

**REVIEW OF THE GEORGE STREET PARKADE PROJECT**

**JUNE 3, 2021**

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## REVIEW OF THE GEORGE STREET PARKADE PROJECT

### I. OUR RETAINER

We were retained by the City of Prince George (the “City”) to undertake a detailed independent review of the issues that have arisen in relation to the construction of the George Street Parkade project (the “Parkade”) as part of the City having partnered with A & T Project Developments Inc. (the “Developer”) for a housing project (the “Housing Project”) on City owned lands (the “Lands”) adjacent to City Hall.

Our review went beyond the administration of the specific agreements relating to the Housing Project and the construction of the Parkade, and included consideration of best practices in relation to the processes for the planning of construction projects, the authorization of the contractual arrangements for the projects, and the identification and allocation of financial resources for those projects.

### II. GENERAL COMMENTS

Our review of this matter concluded that the major issues associated with the Housing Project and Parkade arose as a result of the City pressing forward without first having undertaken appropriate due diligence, both in terms of design for the Parkade and consideration of the appropriate allocation of risk.

The City’s longstanding desire for the revitalization of the Downtown, and its strong belief that the Housing Project and Parkade were much-needed development to spur on that revitalization, led the City to press forward with negotiations with the Developer, and enter into significant financial commitments, without having first undertaken sufficient design work to fully understand the costs associated with the commitments that the City was making in agreeing to pay the costs of construction of the Parkade and the costs of off-site works necessary for the construction of the Parkade.

While the costs incurred by the City have not necessarily been unreasonable, the City did not do sufficient due diligence in advance of moving forward to fully understand the costs it agreed to incur, and the risks associated with moving forward in the proposed manner.

### III. BACKGROUND FACTS

Based on our review of this matter, which included both a review of the documents that we believed to be relevant and necessary for us to fulfill our mandate under our retainer and discussions with City staff involved in the administration of the Parkade and Housing Project, we determined the relevant background facts to be as follows:

1. In relation to the administration of the City, the City Council has established the City Manager position and, in doing so, adopted the “one employee” model, under which the City Manager is the sole intermediary between City Council and other City staff. In this capacity, the City Manager is ultimately responsible for overseeing the City’s administration. In that capacity, the communication of information by City staff to the City Council, and when that information is communicated is determined by the City Manager. This oversight generally takes the form of the City Manager reviewing and approving all reports from City staff to the City Council. The former City Manager performed this role throughout the relevant time period covered by our review of this matter.
2. From at least November 2016, the City and the Developer had been in discussions towards a partnership for the development of the Lands for the purposes of the Housing Project.
3. Prior to engaging in these discussions with the Developer, the City did not undertake any public competition to identify and evaluate possible partners for the Housing Project.
4. Ultimately, discussions between the City and the Developer led to a proposed arrangement (the “Arrangement”) for the Housing Project to move forward, which arrangement contemplated the City selling the Lands to the Developer for market value, the Developer constructing the Housing Project and the Parkade, the Developer paying the costs of construction of the Housing Project, the City paying the costs of construction of the Parkade, and the City renting parking stalls in the Parkade to the Developer below market value.
5. To give effect to the Arrangement, the City and the Developer negotiated two legal instruments: a sales agreement for the Lands and a partnering agreement for the provision of the Housing Project and the Parkade.

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6. The Arrangement was presented to the City Council in a November 10, 2017 Closed Session Staff Report to Council and considered at a closed meeting held on November 20, 2017. At that closed meeting Council resolved to authorize:
    - (a) City administration to bring forward a proposed partnering agreement as generally described in the Staff Report to Council dated November 10, 2017;
    - (b) City administration to enter into a sales agreement for the subject Lands, subject to Council's approval of the Partnering Agreement;
    - (c) The General Manager of Planning and Development to sign all agreements and other documentation necessary to complete this transaction; and,
    - (d) City administration to proceed to post public notice of proposed property disposition in accordance with s.26 of the *Community Charter* and to speak publicly on the matter as may be desired.
  7. The November 10, 2017, Closed Session Staff Report to Council included a proposed form of the partnering agreement and a proposed form of the sales agreement for the Lands, both of which contained the following provision in relation to the costs of the Parkade:

“2. The Developer will build at cost, as verified by the City's chosen quantity surveyor, approximately 266 underground parking stalls to be owned by the City in a Parkade along with approximately 68 surface spaces. The Parkade shall be designed to support the foundations of the buildings constructed on the Lots.”
  8. The November 10, 2017, Closed Session Staff Report to Council indicated to the City Council that:
    - (a) The costs of the Parkade under the Arrangement would be \$12.6 million; and,
    - (b) The costs of the Parkade under the Arrangement would be \$2 million less than the amount estimated by quantity surveyors as being the cost to the City if it were to construct the Project through a tender process.

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9. The costs of the Parkade under the Arrangement of \$12.6 million was made up of a cost of \$12,012,054, plus 5% profit. The November 10, 2017, Closed Session Staff Report to Council did not include this breakdown, and the City Council was not aware of it.
10. The Arrangement was subsequently described in a December 11, 2017, Staff Report to Council as follows:
- An agreement where the Developer would build affordable and/or market housing in the downtown core, which would promote the City Centre as an affordable and desirable residential locale, which the City Council believed to be necessary and desirable;
  - Key conditions of the Partnering Agreement included
    - The Developer providing, on terms to be specified, a project composed of 4 Lots, each consisting of approximately 32 – 46 residential strata lots for sale or rent.
    - The Developer building at cost, as verified by the City’s chosen quantity surveyor, approximately 288 underground parking stalls to be owned by the City in a Parkade, along with approximately 64 surface spaces. The Parkade would be designed to support the foundations of the buildings constructed on the Lots. Upon completion of the Parkade and the buildings proposed on Lots 1, 2, 3 and 4, the City would enter into a 50 year term lease with the Developer or then owner of the buildings, providing for a lease in the Parkade at a per stall rate (the “Parking Rate”) of \$75.43 month.
    - The Parking Rate would be increased by 10% at the end of each 10 year period of the term of the lease.
  - The City of Prince George Off Street Parking Bylaw required that the City provide off-street parking in the downtown area. Therefore, the proposed construction and ownership by the City of the project parkade would provide additional parking while the City’s surface lots are redeveloped.
  - The cost of the new parkade would be funded from City reserves and not from general taxation.
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11. This description reflected an increase in the number of underground parking stalls in the Parkade from 266 to 288. This increase was not identified in the December 11, 2017, Staff Report to Council, and was not otherwise expressly brought to the attention of the City Council at the time.
12. At its meeting held on December 18, 2017, the City Council considered the Arrangement, as presented in the December 11, 2017, Staff Report to Council, and resolved to:
  - (a) Approve the partnering agreement with the Developer; and,
  - (b) Authorize Administration to execute the partnering agreement (the "December 2017 Partnering Agreement") with the Developer
13. The General Manager, Planning and Development, finalized and executed the partnering agreement (the "Executed Partnering Agreement") on December 19, 2017. It contained the following:
  - "2. The Developer will build at cost, as defined in Schedule "B" and as verified by the City's chosen quantity surveyor, approximately 288 underground parking stalls to be owned by the City in a Parkade along with approximately 64 surface spaces. The Parkade shall be designed to support the foundations of the buildings constructed on the Lots."
14. Schedule "B" to the Executed Partnering Agreement consisted of the "Parkade Plan", and contained no information in relation to the costs of the Parkade.
15. On January 16, 2018, the former City Manager executed a standard form CCDC3 2016 Costs Plus Contract (the "Executed Cost Plus Contract") with the Developer for the construction of the Parkade. The Executed Cost Plus Contract:
  - (a) Was prepared by the Developer, was not vetted by City staff responsible for procurement matters, and was not brought to the City Council for consideration or approval;
  - (b) Identified the preliminary budget for the Parkade construction to be \$12,012,054, plus 5% profit and GST;
  - (c) Obligated the City to pay to the Developer the actual costs of construction of the Parkade, plus 5% on account of the Developer's overhead costs, plus an additional 5% on account of profit;

- (d) Obligated the City to incur all costs of providing services to the Parkade site; and,
- (e) Did not include any limit on the maximum amount payable by the City to the Developer.
16. On January 25, 2018, the General Manager, Planning and Development executed a sales agreement for the Lands (the "Executed Sales Agreement"), which contained the same section related to the parkade costs as the Executed Partnering Agreement.
17. While the wording of section 2 of the Executed Sales Agreement was the same as section 2 of the Executed Partnering Agreement, Schedule "B" to the Executed Sales Agreement was the Executed Cost Plus Contract, not the plan attached as Schedule "B" to the Partnering Agreement.
18. On July 3, 2018, the Developer notified the General Manager, Planning and Development, by email, of "very large" increases over the preliminary budget relating to water control, steel tariffs, unavailability of trades and materials, other construction matters, and the increase in the number of underground parking stalls from 266 to 289.
19. On July 4, 2018, the General Manager, Planning and Development, notified the former City Manager of the expected cost increases for the Parkade, who notified Mayor Hall by email that day of the issue and advised that Mayor Hall would be informed as more information was available.
20. Later that day, the Developer advised the General Manager, Planning and Development, as follows:

"Our original preliminary budget based on very limited information and pre design was for 266 Underground stalls and 68 surface stalls the project is now 289 Underground stalls and 62 surface stalls an increase of \$1,520,343.30 including our 5%.

We have had some unforeseen items or items that have come up that were not typical to what we had expected of the parkade. These items are building in 2 phases vrs. 1 phase, tanking of the foundation including a raft slab, Sheet piles in lieu of shotcrete, dewatering of site and miscellaneous (demo of structures, oil tanks, upgraded overhead doors, generator etc.) These items total approximately \$ 2,321,708.55.

The other factor that has come into play is Trump tariffs, extremely busy and volatile construction market with a shortage of skilled labour and increase in construction costs that amount to an overrun of \$2,947,334.97.”

21. The General Manager, Planning and Development, notified the former City Manager, who indicated that the increased costs warranted a revisit in the City’s prioritization of current and future capital projects.
22. There is no record of this information having been communicated to Mayor Hall or to the City Council.
23. In a March 1, 2019, Staff Report to Council, the General Manager, Engineering & Public Works, presented to Council

“Parkade

During the December 11, 2017 Open Meeting of Council, Council approved and authorized Administration to execute a partnering agreement with A&T Project Developments Inc. As part of the agreement, A&T agreed to build the parkade at the City’s cost. During the financial year end processes for 2018, it was determined that there was not a resolution in the December 11th report to satisfy the *Community Charter’s* requirements for authorized expenditures. As a result, Administration is requesting that Council approve a resolution that officially indicates the Endowment Reserve as the source of funding for the Parkade. The initial budget estimate is \$12,612,657.”

24. There is no reference in the March 1, 2019, Staff Report to Council of the estimated \$7 million increase in the costs of the Parkade advised by the Developer.
25. The March 1, 2019, Staff Report to Council, from the General Manager, Engineering & Public Works was reviewed and approved by the former City Manager.
26. Consequently, at its meeting on March 11, 2019, the City Council resolved to amend the City’s Financial Plan to add the George Street Parkade Construction Project and approved the initial preliminary budget of \$12,612,657, to be funded from the Endowment Reserve.
27. In an April 15, 2019, Staff Report to Finance and Audit Committee, the Director of Finance brought forward proposed changes to the City’s Sustainable Finance



Guidelines, which summarized proposed changes relating to budget management as follows:

“Budget amendments (new money that has been added to the Financial Plan – examples can be a grant that is received mid-year or a draw from reserve to cover additional spending in a capital project) are proposed to have a different Administrative delegated authority level. Historically, Administration has been delegated budget amendment authority of up to \$1,000,000 per project. The recommendation is that there is a cumulative authority level equal to 5% of the total operating budget. This will allow the limit to naturally scale with the City’s budget growth and will place a more defined limit on the amount by which Administration may amend the Financial Plan.”

28. The proposed amendment to the City’s Sustainable Finance Guidelines was brought forward by the Director of Finance out of concern that there was no overall limit to amendments and transfers from capital project budgets under the existing policy. The limit established under the proposed amendment to the City’s Sustainable Finance Guidelines of 5% of the City’s total operating budget was chosen as an amount that would impose an overall limit, but not erode the delegated authority of the former City Manager.
29. The April 15, 2019, Staff Report to Finance and Audit Committee, from the Director of Finance was prepared in consultation with, and was ultimately reviewed and approved by, the former City Manager.
30. At its meeting on May 13, 2019, the City Council resolved to approve the amendments to the City’s Sustainable Finance Guidelines. Prior to approving them, the City Council was advised that the amendments provided for greater Council oversight of budget amendments and that the former City Manager, who was not in attendance at the meeting, would likely inform Council of large budget amendment items if she felt Council needed to know. In any event, regardless of the approval of the amendments by the City Council, the City was obligated at this stage to pay all cost overruns in relation to the Project.
31. Prior to these amendments the City’s Sustainable Finance Guidelines provided that:

“Budget amendments of \$250,000 or less may be approved by directors. Budget amendments greater than \$250,000 and less than or equal to \$1,000,000 may be approved by the City

Manager. Budget amendments greater than \$1,000,000 require Council's approval."

32. With these amendments the City's Sustainable Finance Guidelines provided that:

"Cumulative budget amendments in a calendar year of up to 5% of the total operating budget may be approved by the City Manager. If the cumulative budget amendments in a calendar year total 5% of the total operating budget, subsequent budget amendments must be approved by Council."
33. In a June 14, 2019, Staff Report to Council, the former City Manager presented the 2018 Annual Report to City Council, which annual report represented the budget for the Parkade as being \$12.9 million and did not reference the expected increase in the costs of the Parkade.
34. In a November 5, 2019, Staff Report to Finance and Audit Committee, the Director of Finance provided a financial report on significant capital projects, which included a line item for the Parkade indicating that the approved budget for the Parkade was \$16,372,186.00, with that amount spent to date.
35. There is no explanation in the November 5, 2019, Staff Report to Finance and Audit Committee of the increase in the budget amount for the Parkade from that included in the City's Financial Plan in March 2019, nor is there any indication that the costs would be approximately \$3 million more than the increased budget amount included in the report.
36. The November 5, 2019, Staff Report to Finance and Audit Committee, from the Director of Finance was prepared in consultation with, and was ultimately reviewed and approved by, the former City Manager.
37. On February 26, 2020, the former City Manager exercised her new authority under the City's Sustainable Finance Guidelines to increase the budget for the Parkade by the amount of \$5,354,572.18 to reflect the actual costs incurred to the end of December 2019.
38. On September 25, 2020, the former City Manager's employment with the City ended.
39. By November 2020, the City incurred an approximate \$4.5 million in additional costs for the Parkade, bringing the total cost to approximately \$22.5 million.

40. On November 23, 2020, City Council amended the City's Sustainable Finance Guidelines, to provide that:

“Budget amendments in a calendar year or transfers equal to the lower of: 5% of the capital project budget, or \$100,000 per project, may be approved by the City Manager. If the budget amendments in a calendar year exceed the above totals, subsequent budget amendments must be approved by Council.”

#### **IV. KEY ISSUES: REVIEW AND FINDINGS**

##### **A. Introduction**

Based on our review of this matter, and in consideration of the relevant background facts set out above, we identified a number of key issues relating to Parkade and the Housing Project. Our review and findings in relation to those key issues are set out below.

##### **B. The Identification of Possible Partners**

In 2016, the City identified the Developer as a possible partner for the Housing Project and entered into a Letter of Intent with the Developer for such purposes. Even after it was clear that the goals of the Letter of Intent could not be achieved, the City continued to work solely with the Developer to move the Housing Project forward.

Generally speaking, where a local government is interested in partnering with a private developer for the provision of a public service, such as affordable housing, it is best practices for the local government to conduct an open process seeking proposals from interested developers. In this manner, the local government is able to draw on the expertise and creativity of the developers interested in providing the service.

Despite the failure of the original Letter of Intent with the Developer, clearly indicating the economics of the Housing Project were challenging, the City did not explore any alternatives to achieve its goals.

In the circumstances, it would have been prudent for the City to engage the broader development community through a Request for Proposals process to identify a number of possible arrangements for the provision of the Parkade and the Housing Project and the financial models associated with them.

### **C. Due Diligence in Negotiating the Arrangement**

In negotiating the Arrangement with the Developer, the City undertook some due diligence to protect itself. That being said, it appears to us that the City did not undertake an appropriate level of due diligence in the circumstances.

With respect to due diligence in relation to the costs of construction of the Parkade, the City did not undertake sufficient due diligence to protect itself. While the City engaged a quantity surveyor and obtained a report on the costs of construction of the Parkade in July 2017, the significance of that report was limited as the negotiations with the Developer were leading towards an arrangement where the City would pay the Developer's actual costs of constructing the Parkade. Reliance on the advice of a quantity surveyor that was based on a preliminary design alone carried with it significant risk. The quantity surveyor had indicated that the costs of construction of the Parkade would be in the range of \$14.6 million if undertaken through the City's usual tender processes. It would have been reasonable for the City to anticipate costs may increase, and the fact that the Developer was indicating costs of \$2 million less than the quantity surveyor's estimate should have been a red flag for the City. In the circumstances where the City was assuming the risks of increased costs of construction, the City would have been prudent to have negotiated some limit on its payment for the costs of construction of the Parkade.

With respect to due diligence in relation to the costs to be incurred by the City in relocating existing services and providing new services to the Lands for the purposes of the Parkade and the Housing Project, the City estimated those costs to be in the range of \$1 million. It is not clear how the City arrived at that estimate. However, it is clear that the actual costs of relocating the existing services and providing the new services were significantly higher than the estimate. Given the City was assuming responsibility for those costs, it would have been prudent to undertake greater due diligence in determining what work needed to be done and the cost of doing it.

### **D. The Explanation of the Financial Implications of the Arrangement**

In the November 10, 2017, Closed Session Staff Report to Council, the General Manager, Planning and Development, advised City Council of the financial implications of the Arrangement, including:

- Estimated cost of relocating existing utilities, demolition of buildings, and construction of parkade is approximately \$13,600,000.
- By bylaw, the City is responsible for off-street parking in this area and funds generated through parking revenue will be applied to off-set parkade cost.
- The proposed parkade will provide needed parking space for downtown redevelopment.

- Estimated cost of project through the City's tendering process may exceed \$14,630,000.

While the November 10, 2017, Closed Session Staff Report to Council makes clear that, under the Arrangement, the City will be responsible for the costs of construction of the Parkade as well as the costs of relocating existing and providing new services to the Lands, the Report, when discussing the financial implications of the Arrangement, does not contain any explicit cautions relating to the uncertainty around those costs; the report presents a best-case scenario.

While the financial risks could have been more clearly set out, when the November 10, 2017, Closed Session Staff Report to Council is read as a whole, there was information in the Report that could have alerted the City Council as to the risks associated with the Arrangement generally and the Parkade specifically. The Report identified the approximate cost of the Parkade and that the City would be obligated to pay the costs of construction. The Report did not suggest that the City's liability to pay those costs would be limited in any manner other than the reference to review by a quantity surveyor retained by the City.

#### **E. The Executed Partnering Agreement**

The Executed Partnering Agreement is in the form that was presented to City Council at its meeting on December 18, 2017, for approval.

There is one important aspect of the Executed Partnering Agreement that warrants mention. As mentioned earlier, the agreement increases the number of underground parking stalls from approximately 266 to approximately 288, with that increase not being expressly brought to the City Council's attention. When that increase was included in the agreement, it should have at least been queried whether that increase would result in an increase in cost. A review of the December 11, 2017, Staff Report to Council shows that, despite the increase in the number of underground parking stalls, there is no mention of any associated cost increase. Importantly, in July 2018, when the Developer advised the City of the significant escalation in the costs of construction of the Parkade, approximately \$1.5 million of the costs' escalation was related to the increase in the number of underground parking.

#### **F. The Executed Cost Plus Contract**

On January 16, 2018, the City entered into the Executed Cost Plus Contract between the City and the Developer in relation to the construction of the Parkade.

Under the Executed Cost Plus Contract, the Developer was required to construct the Parkade, and the City was required to pay the Developer for doing so on the basis of the Developer's actual costs incurred in constructing the Parkade, plus 5% for overhead costs and 5% for profit. The Executed Cost Plus Contract expressly stated that the "Preliminary Budget of Parkade Construction is \$12,012,054.00 plus 5% profit and GST."

The former City Manager executed the Executed Cost Plus Contract under the authority of the Executed Partnering Agreement, which committed the City to paying the costs of construction

of the Parkade in circumstances where the cost estimate provided to the City Council at the time that it approved the Executed Partnering Agreement included an allowance for Developer's profit at 5% of actual construction costs and overhead, and the City Council approved the agreement with the obligation to pay the costs of construction of the Parkade on the basis of that estimate.

The primary concern with agreeing to pay the costs of construction of the Parkade, and executing the Executed Cost Plus Contract, is that there was no real disincentive to the Developer ensuring that costs remained reasonable. While it is true that the Developer's cost to lease parking stalls depended on the cost of construction, those lease costs would be passed on to purchasers. It would have been prudent for the City to ensure that the contract included checks and balances in favour of the City (e.g., a maximum upset cost). The one specific check and balance included in the contract (e.g., review of costs by a quantity surveyor is discussed below).

#### **G. The Executed Sales Agreement**

On January 25, 2018, the City entered into the Executed Sales Agreement.

The Executed Sales Agreement differed somewhat in form from that which was presented to the City Council at its November 20, 2017, closed meeting. It provides as follows in relation to the costs of construction of the Parkade:

"2. The Developer will build at cost, as defined in Schedule "B" and as verified by the City's chosen quantity surveyor, approximately 266 underground parking stalls to be owned by the City in a Parkade along with approximately 68 surface spaces. The Parkade shall be designed to support the foundations of the buildings constructed on the Lots."

The reference to Schedule "B" was added to the form of the Executed Sales Agreement after the November 20, 2017, closed meeting of the City Council. In addition, Schedule "B", being the Executed Cost Plus Contract, was added to the form of the Agreement.

While the addition of the Executed Cost Plus Contract as Schedule "B" to the Executed Sales Agreement raises concerns as to the process by which the City was authorized to enter into the agreement, the agreement was implicitly authorized by the City Council. The resolution passed by City Council authorized the City to enter into a sales agreement as generally described in the November 10, 2017, Closed Session Staff Report to Council. The addition of the Executed Cost Plus Contract as Schedule "B" was not a substantial change in all the circumstances.

#### **H. The Administration of the Executed Cost Plus Contract**

Both the Executed Partnering Agreement and the Executed Sales Agreement contemplated the City's use of a quantity surveyor as a basis for auditing the costs of construction of the Parkade



claimed by the Developer. The City did not engage a quantity surveyor for such purposes, and relied instead on an internal review of progress payment claims made by the Developer.

The scope of our review does not include an assessment of the costs of construction of the Parkade claimed by the Developer.

Based on our understanding of the nature of the issues that resulted in the increased costs, the Developer was entitled under the Executed Cost Plus Contract to be paid for its additional costs associated with each of these items, as the contract was a cost plus arrangement for which the City solely bore the risk of increased costs.

### **I. Handling of the Parkade Costs Escalation**

The significant escalation in the costs of construction of the Parkade appear to have been brought to the attention of City staff as early as July 3, 2018, when the Developer emailed the General Manager, Planning and Development.

On July 4, 2018, the former City Manager was informed of the escalation in costs and, on that day, she notified Mayor Hall of the issue and advised that he would be kept informed. Later that day, the General Manager, Planning and Development, received a further email indicating that the escalation in costs was in the order of \$7 million. The former City Manager was immediately advised of the same. There is no record of the former City Manager advising Mayor Hall, or any other member of Council, of the contents of this email from the Developer.

From our review of the available records, it appears to us that the former City Manager had determined that the escalation in costs would be addressed through a reprioritization of current and future capital projects.

In March 2019, the General Manager, Engineering & Public Works brought forward a Staff Report to Council seeking to add the Parkade as an approved capital project, at an estimated cost of \$12.6 million, to be paid from the Endowment Reserve. This Staff Report was prepared in consultation with, and finally reviewed and approved by, the former City Manager.

The May 2019 amendments to the City's Sustainable Finance Guidelines allowed the former City Manager to authorize budget amendments to address the escalating costs of construction, which would otherwise have required the City Council's attention.

In a November 2019, Staff Report to Finance and Audit Committee, the Director of Finance reported to the Committee on significant capital projects, and identified an approved budget for the Parkade of approximately \$16.4 million. This Staff Report was prepared in consultation with, and finally reviewed and approved by, the former City Manager.

In February 2020, the former City Manager exercised her new authority under the City's Sustainable Finance Guidelines to increase the budget for the Parkade by the amount of \$5,354,572.18 to reflect the actual costs incurred to the end of December 2019.

Based on our review of this matter, other than in the November 2019, Staff Report to Finance and Audit Committee, at no time did the former City Manager bring the escalation in the costs of construction of the Parkade to the attention of City Council. In addition, to the extent that the costs escalation was, in part, reflected in the November 2019 Staff Report, the Report addressed a broad range of projects and the costs escalation for the Parkade was not expressly brought to the Committee's attention, nor was it readily apparent in the Report.

This lack of disclosure in relation to such a significant financial matter is troubling and has been addressed through the latest amendments to the City's Sustainable Finance Guidelines.

#### **J. The Developer's Commitments for the Housing Project**

As it stands at the time of this review, the Developer originally exercised its options on Lots 1 and 2, and has completed construction on Lot 1 and has applied for a development permit authorizing construction on Lot 2. Further the Developer has taken steps to exercise its option on Lot 3 and that the City and Developer are in the process of preparing the necessary documents to transfer Lot 3 and further secure its development. Finally, the Developer has waived its option on Lot 4, to allow the City to move forward with the construction of a daycare facility on that lot.

In the circumstances, it appears that the Developer intends to proceed with the provision of the Housing Project, and the City will obtain the benefit that it sought through the Executed Sales Agreement and the Executed Partnering Agreement.

#### **K. The City's Sustainable Finance Guidelines**

This review included the various iterations of the City's Sustainable Finance Guidelines since 2013, including the latest iteration of the same, which was passed by City Council in November 2020.

The policy underlying the current version of Part 14 of the City's Sustainable Finance Guidelines, provides as follows:

"Budget amendments in a calendar year or transfers equal to the lower of: 5% of the capital project budget, or \$100,000 per project, may be approved by the City Manager. If the budget amendments in a calendar year exceed the above totals, subsequent budget amendments must be approved by Council."

This policy is in line with those of other similarly sized local governments in British Columbia. While many local governments only provide for a single cap on the value of a budget amendment or transfer that may be approved by the chief administrative officer, a cap that is the lesser of a percentage of a particular capital project budget or \$100,000.00 is prudent. In many ways, a \$100,000.00 transfer to a particular capital project budget of \$25,000.00 is more

significant than a \$100,000.00 transfer to a particular capital project budget of \$2.5 million. The imposition of an aggregate annual cap may be appropriate as well. Whether a \$100,000.00 budget transfer is approved in a single instance or through four instances does not affect the significance of the transfer.

Part 14 of the City's Sustainable Finance Guidelines purport to authorize City staff to approve amendments and transfers in relation to capital project budgets within limits specified by the Guidelines. Proposed amendments and transfers are addressed by the Guidelines as follows:

- Where the proposed amendment/transfer is within the allowable limits, appropriate City staff may approve the amendment/transfer, which is made known to Council when actual expenditures are identified and approved in the final amendment to the Financial Plan Bylaw for the year.
- Where a proposed amendment/transfer is outside of the allowable limits, approval is sought by way of Council resolution. The amendment/transfer is then incorporated into the final amendment to the Financial Plan Bylaw.

As a matter of ensuring greater accountability, despite the fact these amendments/transfers are given legal effect by the adoption of the final amendment to the Financial Plan Bylaw, it is prudent practice for the delegation under Part 14 of the City's Sustainable Finance Guidelines to be conferred by bylaw.

## **V. RECOMMENDATIONS AND CONCLUSION**

Based on our review of this matter, we have made the following recommendations to the City Council:

- When the City is interested in partnering with a private developer for the provision of a public service such as affordable housing, it is best practices for the City to engage in an open process seeking proposals from interested developers. By doing so, the local government is able to draw on the expertise and creativity of those interested developers and identify a range of possible arrangements under which the public service can be provided. This is especially beneficial where the economics of the proposed service are known to be challenging, such as with affordable housing, as the City will be able to adjudge which arrangement will provide the greatest degree of service at the least cost.
- When considering the appropriate contractual relationship for a construction projects, it is important to understand the risk associated with each form of contractual relationship. Generally speaking, cost plus contractual relationships, while often providing the lowest estimated price for a project,

place the greatest risk on the City, which risk can result in the actual cost of the project being significantly higher. On the other hand, a stipulated price contractual relationships, while often providing the highest price for a project, place the least risk on the City, with the project often being completed for that price or less.

- The City should undertake a detailed review of its project management processes, beginning with the planning/due diligence phase, through to procurement, and ending with the actual administration of the contract.

In conclusion, to put it simply, the increased costs incurred by the City for the Parkade directly flow from the decision made by the City very early on to accept all risk associated with the Parkade as the Developer had indicated that the economics of the Housing Project were questionable otherwise. Having made that fundamental decision, the City saddled itself with the additional costs it incurred.

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