Agenda – Executive Policy Committee – March 18, 2025

REPORTS

Item No. 6 Winnipeg Police Service Headquarters Litigation

WINNIPEG PUBLIC SERVICE RECOMMENDATION:

1. That this report be received as Information.

DECISION MAKING HISTORY:

COUNCIL DECISION:

On March 23, 2023, Council concurred in the recommendation of the Executive Policy Committee, as amended, and adopted the following:

1. That the City agree to a full settlement of both the Deficiencies Action (CI 18-01-14533) and the Fraud Action (CI 20-01-25295) and all associated claims currently filed in Court of King's Bench in respect of all parties in those Actions (excepting the City's severed claim against the Sheegl defendants, as defined below) on the following basis:

    A. Payment to the City of the following:

        i. $21.5 million if payment in full is made within 12 months of Council's approval of the settlement proposed herein;

        ii. $22.5 million if payment in full is made within 24 months of Council's approval of the settlement proposed herein;

        iii. $23.5 million if payment in full is made within 36 months of Council's approval of the settlement proposed herein.

    B. If full payment is not made within 36 months of Council's approval of the settlement proposed herein, consent judgment in favour of the City to be filed with the Court of King's Bench in the amount of $28 million; and

    C. Security to be registered on real property and/or other security arrangements in place sufficient in the opinion of the Chief Administrative Officer to secure full payment of the above amounts to the City.

2. That the City enter into, execute and deliver such agreements with some or all of the parties to the Actions referred to in Recommendation 1 as are determined to be reasonable by the Director of Legal Services and City Solicitor to implement the intent of the foregoing.

3. That authority be delegated to the Chief Administrative Officer to negotiate and approve the terms and conditions of the agreements referred to in Recommendation 2 in accordance with this report and such other terms and conditions deemed necessary by the Director of Legal Services and City Solicitor to protect the interests of the City.

DECISION MAKING HISTORY:

COUNCIL DECISION (continued):

4. That, in the event Recommendations 1 - 3 are not approved, an over-expenditure be approved to the Legal Services Department 2023 operating budget of a total of $6,407,750 in order to continue the engagement of external legal counsel as well as document management and forensic accounting services and other experts required to complete the trials of the Deficiencies Action and the Fraud Action as further detailed in this report.

5. That subject to the approval of Recommendation 4, that contractual over-expenditures be approved as follows:

    A. $4,035,000 on the contract to Marr Finlayson Pollock LLP for a total contract value of $6,435,000 in connection with the Fraud Action (as defined below);

    B. $750,000 on the contract to Marr Finlayson Pollock LLP for a total contract value of $1,100,000 in connection with the Deficiencies Action (as defined below);

    C. $1,622,750 on the contract to Deloitte LLP for a total contract value of $3,270,750.

6. That the Winnipeg Public Service report back to Council every 24 months on the funds collected to date, until the full funds are collected, as stated in this report herein.

7. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

ADMINISTRATIVE REPORT

Title: Winnipeg Police Service Headquarters Litigation

Critical Path: Executive Policy Committee – Council

AUTHORIZATION

Author	Department Head	CFO	CAO
D. Brown	D. Brown	T. Graham	S. Armbruster, Interim CAO

EXECUTIVE SUMMARY

March 23, 2023, Council approved a full settlement of both the Deficiencies Action (CI 18-01-14533) and the Fraud Action (CI 20-01-25295). Council further directed the Public Service to report back to Council every 24 months on the funds collected to date.

No funds have been collected to date.

RECOMMENDATIONS

1. That this report be received as Information.

REASON FOR THE REPORT

The Council resolution of March 23, 2023, approved the settlement of both the Deficiencies Action and the Fraud Action and included a requirement for the Winnipeg Public Service to report back to Council every 24 months on funds collected from that settlement.

IMPLICATIONS OF THE RECOMMENDATIONS

There are no implications to receiving this report as information.

HISTORY/DISCUSSION

The Public Service Report of March 10, 2023, outlines the history of the litigation and the basis for the recommendation of the Public Service to enter into a settlement of two court actions involving the Winnipeg Police Headquarters project:

- CI 18-01-14533 – Court action filed on May 16, 2018, alleging deficiencies in various aspects of the construction of the Project (the “Deficiencies Action”). The allegations against the defendants in the Deficiencies Action, as set out in the Statement of

Claim, relate to a number of construction and/or design deficiencies associated with the Project and involve allegations of negligent construction work by CPI. and negligent design and supervision work by AAR, the City's consultant on the Project. CPI filed a Counterclaim against the City in connection with the Deficiencies Action, and both CPI and AAR have filed Crossclaims against one another.

- CI 20-01-25295 – Court action filed on January 6, 2020, alleging improper and fraudulent conduct from multiple parties involved in the Project (the "Fraud Action"). The allegations against the defendants in the Fraud Action, as set out in the Re-Amended Statement of Claim, consist of allegations of fraud, conversion, fraudulent and/or negligent misrepresentation, deceit, conspiracy, unjust enrichment, negligence and breach of contract that led to a significant increase in the costs of the Project, resulting in loss and damage to the City. A number of the defendants named in the Fraud Action have filed Crossclaims against one another.

The settlement approved by Council at its meeting of March 23, 2023, was structured as follows:

A. Payment to the City of the following:
   i. $21.5 million if payment in full is made within 12 months of Council's approval of the settlement proposed herein;
   ii. $22.5 million if payment in full is made within 24 months of Council's approval of the settlement proposed herein;
   iii. $23.5 million if payment in full is made within 36 months of Council's approval of the settlement proposed herein.

B. If full payment is not made within 36 months of Council's approval of the settlement proposed herein, consent judgment in favour of the City to be filed with the Court of King's Bench in the amount of $28 million; and

C. Security to be registered on real property and/or other security arrangements in place sufficient in the opinion of the Chief Administrative Officer to secure full payment of the above amounts to the City.

Pursuant to the terms of the agreement security has been placed in an amount sufficient to satisfy Part "C" of the Council decision.

To date no payments have been made on the settlement.

The Public Service has no information as to when or if the settlement amounts will be paid to the City. If payment is not made by March 23, 2026, the City will then be in a position to take steps to realize on the security provided as part of the settlement agreement.

FINANCIAL IMPACT

Financial Impact Statement

Date: February 19, 2025

Project Name:

Winnipeg Police Service Headquarters Litigation

Comments:

There are no financial implications associated with receiving this report as information.

Randy Bernard

Randy Bernard, CPA, CMA
Manager of Finance & Administration (Campus)
Corporate Finance Department

CONSULTATION

This Report has been prepared in consultation with: N/A

OURWINNIPEG POLICY ALIGNMENT

N/A

WINNIPEG CLIMATE ACTION PLAN ALIGNMENT

Consideration was given as to whether this report connects to the Winnipeg Climate Action Plan (CAP), and it was determined that the CAP is not applicable to this specific report.

WINNIPEG POVERTY REDUCTION STRATEGY ALIGNMENT

Consideration was given as to whether this report connects to the Winnipeg Poverty Reduction Strategy (PRS) and its Goals and Objectives, and it was determined that the PRS is not applicable to this specific report.

SUBMITTED BY

Department: Legal Services
Prepared by: Doug Brown, Director and City Solicitor
Date: February 12, 2025