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City of Winnipeg

Real Estate Management Review

Status of Audit Recommendations

2015 Qtr 4

January 26, 2016

Deloitte.

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Private and confidential

The City of Winnipeg
Audit Department
185 King St, 3rd Floor
Winnipeg, MB R3B 1J1

Attention: Larissa Klimchak

Dear Ms. Klimchak:

Subject: Real Estate Management Review - Status of Audit Recommendations (2015 Qtr 4)

The City of Winnipeg ("City") has engaged Deloitte LLP ("Deloitte") to provide professional consulting services related to the review and oversight of the implementation of recommendations outlined in the *City of Winnipeg Real Estate Management Review* dated June 19, 2014.

This document outlines Deloitte's review of the status of the implementation of the *Real Estate Management Review* recommendations for the three months ended December 31, 2015, ("2015 Qtr 4") pursuant to the terms of the Letter of Intent dated October 6, 2015 in connection with the award of the contract for RFP No. 750-2015. The status of the implementation of the recommendations was provided by the Real Estate Division of the Planning, Property and Development Department ("PPD") of the City. Where applicable, supporting documentation, including the draft *City of Winnipeg Real Estate Transaction Management Framework* dated December 23, 2015 ("RETMF"), was obtained to support the status updates provided.

The nature of the procedures performed by Deloitte do not constitute an engagement to perform an audit or a review. Accordingly, we do not express any form of assurance in the information included in this letter. The City is ultimately responsible for the development of appropriate measures to address the recommendations and to ensure the operating effectiveness of those measures.

This report is intended solely for the information and use by the City and is not intended to be and should not be used by any other person or entity. No other person or entity is entitled to rely, in any manner, or for any purpose, on this report, and Deloitte does not assume any responsibility or liability for losses incurred by any third party as a result of the circulation, publication, reproduction or use of this report.

Should you wish to discuss further the contents of this letter, please do not hesitate to contact our office.

Yours very truly,

Deloitte LLP

Dean Schinkel, CA, CBV
Partner, Financial Advisory
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Background

Deloitte LLP has been engaged to provide review and oversight of the implementation of the recommendations contained in the *City of Winnipeg Real Estate Management Review* dated June 19, 2014 ("REMR"). As background to this project, a brief summary of the key events that led to our involvement have been included below.

- On September 27, 2012, Winnipeg's City Council passed a motion that an external and objective Real Estate Management Audit (the "Audit") be conducted, going back a minimum of five years, which would review the processes and policies used for all major land acquisition, sales, transfers and external leasing activities, including all transactions where commissions or management fees were paid with City funds.
- On December 7, 2012 a contract to conduct the Audit was awarded to Ernst & Young LLP ("EY").
- On July 2, 2014 EY reported to the City's Audit Committee and EPC. The resulting *Real Estate Management Review* report contained 17 recommendations.
- On July 9, 2014 Council had a special meeting to address the *Real Estate Management Review* and adopted 21 recommendations. Council further directed that the City Auditor be delegated authority to acquire an external agency, other than EY, to oversee the implementation of all recommendations from EY's report by the City in a timely and efficient manner, and to report back to Council on the implementation of the recommendations via the City Auditor's Report to Council.
- The City Auditor has prepared quarterly updates on the implementation of all recommendations for the 2014 Qtr 4 to 2015 Qtr 3 periods.
- On October 6, 2015, a contract to complete the Review and Oversight of the Implementation of all Recommendations from the *Real Estate Management Review* was awarded to Deloitte. As per the contract, Deloitte will provide these services until the implementation of all recommendations is complete, which is estimated to occur in 2016 Qtr 2.
- This document is the status report on the implementation of the 17 recommendations from the *Real Estate Management Review*. Where applicable, documentation supporting the implementation was reviewed by Deloitte to confirm implementation has occurred.

Summary of Audit Recommendations

Production of the Status of Audit Recommendations Report

Deloitte was provided with a template by the City's Audit Department which included a description of each of the 17 recommendations from the REMR, with the initial implementation plan for each recommendation and status updates for each of the previous four quarters. Deloitte provided this template to the City's Real Estate Division, which populated the template with status updates for the 2015 Qtr 4 period and returned to Deloitte for review and compilation.

The status report consisted of the Real Estate Division's representations as to the status of recommendations implemented, in progress or not to be implemented at the end of 2015 Qtr 4. Deloitte summarized the status of implementation and prepared a brief overview for the City's Audit Department. Documentation supporting the implementation of recommendations was reviewed by Deloitte to confirm the status update and whether or not implementation has occurred.

Status of Recommendations				Target Date for Completion		
Total	Complete	Percent Complete	Not to be Implemented[1]	Q1 2016	Q2 2016	Q3 2016 or later
17	2	12%	2	-	13	-

[1] The City determined that these recommendations do not need to be implemented as the programs leading to their existence are no longer in place. No updates have occurred on the status of these recommendations since the 2014 Qtr 4 meeting at which it was decided that these recommendations would not be implemented.

Audit Observations

During 2015 Qtr 4 one recommendation was completed and implemented. This was:

No.	Description
16	Update industrial park policy

At the end of 2015 Qtr 4, 13 recommendations are in progress and the City has indicated that they are all targeted for implementation in the second quarter of 2016 or later. These are:

No.	Description
1	Develop a real estate transaction management framework
2	Establish PPD directive for more complete reporting and provide checklist to assist with disclosures
3	Establish appraisal guidelines
4	Engage Materials Management more consistently to ensure openness, fairness and transparency of procurement processes
7	Establish guidelines when negotiating and establishing commission rates with external real estate brokers
8	Retain documentation of internal communication in the transaction file
9	All significant agreements and contracts should be reviewed by Legal Services. Standard templates for all Real Estate transactions should be developed.
10	Develop standardized index and checklist for transaction files and standardized approach for document retention
11	Guidelines should be established for a comprehensive procurement process for significant lease or acquisition transactions over a certain size
13	Perform market analysis for establishing lease rates
14	Develop tracking mechanism
15	Restrict the use of personal email accounts for City business and establish policies for removal of City files offsite
17	Develop an ESA procedure

Recommendations Implemented – 2015 Qtr 4

No.	Recommendation	Comment
16	**Update Industrial park policy** The Real Estate division should prepare a report for Standing Policy Committee on Property and Development's ("SPC") consideration to update the policy for the valuation and sale of industrial park land. This policy should specifically address the frequency of valuations and how transactions are dealt with that occur during a change in value.	Implemented. Council adopted the "Policy for City-Owned Industrial Land - Sale" on December 9, 2015 (Minute No. 60). Recommendation #16 of the REMR has been completed.

Recommendations in Progress – 2015 Qtr 4 Updates

No.	Recommendation	Update – 2015 Qtr 4
1	**Develop a real estate transaction management framework** A framework (or similar) would serve a number of purposes and meet the needs of various internal City and external stakeholders. The framework would: ► Provide guidance and direction to personnel involved in real estate transactions ► Demonstrate to City Council, senior management and the general public that appropriate policies, directives, guidelines, standards, instructions, etc. are approved and implemented Based on EY's review of other Canadian municipalities, the following are elements for consideration in establishing a public sector real estate transaction framework: 1. Governance structure 2. Policy, directives, and guidelines 3. Transactions 4. Performance management 5. Reporting, monitoring, and audit	EY conducted a consultation with the Public Works Department in November 2015 to gain a better understanding of the needs of the client departments for the PPD Department. PPD and EY completed a second workshop in December 2015 to discuss and review the current deliverables. The workshop was attended by the steering committee, together with the Manager of the City's Real Estate Division. EY has now provided to PPD all guidelines, directives, policies and tools related to the RETMF, and has also provided the final draft copy of the RETMF (dated December 23, 2015). All recommendations within the REMR have now been addressed by EY through the draft RETMF. PPD continues to review all draft deliverables in conjunction with Legal Services and intends to provide comments to EY by January 15, 2016. EY has proposed finalizing the draft RETMF by the end of January 2016 and also providing an implementation plan at that time. The City has indicated that completion of the RETMF is still on track for 2016 Q2. Targeted Implementation Date: 2016 Qtr 2

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No.	Recommendation	Update – 2015 Qtr 4
2	**Establish PPD directive for more complete reporting and provide checklist to assist with disclosures** a) Establish a PPD directive to outline alternatives, evaluations, and supporting analyses for decision making that will facilitate more complete reporting. The checklist noted in Recommendation 1, outlining key elements, will assist in improved disclosures. b) A review should continue to be undertaken of the submission prior to it being put forward to assess that the information is complete and accurate. This may involve a review of the transaction file to verify that key information is included in the Administrative Report. If input from other departments (i.e. Finance, Legal Services, etc.) is included, a review by that department of the final submission should be undertaken to ensure accuracy of information submitted. c) When it may not be advisable to share information publicly to respect privacy and the City's bargaining position, consideration should be given to establishing protocol for discussing such matters in a Council seminar or through other means, with the results of the discussions documented in summary notes or the transaction file.	Addressed in December 23, 2015 draft version of *Real Estate Transaction Management Framework Appendix B (Directive for Complete Reporting)* and *Appendix C (Complete Reporting Checklists)*. Targeted Implementation Date: 2016 Qtr 2
3	**Establish appraisal guidelines** a) Establish guidelines regarding the requirement for appraisals b) Timing of appraisals and updates c) Consistency between assumptions d) Explanation for significant differences e) Documentation	Addressed in December 23, 2015 draft version of *Real Estate Transaction Management Framework Appendix D (Appraisal Guidelines)*. Targeted Implementation Date: 2016 Qtr 2
4	**Engage Materials Management more consistently to ensure openness, fairness and transparency of procurement processes.** Guidelines should be established outlining when to engage the Materials Management. Consideration can be given to size, complexity, and other characteristics of a transaction (leases, acquisitions, etc.) or retention of broker or advisory services.	Addressed in December 23, 2015 draft version of *Real Estate Transaction Management Framework Appendix E (Comprehensive Procurement Process and Engagement of Materials Management Guidelines for the City of Winnipeg)*. Targeted Implementation Date: 2016 Qtr 2

No.	Recommendation	Update – 2015 Qtr 4
	By utilizing the services of Materials Management more consistently, the Real Estate division would benefit from additional support and expertise and potentially improve the oversight and accountability of real estate procurement processes. ► Ensuring information is shared fairly (at the same time and in the same level of detail) to all proponents in procurement processes ► Allocation of work to prequalified proponents (managing that process for PPD to ensure fair allocation) ► Assistance with RFP/EOI/RFQ documents – determining which is most appropriate process to undertake, considerations of what base services to include / what would need to go to a separate new procurement process – or what would require a further competition between prequalified proponents	
7	**Establish guidelines when negotiating and establishing commission rates with external real estate brokers** a) Establish guidelines on commission rates to be paid on real estate transactions, ensuring they are reflective of industry standards, and comparable to the conventions of other municipalities for transactions of a similar nature. The level of transparency and rationale should increase relative to the magnitude of the transaction. b) Commission rates for large transactions should be negotiated rather than applying the commission rate that was set for a much lower transaction value. This may result in lower fees.	Addressed in December 23, 2015 draft version of *Real Estate Transaction Management Framework Appendix G (Commission Guidelines)*. Targeted Implementation Date: 2016 Qtr 2
8	**Retain documentation of internal communication in the transaction file** a) The Real Estate division is in the process of developing a formal checklist for transactions, including verification of Councillor consultation. EY agrees with the Real Estate division's initiative to implement a formal checklist to ensure that consultation with the Ward Councillor occurs and results are retained in the file. b) Copy of Circular letters should be retained in the transaction file. If a Circular Letter was not issued, a valid justification for not doing so should be included in the file. When a circular letter is not retained in the file, there is no means to confirm that the appropriate parties have been notified.	Addressed in December 23, 2015 draft version of *Real Estate Transaction Management Framework Appendix I (Internal Communications Documentation and Retention Policy)*. Targeted Implementation Date: 2016 Qtr 2

No.	Recommendation	Update – 2015 Qtr 4
9	**All significant agreements and contracts should be reviewed by Legal Services. Standard templates for all Real Estate transactions should be developed.** All significant agreements and contracts should be reviewed by Legal Services. Consideration should always be given to adherence to standard City terms and conditions for the provision of services. Standard City templates which do not already exist, such as leasing transactions where the City is the lessee, real estate consultant agreements, should be developed and approved by Legal Services. Significant changes to the standard terms should be approved by Legal Services. This will limit contact risk to the City.	Addressed in December 23, 2015 draft version of *Real Estate Transaction Management Framework Appendix K (Legal Review Guidelines)*. Targeted Implementation Date: 2016 Qtr 2
10	**Develop standardized index and checklist for transaction files and standardized approach for document retention** a) A standardized index and checklist should be developed to facilitate more consistent document retention and file organization. A checklist will help ensure procedures are not inadvertently missed. The City should consider a centralized option for document sharing across all related departments. All relevant documents to a real estate transaction should be accessible by PPD and their file documentation should contain support for all critical documents. A system of this nature could consist of a central database of documents, with access granted to certain aspects of the system as necessary for given departments (for example all final legal documents from real estate transactions would be accessible by Legal Services and PPD).	Addressed in December 23, 2015 draft version of *Real Estate Transaction Management Framework Appendix B (Directive for Complete Reporting)* and *Appendix C (Complete Reporting Checklists)*. Targeted Implementation Date: 2016 Qtr 2
11	**Guidelines should be established for a comprehensive procurement process for significant lease or acquisition transactions over a certain size** Guidelines should be established for undertaking a comprehensive procurement process (including an open market process) for leases or acquisitions of a significant dollar size or complexity in order to determine the best options and rates for the City.	Addressed in December 23, 2015 draft version of *Real Estate Transaction Management Framework Appendix E (Comprehensive Procurement Process and Engagement of Materials Management Guidelines)*. Targeted Implementation Date: 2016 Qtr 2
13	**Perform market analysis for establishing lease rates** When entering into a lease agreement, an analysis should be performed of various comparable properties in the area to determine market rates. External data should be obtained to corroborate estimates and validate the lease is consistent with market rates (incorporating all aspects of occupancy costs). The Public Sector Comparator tool or other comprehensive model should be used in order to determine whether a proposed arrangement is cost effective for the City.	Addressed in December 23, 2015 draft version of *Real Estate Transaction Management Framework Appendix D (Appraisal Guidelines)*. Targeted Implementation Date: 2016 Qtr 2

No.	Recommendation	Update – 2015 Qtr 4
14	**Develop tracking mechanism** Develop a formal tracking mechanism to flag delays and highlight where additional actions or decisions may be required. Establishing protocols and milestones that trigger follow up when certain transactions have reached various stages will assist in reducing delays in the process. This will identify when follow-up action is required. Consideration of levels of management that should be notified at what stages should be included as part of this monitoring. Management has indicated that a directive is being established whereby expropriations more than two years in process will be reported to the CFO and CAO to determine whether to conclude a settlement or to proceed to LVAC.	Addressed in December 23, 2015 draft version of *Real Estate Transaction Management Framework Appendix M (Directive for Monitoring Status of Real Estate Transactions)*. Targeted Implementation Date: 2016 Qtr 2
15	**Restrict the use of personal email accounts for City business and establish policies for removal of City files offsite** To reduce the risks associated with sending sensitive data through unsecure emails, consideration should be given to restricting City employees to send or copy sensitive data through unapproved methods such as personal email accounts. Consideration should be given to updating policies relating to use of City email, such as Administrative Directive No. IT-002 (Management of Electronic Mail), to include policies around use of personal emails for City business. All City information, particularly confidential and sensitive information contained the in real estate transaction files should be held in a secure, City premise to reduce the risk of sensitive information being misplaced or stolen. A department policy should be implemented to restrict files from going offsite (or if it's deemed necessary to do so, have appropriate sign-off by senior resource to authorize).	Completed in part. Corporate Support Services has revised the Administrative Standard for use of personal email accounts for City business, but the policy for removal of City files offsite has not been completed. The latter portion of the recommendation is intended to be implemented in conjunction with the RETMF, which has an implementation date of 2016 Q2. Targeted Implementation Date: 2016 Qtr 2
17	**Develop an ESA procedure** An ESA procedure should be developed that determines when an ESA is required for an acquisition, the rules for the engagement of the assessor, the qualifications necessary to review an ESA and how to determine if a more in depth ESA is required.	Addressed in December 23, 2015 draft version of *Real Estate Transaction Management Framework Appendix N (Environmental Site Assessment Guidelines)*. Targeted Implementation Date: 2016 Qtr 2

Recommendations Implemented – Previous Quarters

No.	Recommendation	Implemented
12	**Incorporate flexibility into lease terms** Where possible leases should include shorter base terms with options to renew, or cancellation clauses should be included to protect the City's interest and provide flexibility in lease agreements.	The City has implemented this recommendation as of 2014 Qtr 3 and provided the following notes with respect to this implementation. Where possible the City incorporates flexibility into lease terms. The PPD has in place delegated authority to approve specific leases of a shorter duration, with cancellation clauses and renewal options. No updates have occurred on the status of this recommendation since the 2014 Qtr 3 meeting at which it was implemented.

Recommendations Not To Be Implemented

No.	Recommendation	City Comment
5	**Establish guidelines on retention of external real estate brokers.** Guidelines should be established on when external real estate brokers are to be engaged as well as defining explicitly what services will be provided as part of their engagement. The following should be considered: ► Requirement to document the basis for why external resources are required ► If additional services are required that were not contemplated in an original procurement document (due to transaction size, complexity of the transaction, or service not contemplated by an RFQ, RFP, EOI, EOIQ), a separate procurement process should be initiated for those transactions / services ► Specific documentation, identification and inclusion in final contracts if certain items are contemplated to be paid for even if a transaction did not close	The City has provided the following notes with respect to the decision not to implement these recommendations. As supported by discussion at the October 9, 2012 SPC meeting, the City no longer utilizes an external Real Estate Broker Program. If directed to reinstate the Program at some future date, guidelines on the retention of external real estate brokers will be established and integrated into the RETMF. While there is no formal SPC direction to not renew the request for quotation for real estate services and discontinue the use of the External Real Estate Broker Program, the issue was discussed at the Oct 9, 2012 SPC meeting. The conclusion was that the City did not require formal direction to take the action of discontinuing this program; SPC concurred with the plan to do so and await the outcome of the audits. The discussion at the Oct 9, 2012 SPC also resulted in direction that the City report back in thirty days, with an analysis of the feasibility of terminating the current contracts for property management services for the former Canada Post Building (266 Graham Avenue) and the former Dominion Bridge property (1460 Dublin Avenue), with the intent of potentially managing these services internally or any other options available – for more information, see: http://www.winnipeg.ca/CLKDMIS/ViewDoc.asp?DocId=12186&SectionId=&InitUrl= No updates have occurred on the status of this recommendation since the 2014 Qtr 4 meeting at which it was decided that this recommendation would not be implemented.

No.	Recommendation	City Comment
6	**Establish guidelines to document real estate brokers' roles** Guidelines should be established and consideration given to the following: ► Any work being completed by an external broker should be under specific contracts which have been subject to legal review ► If any perceived conflict could arise given involvement by the broker for other parties beyond the City in a given transaction, approval of that involvement by the City would be required and a Confidentiality Agreement put in place. Policy on the appropriate level of authority to approve this circumstance should be established	The City has provided the following notes with respect to the decision not to implement these recommendations. As directed by the SPC, the City no longer utilizes an external Real Estate Broker Program. If directed to reinstate the Program at some future date, guidelines to document real estate brokers' roles will be established and integrated into the RETMF. While there is no formal SPC direction to not renew the request for quotation for real estate services and discontinue the use of the External Real Estate Broker Program, the issue was discussed at the Oct 9, 2012 SPC meeting. The conclusion was that the City did not require formal direction to take the action of discontinuing this program; SPC concurred with the plan to do so and await the outcome of the audits. The Oct 9, 2012 SPC discussion also resulted in direction that the Winnipeg Public Service report back in thirty days, with an analysis of the feasibility of terminating the current contracts for property management services for the former Canada Post Building (266 Graham Avenue) and the former Dominion Bridge property (1460 Dublin Avenue), with the intent of potentially managing these services internally or any other options available – for more information, see: http://www.winnipeg.ca/CLKDMIS/ViewDoc.asp?DocId=12186&SectionId=&InitUrl= No updates have occurred on the status of this recommendation since the 2014 Qtr 4 meeting at which it was decided that this recommendation would not be implemented.

Additional Recommendations Adopted by Council

No.	Recommendation	Status	Comment
18	a) Forward the full *Real Estate Management Review* to Manitoba Justice for review b) Requires that Manitoba Justice respond to the request through the City of Winnipeg Auditor to Council	Complete	City Clerks sent the report to Manitoba Justice on July 18, 2014. On August 15, 2014 the Department of Justice informed the City Auditor that the matter has been referred to the Royal Canadian Mounted Police to review.
19	a) That the City of Winnipeg create an Independent Fairness Commissioner ("IFC"), who would have the power to review all Real Estate Transactions and Management Services before they are presented to the Standing Policy Committee and/or Council, and that they would report directly to Council, via and under the Office of the City Auditor. b) That the power to review and comment on all real estate transactions by the IFC, be retroactive to all potential transactions now underway and that the said IFC be reviewed by Council in 5 years. c) That the Auditor, in consultation with the City Solicitor, report to Council for the purpose of approving the mandate/model for the IFC and the financial resources required for the operation of the said IFC.	In Progress	A Report of the Implementation of an Independent Fairness Commissioner was presented to the City's Audit Committee in June 2015 and received as information. A City job posting #113191 for an Independent Fairness Commissioner was issued with a close date of December 21, 2015. The Audit Department in coordination with human resource specialists from the Corporate Support Services Department have reviewed the applications, and interviews are set for January 2016.
20	That the City Auditor be delegated authority to acquire an external agency, other than EY, to oversee the implementation of all recommendations from EY's report by the Public Service in a timely and efficient manner, to report back to Council on the implementation of the recommendations via the Auditor's Report to Council.	Complete	The City's Audit Department issued RFP 750-2015 to engage a third party to oversee the implementation of all recommendations from the EY report. The submission deadline was September 22, 2015. The contract was awarded to Deloitte.

Appendix 1 – Scope of review

In providing our Report, we have reviewed and considered the following:

1. City of Winnipeg - Real Estate Management Review Findings and Recommendations Report dated June 19, 2014 (prepared by Ernst & Young)
2. City of Winnipeg Real Estate Management Review - Status of Audit Recommendations 2015 Qtr 3
3. City of Winnipeg Real Estate Management Review status update template as of December 2015
4. City of Winnipeg Council Minutes for December 9, 2015 (Minute No. 60)
5. City of Winnipeg - Real Estate Transaction Management Framework draft report as of December 23, 2015 (prepared by Ernst & Young Orenda Corporate Finance Inc.)
6. RETMF Appendix B - Directive for Complete Reporting
7. RETMF Appendix C - Complete Reporting Checklists
8. RETMF Appendix D - Appraisal Guidelines
9. RETMF Appendix E - Comprehensive Procurement Process and Engagement of Materials Management Guidelines
10. RETMF Appendix G - Commission Guidelines
11. RETMF Appendix I - Internal Communications Documentation and Retention Policy
12. RETMF Appendix K - Legal Review Guidelines
13. RETMF Appendix M - Directive for Monitoring Status of Real Estate Transactions
14. RETMF Appendix N - Environmental Site Assessment Guidelines
15. Other information as provided by the City and/or as contained in our files.

We have not audited or otherwise verified the information relied upon in preparing the Report.

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