is to be documented.

Recommendations

This section proposes a number of recommendations for the City to address the gaps identified in the preceding section in order to improve or build upon its existing capital project practices. We summarize the recommendations by priority rating below

| Recommendations by Priority Rating | | | |
|--|----------|----------|----------|
| Area | High | Moderate | Lower |
| Project Governance & Oversight | 2 | 3 | 2 |
| Project Roles & Responsibilities | 2 | 1 | -- |
| Project Management Maturity | 1 | 1 | 1 |
| Procurement & Construction Contracting | 2 | 1 | 3 |
| TOTAL | 7 | 6 | 6 |

The Priority Rating definitions in the table above are described below:

| Rating | Description |
|---------------|---|
| High | A significant/serious gap exists that requires immediate attention to mitigate risk to the capital investment or project delivery. Gap could lead to project failure, significant costs, and/or environmental damage. |
| Medium | A gap exists that requires closure to mitigate risk to the capital investment or project delivery, and if left unattended it could escalate to high risk. |
| Lower | Aligned with leading practice, or a minor gap exists but the gap should not pose significant risk to the investment or project delivery. Gap should be addressed over time through on-going monitoring. |

1. Project Oversight & Governance

1.1 Major Capital Project Steering Committee Terms of Reference Priority: Moderate

Administrative Directive FM-004 ("FM-004") sets out the requirement for a Major Capital Project Steering Committee, however, the terms of reference of this committee should be revisited. In particular, it is important that the role, responsibilities and accountabilities of the committee, its members and other participants are clear and documented in writing; that the membership of the committee is appropriate; and that there is a requirement for detailed meeting minutes to be prepared, circulated and retained which clearly identify what issues or information have been presented, which project team members participated in the meeting, and what decisions were made by the committee and communicated to and/or requested from the project team.

1.2 Clarity of Reporting Requirements for Projects to Committees of Council Priority: Lower

We recommend that further clarity is provided regarding the required format, content and frequency of capital project reporting to the Committees of Council. If major capital projects for buildings (as opposed

to infrastructure) are to report to the Standing Policy Committee on Downtown Development, Heritage and Riverbank Management, then an amendment is required to FM-004 which currently requires reporting to the Standing Policy Committee on Infrastructure Renewal and Public Works.

1.3 Clarity of Department Deemed “Responsible for the Project” Priority: Moderate

We recommend that clarification be provided regarding which City department is deemed as being “responsible for the Project” under the terms of FM-004 – the department delivering the Project is not necessarily the budget holder or the end-user department and there may be conflicting expectations of “control over the project” if clear guidance is not provided.

1.4 Committees of Council Terms of Reference Priority: Lower

To help promote improved governance and accountability, consideration should be given to adding to the terms of reference for the relevant Committee(s) of Council the responsibility for monitoring the frequency of reporting by departments delivering major capital projects and report to Council when there is a failure to report on the status of a major capital project on the agreed upon reporting frequency.

1.5 Ability of Committees of Council to Provide Effective Oversight Priority: Moderate

In order to help ensure that oversight by Committees of Council is effective, consider whether Committees or Council should have access to independent specialist subject matter expertise in the future to provide advice related to major capital projects and assist with the interpretation of complex reporting to help mitigate the risk of potentially misleading, incomplete or inaccurate information being submitted.

1.6 Delegation of Authority for Contract Over-Expenditure Priority: High

Consideration should be given to revising the process to approve over-expenditures, and the related delegated authorities, such that contracts may only be able to be extended within the limits of the budget for that particular scope or service line item; an acceptable tolerance should be provided prior to requiring Council approval, and the request should include a cash-flow forecast that shows that there are funds available within the scope or service line item’s project budget.

1.7 Capital Project Reporting Priority: High

To help promote improved governance and transparency, consideration should be given to the development of a standard major capital project report format for presentation to the Director of the “responsible department” and the relevant Oversight Committee for each major capital project. FM-004 outlines a reporting format that can serve as the basis upon which to build. The revised standard report format (in conjunction with recommendation 3.3 below) should cover the basic information required for an oversight body and/or key stakeholder to understand the status of a project, including: a baseline schedule with progress to date; progress against key milestones; detailed budget breakdown with cost incurred and committed cost to date and forecast total estimated cost taking into account approved/pending scope changes and trends; cash flow over time compared to the original business case cash flow; key environmental, health and safety data (as applicable), and the status of key risks and issues identified and being monitored.

2. Project Roles & Responsibilities

2.1 Segregate & Define End-User and Project Manager Roles and Responsibilities Priority: High

Where a major capital project involves both PPD as well as other City department(s) as end-user and/or budget holder, the City should clarify their respective project-related roles and responsibilities to ensure appropriate segregation of the project manager and end-user representative roles.

2.2 Competencies of Project Managers and Project Director Priority: High

The City should document the required competencies and capabilities of a “Project Manager” and “Project Director” to ensure that individuals fulfilling these key roles are suitably qualified and experienced in the successful delivery of projects of similar scope and complexity.

2.3 Role and Responsibilities of the Manager of Capital Projects Priority: Moderate

Consideration should be given to whether the currently defined required roles and responsibilities for the position of Manager of Capital Projects require more than one individual given the workload and the required competencies, qualifications and experience necessary for this role to be effective (should consider in conjunction with recommendations 3.1 and 3.3 below).

3. Project Management Maturity

3.1 Resources to deliver the Project Management Manual Priority: Lower

Resources should be committed to allow the City to complete the implementation of the 2008 Capital Project Management Audit – specifically the update of the Project Management Manual (should consider in conjunction with recommendation 3.3 below).

3.2 Project Management Training & Development Priority: Moderate

Address the formal training and development needs of the City’s internal project managers. Given that in our experience, a capable Engineer may not necessarily be a capable project manager, consider requiring the Project Management Professional (“PMP”) designation for major capital project managers.

3.3 Project Management Framework Priority: High

To align with other municipal governments, the City should evaluate options for ensuring that its internal project managers have access to a documented project management governance and control framework and/or a project management centre support function. The leading practice in this area is for a project management centre to provide training, support and infrastructure (policy, process, procedure, templates, etc.) that internal project managers require to successfully deliver major capital projects.

As part of a documented project management governance and control framework, the City should develop and implement guidance for:

3.3.1 Schedule management, including addressing contractor baseline schedule development and reporting obligations and the project management team’s schedule monitoring and analysis requirements.

3.3.2 Risk management, including the requirement: to maintain a live project risk register and risk mitigation plans; for regular, periodic reporting of the status of key risks and issues; to link the project contingency allowance to identified and quantified risks; and to develop rules that govern the draw-down/use of the project contingency allowance.

- 3.3.3 Change management, including reporting on the status and value of pending and/or approved project change notice requests; and standard change management procedures with which consultants and contractors will have to comply.
- 3.3.4 Budget and contingency management, including: clear definition and communication of the various “class estimates” for projects and guidance on appropriate contingency allowances for each; and explicit definition of required categories of cost such as FFE, IT infrastructure, design fees, other fees, internal charges, escalation, etc. to reduce the risk of misinterpretation of what is included in budget line items/areas, and what is not included.
- 3.3.5 Contract management, including: addressing the need for a contract strategy stage gate to determine the most appropriate contracting strategy for a given project in a transparent manner on the basis of evaluation of project specific risks and objectives; and the need to develop the City’s capacity to successfully manage and deliver non-traditional contract strategies.
- 3.3.6 Design management, including: the requirement for project managers to proactively monitor the progress and quality of design against a contractual design schedule; and to help ensure all internal project managers understand the important difference between design development and design change.

4. Procurement & Construction Contracting

4.1 Procurement Compliance Priority: Lower

Clarify accountability for who is required to ensure compliance with both the City’s Materials Management Policy and the Agreement on Internal Trade. Consider revising the guidelines and the process to document delegated authorities to execute contracts on behalf of the City to better mitigate the risk of non-compliance.

4.2 Procurement & Contract Management Roles & Responsibilities Priority: Moderate

Consider developing and implementing a procurement and contract management RACI Chart (responsible, accountable, consulted and informed) to provide guidance to the various process participants and to help improve the quality and consistency of the required documentation for procurement and contract management (including contract variations) and to ensure that consultants and contractors are not engaged outside of contract or outside of the City’s procurement rules and obligations.

4.3 Restrict Ability to Single Source Contracts Priority: High

Consider implementing either additional oversight over the use or the formal approval of single source contracts in order to reduce the likelihood of any potential abuse of the single sourcing provisions. As well, consider the need for additional training or more explicit guidance on the application of the provisions of both the City’s Materials Management Policy and Administrative Standard FM-002 (notably Appendix 1).

4.4 Assignment of Contracts Priority: Lower

Revisit the City’s Materials Management Policy to ensure that solicitations awarded to a joint venture cannot subsequently simply be assigned to a constituent entity within that joint venture without a rescoring or new public solicitation being performed.

4.5 Standardized Construction Contracts Priority: High

Develop and implement a suite of standard construction contracts for the City’s preferred contract strategies to ensure that more robust terms and conditions are developed and implemented, and

appropriate training is developed and provided to internal project managers and team members to protect the City's interests and manage its retained risks.

4.6 Procurement Guidance

Priority: Lower

Develop improved procurement guidance to mitigate the risk of unfair practices (whether intentional or otherwise) being performed by the evaluation team – such as one person being responsible for performing and documenting any bidder contact to ensure that clarification requests are either provided to all or only short-listed proponents following bid opening.

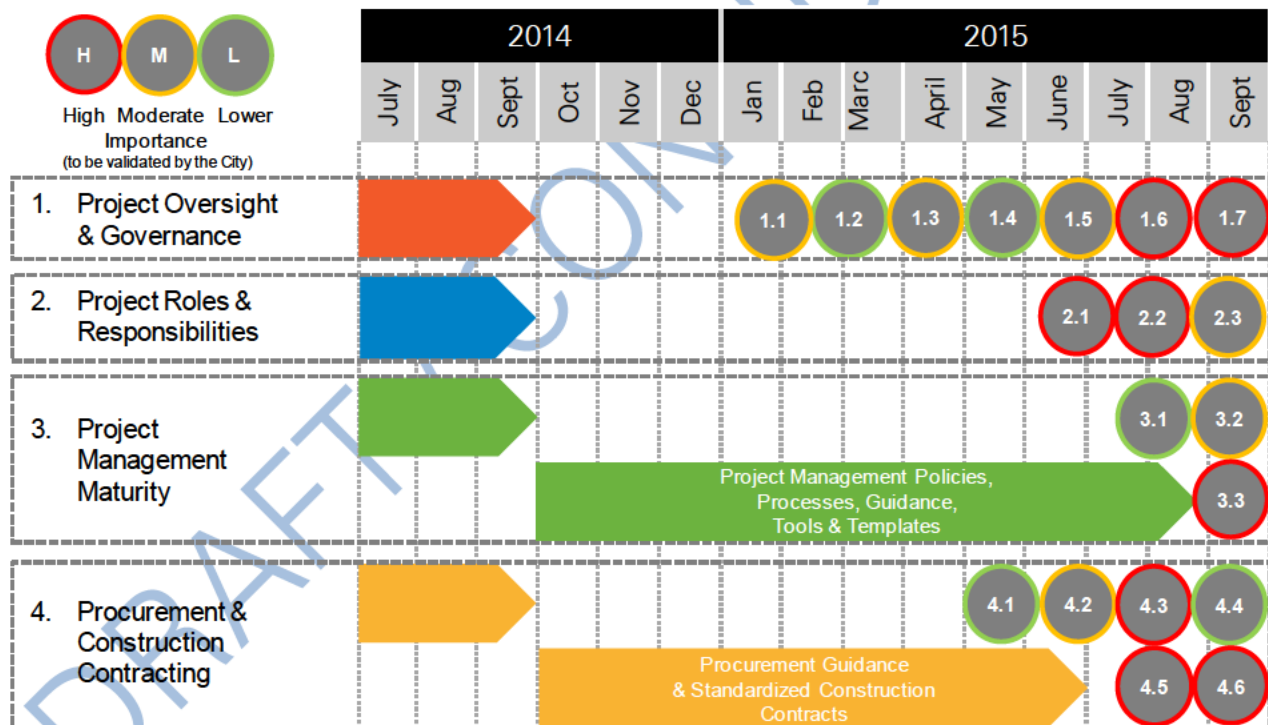
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Roadmap for Implementation

We present below a prioritized timeline for the implementation of the recommendations in this report, taking into consideration the need to take action across each area of focus, but acknowledging that key initiatives relating to procurement, contract and project management will take time to develop and implement across the City.

A detailed action plan should be developed, possibly combined with a validation of the proposed roadmap, to address the observations and recommendations in this report with a view to improving or developing an effective capital project governance and control framework for the City's desired level of maturity.

We recommend that a detailed action plan be prepared to clearly articulate the vision of the transformation and the steps required to reach the City's desired future state for capital project management. Such a roadmap should outline the vision, objectives, and key initiatives to move the City from its current state to its desired state; the roadmap must take into consideration its relationship with any other planned or ongoing transformation initiatives at the City.





Appendix A – Key Documents

In addition to the information obtained during interviews and subsequent email correspondence with the interviewees, the following documents are the key documents upon which the observations of this Report are based.

- Supplemental Agreement between the City and Caspian Projects Inc. dated Dec 11, 2013
- GMP Contract between the City and Caspian Projects Inc. dated November 18, 2011
- WPS Headquarters Redevelopment Project – Financial Status Reports
- Administrative Report dated November 18, 2013 prepared by the Jason Ruby
- Administrative Report dated July 13, 2011 prepared by Iain Day, Jason Ruby and Mike McGinn
- Administrative Report dated April 16, 2012 prepared by Jason Ruby
- Administrative Report dated November 29, 2011 prepared by Randy Benoit
- Administrative Report dated December 7, 2010 prepared by Abdul Aziz
- Administrative Report dated July 26, 2010 prepared by Randy Benoit
- Administrative Report dated June 16, 2011 prepared by Iain Day
- *[Names removed at request of City of Winnipeg]*: Chronology of Involvement in the WPS Headquarters Project
- Capital Project Management Audit Final Report, November 2008
- AAR Memo dated November 22, 2011 to Project Director
- Bid Opportunity 833-2010 Report 2a (Consensus Evaluation Report copy)
- Materials Management Policy
- Administrative Direction FM-002 Pursuant to Materials Management Policy
- Administrative Directive FM-004 Capital Project Administration
- Inter-Office Memorandum dated Feb 16, 2012 from Lisa Roswell to Phil Sheegl
- Council Minutes dated November 25, 2009
- Caspian Akman Joint Venture Proposal (833-2010) dated January 18, 2011
- Caspian Akman Joint Venture Clarification Response (833-2010) dated February 9, 2011
- GMP Contract Change Orders 1 to 81
- Bid Evaluation Process for Bid Opportunities (tenders)
- Construction Cost Breakdown and Change Orders to February 18 2014
- 2010 - Dec 24 Class C Estimate
- AAR (2nd Supplemental) Execution March 24 14

- AAR (Indent Execution - April 16 12)
- Bid Opportunity No. 66-2010 plus addenda
- Bid Opportunity No. 833-2010 plus addenda
- 591-2012 Communication 1 (Dunmore Corporation)
- AAR Fee Proposal For Completion of Design & Contract Administration Ref No. 5368-00
- 5368-00 Progress reports
- 5368-00 Working Group Meeting Notes
- Steering Committee Minutes Thursday February 3, 2010
- Schedule 2010-009 Post Office Redev BTK V3
- Chairs of DD, FI and PCS - 2008 to 2014
- 5368-00 WPSHQ - CO Log 2014-03-21
- Electronic correspondence between select City staff

Note that this is not an exhaustive list of all documents we received.

Appendix B – Key Individuals

| Name | Title / Role | Relevant Dates | Interviewed? |
|---|--|--|--------------|
| City of Winnipeg | | | |
| Phil Sheegl | Chief Administrative Officer | May 2011 to Oct 2013 | Yes |
| | Deputy CAO (1 of 3) | Nov 2008 to May 2011 | |
| | Director of PPD | April 2008 to Nov 2008 | |
| Deepak Joshi | Interim Acting Chief Administrative Officer | Oct 2013 to present | Yes |
| | Chief Operating Officer | Aug 2011 to Oct 2013 | |
| | Director of PPD | Nov 2008 to Aug 2011 | |
| Mike Ruta | Deputy CAO (2 of 3) (concurrent with CFO role) | Nov 2008 to Aug 2011 | Yes |
| | Acting CAO (concurrent with CFO role) | Sept 2010 to May 2011 | |
| | Chief Financial Officer | Throughout the Project duration | |
| Barry Thorgrimson | Director of Planning, Property & Development | October 2013 to present | Yes |
| | Acting Director of Planning, Property & Development | Sept 2011 to Oct 2013 | |
| Lisa Roswell | Solicitor (Legal Services Project Support) | Throughout the Project duration | Yes |
| Barb D'Avignon | Manager of Materials | Throughout the Project duration | Yes |
| Jason Ruby | Manager of Capital Projects | Throughout the Project duration | Yes |
| Dunmore Corp. | Project Director | June 2011 to Nov 2013 | Yes |
| Iain Day | Project Director (concurrent with Acting Manager of Municipal Accommodations role) | Dec 2013 to present | Yes |
| | Acting Manager of Municipal Accommodations (no Project title) | 2010 to 2011 (unspecified dates) | |
| Abdul Aziz | Project Manager | Feb 2010 to May 2011 and Jan 2014 to present | Yes |
| Randy Benoit | WPS Project Manager | Sept 2011 – Feb 2014 | Yes |
| [Name removed at request of City of Winnipeg] | WPS Police Officer (no Project title) | April 2010 to April 2012 | No |
| | Consultant to AAR (no Project title, representing WPS) | May 2012 to Jan 2014 | |
| | Contractor to the City (no Project title, representing WPS) | Jan 2014 to present | |
| [Name removed at request of City of Winnipeg] | WPS Police Office (no Project title) | April 2011 to present | No |
| Mike McGinn | Manager of Finance | Throughout the Project duration | No |
| Alex Robinson | Deputy CAO (3 of 3) | Nov 2008 to Aug 2011 | No |
| Glen Laubenstein | Chief Administrative Officer | April 2008 to Sept 2010 | No |
| Councillors <i>Note: Standing Policy Committee Chairs appointed for a 12 month terms in November of the year noted, unless noted otherwise</i> | | | |
| Russ Wyatt | Chair of the Standing Policy Committee on DDHRM | 2007 | Yes |
| | Chair of the Standing Policy Committee on Finance | 2012, 2103 | |
| Mike Pagtakhan | Chair of the Standing Policy Committee on Protection and Community Services | 2009 | Yes |
| | Chair of the Standing Policy Committee on DDHRM | 2008, 2012, 2013 | |
| Scott Fielding | Chair of the Standing Policy Committee on Finance | 2009, 2010, 2011 | Yes |
| | Chair of the Standing Policy Committee on Protection and Community Services | 2012 | |

| Name | Title / Role | Relevant Dates | Interviewed? |
|----------------------|---|------------------------|-------------------------|
| Paula Havixbeck | Chair of the Standing Policy Committee on Protection and Community Services | Appointed Aug 26, 2011 | Yes |
| Justin Swandel | Chair of the Standing Policy Committee on DDHRM | 2009, 2010, 2011 | Did not respond |
| | Chair of the Standing Policy Committee on Finance | 2008 | |
| Brian Mayes | Chair of the Standing Policy Committee on Protection and Community Services | 2013 | Yes |
| Harvey Smith | Councillor | Throughout | Yes |
| Third Parties | | | |
| Peter Chang | Principal, Adjeleian Allen Rubeli Ltd. | | Yes |
| Armik Babakhanians | Project Director, Caspian Projects Inc. | | Declined to participate |

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