



City of Hamilton

AUDIT, FINANCE AND ADMINISTRATION COMMITTEE ADDENDUM

Meeting #: 22-009

Date: April 21, 2022

Time: 9:30 a.m.

Location: Due to the COVID-19 and the Closure of City Hall (CC)

All electronic meetings can be viewed at:

City's Website:

<https://www.hamilton.ca/council-committee/council-committee-meetings/meetings-and-agendas>

City's YouTube Channel:

<https://www.youtube.com/user/InsideCityofHamilton> or Cable 14

Angela McRae, Legislative Coordinator (905) 546-2424 ext. 5987

8. PRESENTATIONS

8.3. J.L. Grightmire Arena Lessons Learned Audit Report, Recommendations, and Management Response

*8.3.a. J.L. Grightmire Arena Lessons Learned Audit - Responses and Actions

14. PRIVATE AND CONFIDENTIAL

*14.2. Confidential Correspondence from David A. van der Woerd, Ross & McBride LLP, respecting the Hamilton Waterfront Trust

Recommendation: Be received and referred to staff for a report back to the Audit, Finance and Administration Committee.

Pursuant to Section 9.1, Sub-sections (d), (f), (i), (j) and (k) of the City's Procedural By-law 21-021, as amended, and Section 239(2), Sub-sections (d), (f), (i), (j) and (k) of the *Ontario Municipal Act, 2001*, as amended, as the subject matter pertains to labour relations or employee negotiations; advice that is subject to solicitor-client privilege, including communications necessary for that purpose; a trade secret or scientific, technical, commercial, financial or labour relations information, supplied in confidence to the municipality or local board, which, if disclosed, could reasonably be expected to prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization; a trade secret or scientific, technical, commercial or financial information that belongs to the municipality or local board and has monetary value or potential monetary value; and a position, plan, procedure, criteria or instruction to be applied to any negotiations carried on or to be carried on by or on behalf of the municipality or local board.



RESPONSES & ACTIONS

GRIGHTMIRE ARENA LESSONS LEARNED AUDIT AUD22004

Audit, Finance and Administration Committee

April 21, 2022

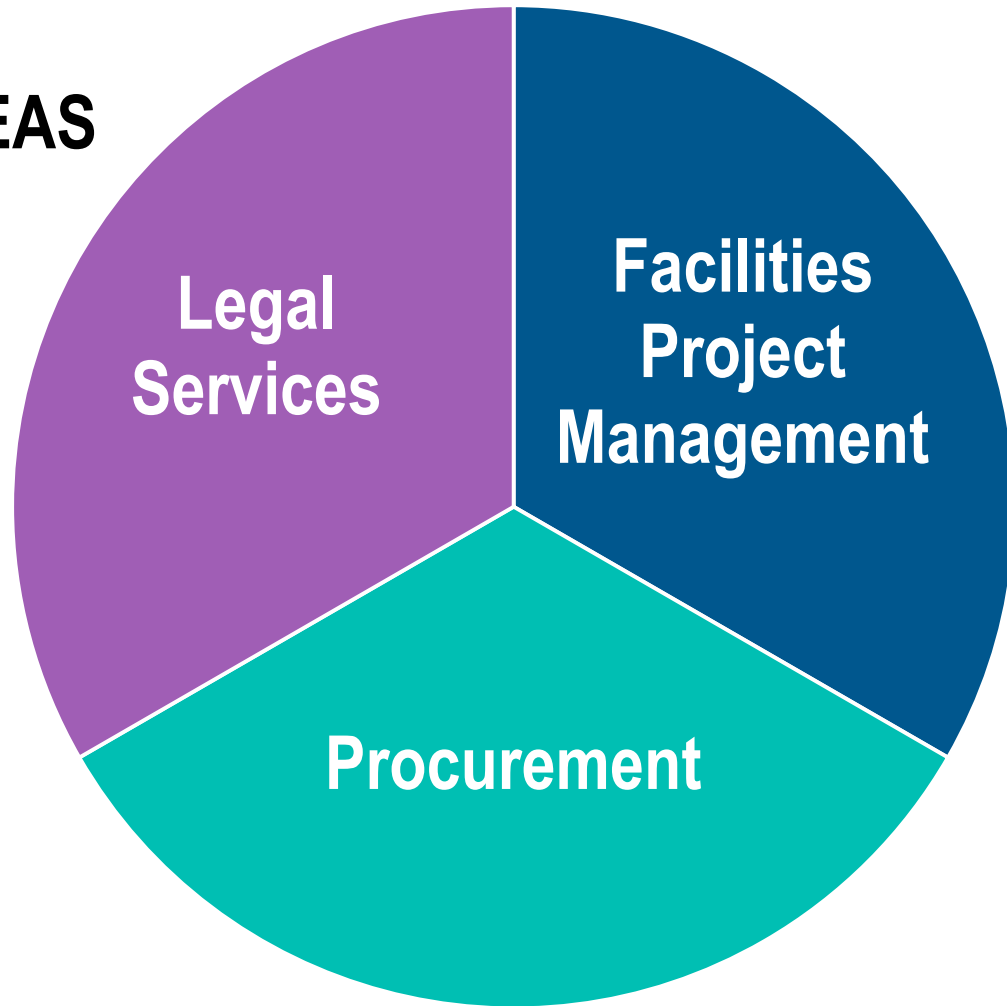
Introduction: Facilities Management – Capital Projects

- Client Department
 - Recreation – Arenas, Recreation & Senior Centres
 - Corporate Facilities (City Hall, POA, MSC)
 - Fire & EMS
 - Public Work's Divisional Clients
 - Hamilton Police Services
 - Libraries
 - City Housing Hamilton
 - Long Term Care Homes
 - Entertainment Facilities

- Metrics – Annually output
 - Deliver approx. 200 capital project annually
 - \$10 Million in Block Funding (Facilities Life Cycle Renewal)
 - \$40-\$45 M (average) on new construction

RESPONSES & ACTIONS

THREE FOCUS AREAS



RESPONSES & ACTIONS

Facilities Project Management

- Public Works Asset Management System (PW QMS)
 - Risk assessment framework & process development
 - Project management documents, including a PM manual, project charter template, project transition checklist and closing report template
- Public Works Enterprise Asset Management (EAM) System
 - Develop policies and procedures for design, construction, operations and maintenance
 - Document Control
- Defined Roles and Responsibilities



Recommendation(s)	What we're doing
<p>#1. <u>EFFM</u> We recommend that management develop a risk assessment framework (RAF) and process and that formal evaluation of risk be conducted as part of the project planning.</p>	<ul style="list-style-type: none"> ✓ EFFM has developed project initiation and close-out checklists, a project budget template and communications plan for capital projects to continually improve project management processes and mitigate risk. (Complete) ☐ EFFM's 2022-2023 initiatives include further development of planning/ design and implementation/ construction phase checklists, as well as a RAF as part of the continued implementation of the PW QMS.
<p>#3. <u>EFFM</u> We recommend that contract management training be provided to project managers.</p>	<ul style="list-style-type: none"> ☐ Contract management training will be provided to Project Managers once Legal and Procurement have confirmed delegated authority and available support. Vendors for this training have been identified

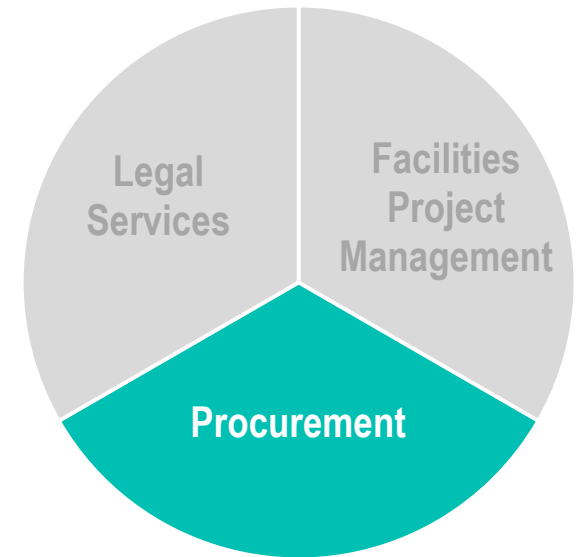
Recommendation(s)	What we're doing
<p>#4. <u>EFFM</u> We recommend that management consider separating the roles of project management and contract management for capital projects.</p>	<ul style="list-style-type: none"> ✓ Current practices will be reviewed with Legal and Procurement to determine the changes necessary related to the roles of project and contract management. <i>(In process)</i> ❑ Review the existing SLA with Legal to engage an experienced Legal representative knowledgeable in construction contract law to enforce contract management practices for applicable high-risk projects. ❑ EFFM will undertake a municipal scan to explore models for construction contract management successfully implemented by other municipalities in Ontario.
<p>#7. <u>EFFM</u> We recommend that project management processes be improved to ensure adequate project documentation is maintained by the City.</p>	<ul style="list-style-type: none"> ✓ The existing EFFM Contract Analyst position along with a new QMO within EFFM will be redefined to add duties related to quality management and project record retention. <i>(In process)</i> ❑ A SOP detailing project management processes will be introduced for timely and effective contractor communications. ❑ Project management processes will be improved with the planned introduction of a central filing system through EAM.

Recommendation(s)	What we're doing
<p>#8. <u>EFFM</u> We recommend that special contingency procedures and guidelines be developed for enhancing the oversight and contract management practices for projects in difficulty.</p>	<ul style="list-style-type: none"> ✓ EFFM has implemented an escalation protocol through bi-monthly project status updates on significant/major capital projects. (Complete) ❑ A SOP will be developed for the management of contingency in order to enhance the oversight and contract management practices for projects in difficulty, including roles and responsibilities, routine project updates and incorporating the existing escalation protocol.
<p>#9. <u>EFFM</u> We recommend that PW implement a process to share critical capital project information such as cost estimates with Procurement.</p>	<ul style="list-style-type: none"> ❑ A SOP will be developed to document the process to share critical capital project information with Procurement, which be attached as supporting documentation to the existing project budget template, RFCTA form and Project Charter submitted at the time of tender.

Recommendation(s)	What we're doing
<p>#12. <u>EFFM</u> We recommend that communication with Council regarding projects in difficulty be timely and forthright.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> A SOP will be developed to document the procedure for timely and forthright communication of projects in difficulty to Council, including incorporation of the output of the risk assessment process.
<p>#14. <u>EFFM</u> We recommend that management implement and/or strengthen processes to ensure that when faced with contractor claims for cost increases or time extensions due to alleged design issues</p>	<ul style="list-style-type: none"> <input type="checkbox"/> EFFM's QMO (in collaboration with Legal Services and Procurement) will explore means of strengthening current process that is currently governed by CCDC-2 and the OBC to ensure compliance with the design. <input type="checkbox"/> CCDC-2 also includes mechanisms for conflict resolution. EFFM will review the SLA with Legal Services with regards to the requirement to engage an experienced Legal representative knowledgeable in construction contract law to enforce contract management practices for applicable high-risk projects.

Procurement

- Continue to work on and implement non-traditional delivery models
 - Construction Management contracts (2020-2021)
 - Design-Build procurement (2022 – under development)
 - General Contractor Pre-qualification
- Robust Vendor Performance Program, including a best practices review of contractors bidding evaluation process



Legal Services

- Review the existing Service Level Agreement (SLA) with Legal Services with regards to EFFM's requirements
- Engage a legal representative familiar in construction contract law to enforce construction contract management practices for applicable high-risk projects



Recommendation(s)	What we're doing
<p>#2. <u>Procurement, Legal & Risk</u> We recommend that when using a CCDC 2 Stipulated Price contract for construction projects, the current version be used and that the contract conforms with the changes introduced by recent changes to the <i>Construction Act</i>.</p>	<ul style="list-style-type: none"> ✓ All construction contracts utilized through a procurement process are current with respect to the <i>Construction Act</i>. (Complete) ❑ A working group of staff has been tasked with updating supplemental conditions to be used with the new CCDC 2-2020 Stipulated Price contract for implementation in June 2022.
<p>#5. <u>Procurement</u> We recommend that contractor performance for each contract be tracked and formally evaluated using a consistent and robust process, and that the use of contractor ratings from previous performance be considered for implementation as a procurement criterion in order to mitigate the risk of poor results.</p>	<ul style="list-style-type: none"> ❑ Procurement's workplan includes research and development of a more robust Vendor Performance Program, in consultation with internal and external stakeholders. Procurement will investigate the potential to use contractor ratings from previous contract performance.

Recommendation(s)	What we're doing
<p>#6. <u>Legal & Risk with Procurement</u> We recommend that the values used for liquidated damages be reviewed to ensure they adequately compensate the City for the damages of late delivery and daily costs incurred, and to motivate contractors to take prompt action to cure project delays/ deficiencies. Where liquidated damages would likely fall short of what is necessary to motivate Contractors to meet schedule requirements, we also would recommend the use of bonus/penalty clauses and earn-backs in the Contract.</p>	<ul style="list-style-type: none"> <input type="checkbox"/> Staff will investigate and pursue best practices including discussion with other municipalities, on the approach to liquidated damages, bonus and penalty provisions pertaining to contractual dealings. <input type="checkbox"/> Legal Services will aid Procurement in updating the approach to appropriately amending contracts arising from this investigation in order to best protect the City's interests as permitted by these measures. <input type="checkbox"/> Further, Procurement staff will engage and consult with client staff to assess consequences and controls in order to ensure appropriate application of the changes involved.

Recommendation(s)	What we're doing
<p>#10. <u>Procurement</u> We recommend that the practice of single sourcing of professional consulting firms be reviewed and be utilized only during exceptional circumstances. Professional consulting services generally should only be retained through a competitive process as outlined in the City of Hamilton's Procurement By-law.</p>	<ul style="list-style-type: none"> ✓ The City's Procurement Policy sets out the requirements for awarding contracts to vendors. Staff agree that the most prudent mechanism to select a vendor is through a competitive process. (Complete) ✓ However, where exceptional circumstances exist and a competitive process is not recommended, the appropriate approval to single source must be obtained either by the General Manager or Council. (Complete)

Recommendation(s)	What we're doing
<p>#11. <u>Procurement</u> We recommend that a standard form of contract be developed and used for the procurement of architectural consulting as well as for contract administration services including terms and conditions specific to each type of service. Furthermore, we recommend contract management techniques be utilized to manage the consultant's performance based on these agreements.</p>	<ul style="list-style-type: none"> ✓ Procurement has developed and currently utilizes various templated competitive procurement documents for the engagement of contract administration and architectural consulting services. (Complete) ☐ For those circumstances where architectural or contract administration services are not procured through a competitive process, staff will ensure that a formal contract is to be executed with the vendor prior to any work being carried out. The next revision of the Procurement Policy will be amended to include this requirement.

PROCESS IMPROVEMENTS (FACILITIES)

“RECAP”

- Project Management (PM) templates developed based on lessons learned:
 - ✓ Project initiation and close-out checklists,
 - ✓ Project budget template
 - ✓ Communications plan
 - ✓ Lesson Learned Process for each large project to mitigate future risk
 - ✓ Project charter template includes:
 - ✓ identification of potential risks (known & unknown), likelihood and impact on budget/ schedule/ scope with mitigation measures identified
 - ✓ Routine project status updates on significant capital projects
 - ✓ Project Tracker to document status of all active projects

Questions