



**Office of the Auditor General: Audit of the
Management of the Lansdowne Contract, Tabled
at Audit Committee – November 30, 2017**

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Acknowledgments

The team responsible for this audit, comprised of Vivien Kaye and Louise Proulx, under the supervision of Sonia Brennan, Deputy Auditor General and the direction of Ken Hughes, Auditor General, would like to thank those individuals who contributed to this project, and particularly, those who provided insights and comments as part of this audit.

Original signed by:

Auditor General

Executive summary

Purpose

The Audit of the Management of the Lansdowne Contract examined whether the agreements that govern the Lansdowne Partnership Plan are being managed efficiently and effectively in order to provide the City with the information it needs to meet its objectives for the revitalized Lansdowne Park. The audit examined the contract management practices and processes in the Recreation, Cultural and Facility Services (RCFS) department, which is responsible for day-to-day administration of the Lansdowne Partnership Plan agreements. The Audit of the Management of the Lansdowne Contract was included in the 2016 Audit Plan of the Office of the Auditor General, approved by City Council on December 9, 2015.

Background and rationale

Lansdowne Park is a historic venue in existence since 1847. It is a 40-acre City owned site that has been used as a facility for a variety of sports and entertainment events. Between 1888 and 2010, it was the location for the Central Canada Exhibition. Over the years, the condition of the facilities at the site deteriorated and became expensive for the City to maintain.

On October 12, 2012, City Council signed a limited partnership agreement with Ottawa Sports and Entertainment Group (OSEG) and others to redevelop the whole of the Lansdowne Park site. The Lansdowne Partnership Plan is a multi-year, multi-million-dollar project governed by approximately 50 legal agreements. (See Appendix B for a list and description of the major agreements.)

The project is public-private partnership. The City of Ottawa's *Public Private Partnership Policy* defines a Public Private Partnership (P3) as: *A contractual agreement between a public authority and a private entity for the provision of infrastructure and/or services in which:*

- i. The private sector participant assumes the responsibility for financing part or all of the project; and/or*
- ii. The City seeks to transfer risks that it would normally assume, based on the private sector participant's ability to better manage those risks; and/or*
- iii. The arrangement extends beyond the initial capital construction of the project.*

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The Lansdowne project redeveloped and/or repaired the Frank Clair Stadium and the Civic Centre, and constructed retail, office and residential areas at the site. A public, open space known as the Urban Park was created, which also includes the Horticulture Building and the Aberdeen Pavilion. The City is responsible for the Urban Park area.

OSEG operates the stadium, arena and parking garage and is responsible for the public areas throughout the retail and residential parts of Lansdowne Park. It is also the property manager for the maintenance and repair of the Urban Park area. There is a football team, hockey team and soccer team on-site.

Each year, the Lansdowne Partnership Plan Annual Report is presented to Council. The report includes a summary of the on-going exercise of delegated authority under the Lansdowne Partnership Plan legal agreements by the City Manager, City Clerk and Solicitor and City Treasurer. It reports on the annual Lansdowne Master Limited Partnership unitholder meeting and the annual Meetings Amongst Parties to Unanimous Shareholder Agreements. It also provides a status report on the operations of the Lansdowne Partnership Plan.

The annual Lansdowne Master Partnership meetings are the highest level of oversight for the Lansdowne agreements. The City is represented by the City Manager, the City Treasurer, and the City Solicitor, who have delegated authority to make decisions on behalf of Council.

Sound management practices are important to ensure that the P3 relationship is protecting the City's facilities and property and that activities are aligned with the City's vision of the redeveloped Lansdowne Park. This audit will also inform further improvements to the governance and oversight of the P3 relationship.

Findings

The audit focused on corporate governance and oversight, and provision of services under the contract agreements.

The key findings associated with each area are as follows:

1. Corporate Governance and Oversight

- a. The City's Recreation, Cultural and Facility Services (RCFS)¹ department has overall responsibility for Lansdowne Park. The Director, Community

¹ Name of department after 2016 City reorganization.

Recreation Core Programs is responsible for the Community Recreation Core branch. As part of the branch, the Lansdowne/City Hall Park Programs Unit (LPU) is responsible for programming in the Urban Park and management and oversight of the Ottawa Farmers Market (OFM) Licence of Occupation. RCFS can draw on other City departments to provide support for management of the Lansdowne agreements, as required.

The City does not have a comprehensive approach, document or tool to effectively monitor compliance to all provisions of the Lansdowne Partnership Plan agreements. Clear responsibility and accountability for monitoring of compliance by City staff has not been established. We found no evidence that some of the contract provisions were being monitored at all, and in some cases there was confusion as to who had the responsibility to monitor them. Of the 43 provisions we examined, 22 requirements were found not to be met (Appendix C for the agreements and articles reviewed).

A comprehensive tool or document would have been beneficial in determining whether or not OSEG was in compliance with all the requirements under the agreements.

- b. Overall, monitoring of the insurance provisions for the Lansdowne agreements is not in place. With the exception of the OFM Licence of Occupation, insurance certificates showing evidence of insurance coverage for agreement partners which are required to be provided under the various agreements have not been received nor requested by the City. Based on interviews conducted with departmental staff and OSEG, we found that there is a lack of clear understanding and accountability within the City as to who is responsible and accountable to monitor and review insurance provisions in contracts and agreements with third parties who provide services for, or on behalf of, the City.

There is a risk that the Lansdowne P3 partners are not maintaining insurance coverage as outlined in the agreements, which could have significant financial consequences for the City should an incident occur.

- c. We found that both City staff and OSEG lack awareness of certain reporting requirements in the Lansdowne agreements. More than half of the financial, operational and technical reporting requirements that we examined under the Master Limited Partnership Agreement, the Urban Park Property Management

Agreement, the Master Site Agreement, and the Parking Structure Reciprocal Agreement have not been met.

In some cases, City staff and OSEG were not aware that reports are required to be issued. Had a comprehensive monitoring and reporting requirements document existed, awareness would have been improved.

- d. Trust accounts for Stadium and Parking Garage reserve funds have not been set up as required under the Stadium Lease and the Parking Structure Reciprocal Agreement. According to the current Life Cycle plans for the stadium and the parking garage, for five years beginning in 2015, OSEG is required to contribute \$1,427,250 annually into reserve funds for projected capital and repair expenditures over the next 30 years. Both the Parking Structure Reciprocal Agreement and Stadium Lease state that the reserve shall be maintained in a segregated trust account, for its intended purpose. Without dedicated trust accounts, there is a risk that funds that are meant to be used to maintain and repair the stadium and parking garage will be used for other purposes, and not be available for use when needed.

The money for the reserves has been deposited in OSEG's general bank account, and OSEG has not allocated interest earned on the funds to the reserve balances.

- e. The importance of an on-going Transportation Demand Management (TDM) program to promote alternative modes of transportation (e.g., public transportation, cycling, walking, etc.) as well as to monitor and minimize the impact of traffic and parking at, and surrounding, Lansdowne Park in particular during medium and large size events, was recognized during the approval process for the Lansdowne agreements. The Site Plan Agreement outlines the requirement for a dedicated TDM coordinator and a centrally located and publicly accessible TDM Office. However, a TDM office was not established, and effective January 1, 2017, OSEG no longer has a dedicated TDM Coordinator, thereby increasing the risk that the effectiveness of the TDM program may be negatively impacted.
- f. The revitalization plan for Lansdowne Park is a complex 30-year, \$300 million project between the City and OSEG and other parties for the redevelopment and operation of Lansdowne Park. As such, it is one of the largest projects that the City has undertaken. We found that the City has not established a risk

management plan for Lansdowne Park operations to ensure that all risks are managed effectively throughout the life of the Lansdowne project.

- g. The responsibility for utilities at the Lansdowne site was not fully allocated to the proper owners and/or understood. The City has paid for the cost of utilities for which they are not the end user. City management discovered the issue and is in the process of rectifying the situation for the future, as well as recovering the excess funds paid for water usage. Excess funds paid for natural gas have already been recovered.
- h. As the Lansdowne site moved from construction to day-to-day operations, the City did not have a transition plan, as required under its P3 policy. A transition plan could have been beneficial in establishing responsibilities and accountabilities for monitoring of the Lansdowne agreements, thereby reducing operational risk. The Project Management Agreement outlines post-construction phase deliverables. The audit team asked for evidence that these deliverables had been met, but no evidence was provided. A comprehensive monitoring and reporting requirements document would have shown that these contract deliverables were not provided.

2. Provision of Services under the Contract Agreements

- a. The City has established a good working relationship with its P3 partner based on a common focus, the co-location of services, and the ability to easily contact each other when necessary. Both OSEG and the City have offices on the grounds of the Lansdowne Park site where meetings occur with ease. We found that City staff can easily contact OSEG for discussion of all topics, including financial, event planning, shared services and property management.
- b. Ottawa Farmers' Market (OFM) revenues and utility cost recoveries do not comply with the OFM Licence of Occupation. A separate agreement to the licence was signed by a staff member who did not have sufficient authority under the delegation of authority by-law. The agreement reduced the rates for the 2015 indoor market by more than 50 percent, thereby reducing City revenue.
- c. With the separate agreement, the City stated it was prepared to absorb OFM heating costs for the 2014/2015 season only, with the intention to monitor to ensure that for the 2015/2016 season an actual cost recovery amount could be determined. We did not find evidence of monitoring to determine an actual cost recovery amount, or that the City is recovering all direct operating costs

for utilities for the indoor market. The reduced rates in the separate agreement have continued to be used to charge the OFM for the 2016 and 2017 indoor market seasons.

- d. While the OFM is required to reimburse utilities costs for the outdoor market, we found no evidence of hydro and water costs being invoiced to or paid by the OFM. We are unable to quantify the amount that should have been recovered.
- e. The Lansdowne agreements do not include a process to deal with issues that are not specifically covered in the agreements. The Lansdowne partnership agreements were written before the site was operational, and not all situations could be foreseen. However, the agreements could have included a process to deal with unforeseen or other issues that might arise from time to time. For example, the audit team reviewed a sample of eight invoices over the period October 2014 through December 2016 which totalled approximately \$70,000. These invoices remained unpaid as of the beginning of February 2017, as the City had not yet determined whether or not to pay them.

Conclusion

Overall, we found that the City's management of the Lansdowne Partnership agreements needs to be strengthened to ensure fulfillment of all contractual obligations. This was due in part to the lack of clear accountability and responsibility to ensure that reporting and other requirements of the Lansdowne agreements are being met, in part to a lack of supporting mechanisms to ensure compliance, and lastly in part to the informal, decentralized support responsible for oversight.

We found that the City has established a good working relationship with its Lansdowne project partner, the Ottawa Sports and Entertainment Group (OSEG). However, key requirements in the agreements were not being met. For example, reserve trust accounts had not been set up, insurance requirements had not been provided or reviewed, and reporting on the stadium and parking garage asset lifecycle requirements had not been fulfilled. In some cases, neither the City nor its partners were aware of the contractual requirements.

We also found that revenues from the Ottawa Farmers' Market rental fees and utility cost recovery were not consistent with the original agreement, and an improperly authorized side agreement was in place.

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Lansdowne Park is the most significant public-private partnership ever undertaken by the City encompassing the vision for an accessible world-class park. One of the main objectives of this partnership was to minimize the capital and operating costs to the City. The achievement of this goal requires careful attention to the terms and conditions of the agreements affecting operations and maintenance, as well as, ensuring that the City's assets are maintained maximizing safety, reliability and availability. The recommendations made in this report will support the ability of the City to meet its objectives, strengthen the compliance to the agreements by partners, and ensure that there is adequate oversight over quality of service and management of risk for this important City asset.

Potential savings

Potential savings identified in this audit include utilities costs which can be recovered and an area where revenues may be increased. The audit did not quantify these amounts due to a lack of information.

Recommendations and responses

Recommendation #1

That the City create a comprehensive document in order to effectively track and monitor compliance to all *Lansdowne Partnership Plan* agreements.

Management response:

Management agrees with this recommendation.

Legal Services is creating a comprehensive document to effectively track and monitor compliance to all Lansdowne Partnership Plan ("LPP") agreements that are of ongoing relevance. The comprehensive document will outline the key details of all relevant LPP agreements and their interaction between those agreements in a matrix. The matrix will highlight the following: (1) important obligations and ongoing rights of all parties; (2) which party is responsible for fulfilling each obligation or enforcing each right; and (3) dates when each obligation must be fulfilled or when each right may be enforced.

Legal Services is also creating a supplementary document to inventory the number and high-level nature of all pertinent LPP agreements.

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The General Manager of Recreation, Cultural and Facility Services (RCFS), or their assigned designate, is responsible for ongoing monitoring and ensuring that the above described documents are kept up-to-date.

Management expects that the foregoing shall be implemented by Q1 2018.

Recommendation #2

That the City verify that insurance policies as outlined in all Lansdowne Partnership agreements are in place.

Management response:

Management agrees with this recommendation.

Based on the comprehensive document created by Legal Services, a list of all insurance policies outlined in all relevant LPP agreements will be compiled. The General Manager of RCFS, or designate, will verify and ensure that all required policies are in place by Q2 2018.

Recommendation #3

That the City formally establish responsibility and accountability for monitoring insurance certificates on an on-going basis for the Lansdowne agreements.

Management response:

Management agrees with this recommendation.

The General Manager of RCFS, or designate, will use the list of insurance policies to request the relevant insurance certificates from the appropriate party/department as required. RCFS will also centrally track and retain these certificates on an-ongoing basis to ensure their validity.

Recommendation #4

That the City clearly establish responsibility and accountability including effective monitoring of compliance for reporting requirements for all contracts and agreements and confirm agreement with OSEG on relevant requirements.

Management response:

Management agrees with this recommendation.

Lansdowne partnership has been monitored through annual reports, operating dashboards and reporting checklists combined with scheduled quarterly meetings and regular check-ins. Additional meetings are held as required.

To supplement current monitoring, Legal Services is developing a comprehensive list of reporting requirements for all contracts and agreements related to the Lansdowne partnership that are of ongoing relevance. The General Manager of RCFS, or designate, will review the full list of reporting requirements with OSEG to confirm a common understanding and agreement on those requirements. RCFS will monitor and track the relevant components centrally in conjunction with OSEG and the appropriate City departments responsible for the areas in question. This process will be established by Q2 2018.

Recommendation #5

That the City monitor progress against the lifecycle plans for the stadium and the parking garage.

Management response:

Management agrees with this recommendation.

The General Manager of RCFS, or designate, will request and obtain the lifecycle plans for the stadium and the parking garage each year and the General Manager of Planning, Infrastructure & Economic Development (PIED), or designate, will monitor the progress. Moving forward, PIED will receive, review and compare the proposed annual itemized work plan against the lifecycle plans as received from the OSEG Shared Services Manager, for the upcoming year. In case of any discrepancy, PIED will raise their concerns at the annual Owners' Liaison Committee meeting prior to the budget being approved.

Recommendation #6

That the City monitor the funding of the lifecycle reserves to ensure that they are funded as agreed.

Management response:

Management agrees with this recommendation.

Corporate Finance reviews the audited financial statements prepared by OSEG each fiscal year. As part of this review, Corporate Finance confirms the amount that has been put aside for the lifecycle reserves. This is reported as a separate line item on the financial statements. Corporate Finance can confirm that the correct amount has been reported in each of the prior years. Although these funds were reported and tracked separately, a separate trust account had not been set up for these funds and Corporate Finance should have requested evidence of

those trust accounts. This will be completed by Q4 2017, including an annual review of the transactions in these accounts.

Recommendation #7

That the City take action to ensure that the trust accounts are set up, including appropriate interest allocation, as agreed in the *Stadium Lease* and the *Parking Structure Reciprocal Agreement*.

Management response:

Management agrees with this recommendation.

Corporate Finance will ensure that there are two separate trust accounts for the Stadium lifecycle reserve and for the Parking Structure lifecycle reserve by the end of Q4 2017. Corporate Finance will review the transactions in these accounts, including the inflows, outflows and interest earned. This review will be conducted annually as part of the Audited Financial Statement review.

Recommendation #8

That the City ensure that the contractual obligation is fulfilled with respect to having a dedicated TDM Coordinator and TDM Office accessible to the public.

Management response:

Management agrees with this recommendation.

The box office at Lansdowne has been designated and used by OSEG as the TDM Office. This office is accessible to the public and is a one-stop-shop for residents and visitors to address their Lansdowne transportation-related inquiries or issues.

OSEG continues to provide TDM support to the City for events, reports, inquiries, etc. with a part-time TDM Coordinator. The shift to a part-time TDM Coordinator was discussed and agreed upon at a meeting held in the spring of 2017 between OSEG and some City departments, including Transportation Services (TSD), PIED and Legal Services and was confirmed under the existing delegated authority of the General Manager PIED.

The TDM Coordinator will continue to assist in preparing the annual report and will participate in defining any adjustments to the TDM program that might be determined through the annual reporting. These reports will be submitted to TSD, who in consultation with RCFS, will review and sign-off.

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Ongoing monitoring will occur and, if at any time it is felt that the operational needs and expectations are not being met as set out in the TDM program, RCFS in consultation with TSD, PIED and Legal Services, will meet with OSEG to ensure that a full-time TDM coordinator is re-instated.

Recommendation #9

That RCFS establish an operational risk management plan for the Lansdowne Park Partnership and review it, at a minimum, every three years.

Management response:

Management agrees with this recommendation.

RCFS staff mitigate risk on an ongoing basis and work with OSEG regularly in this regard. RCFS will determine the scope required for a formalized Risk Management Plan for the Lansdowne Park Partnership by Q1 2018. This plan will be developed within the parameters of the City's Enhanced Risk Management Module, including establishing a timeline for the plan to be reviewed.

Recommendation #10

That the City continue to work with OSEG to ensure that responsibility for utilities at the site is resolved in 2017.

Management response:

Management agrees with this recommendation.

Both natural gas and electricity usage for the site have been reconciled. The isolation of water for metering purposes, has proved to be challenging as it has a direct impact on day-to-day site operations. Due to the major events planned on site as part of Ottawa 2017, the isolation of water and metering of water supply can only be completed by Q2 2018.

Recommendation #11

That the City review the P3 Policy, Procedures, and Guidelines to ensure inconsistencies are addressed and that they provide sufficient guidance to employees responsible for similar projects.

Management response:

Management agrees with this recommendation.

The P3 Policy, Procedures and Guidelines will be updated by Q2 2018 to ensure inconsistencies are addressed and that they provide sufficient guidance to employees responsible for P3 projects.

Recommendation #12

That the City ensure that future P3 projects adhere to the City's project management and P3 policies, and include a transition plan.

Management response:

Management agrees with this recommendation.

The City's management accountability framework identifies that General Managers, or their assigned designates, are responsible for ensuring adherence to the project management and P3 policies. The requirement to be compliant with these policies is ongoing, as is the responsibility to be aware of and adhere to, any revisions made to them as they arise.

Recommendation #13

That the City obtain all contract deliverables in accordance with the agreements.

Management response:

Management agrees with this recommendation.

The General Manager of RCFS, or designate, will review the list of contract deliverables for all contracts and agreements related to the Lansdowne partnership. RCFS will monitor and track the relevant components centrally in conjunction with OSEG and the appropriate City departments responsible for the areas in question. This process will be established by Q2 2018.

Recommendation #14

That the City implement a reasonable process to reconcile the number of OFM stalls per day to verify the revenue received under the agreement.

Management Response:

Management agrees with the recommendation.

RCFS has put a process in place to reconcile the number of OFM stalls per day. As part of this process, staff were made aware of the size of a standard stall (3m by 6m) for the outdoor market and how to record the number of stalls. On every market day, a reconciliation is done by City staff with a representative from the

OFM, prior to invoicing. If any discrepancies are identified, they are discussed and resolved with the Ottawa Farmers' Market Manager.

Recommendation #15

That the City ensure that any amendments to the *OFM Licence of Occupation* are authorized by staff with the appropriate level of authority under the *Delegation of Authority* by-law.

Management Response:

Management agrees with the recommendation.

The Program Manager, Community Recreation Core Programs, RCFS, has reviewed the levels of delegated authority with staff on-site. Going forward, staff will be reminded of these levels whenever an agreement is up for negotiation or a new agreement is being drafted. All new full-time staff members joining the Lansdowne team will be required to review the Delegation of Authority by-law.

Recommendation #16

That the City establish a process to determine the amounts to invoice for recovery of utility costs from the OFM.

Management Response:

Management agrees with this recommendation.

The exact recovery of utility costs for the Ottawa Farmers' Market is not possible given the final as-built conditions of the site, and non-exclusive use of the space by the Ottawa Farmers' Market. Taking these factors into consideration, the City will discuss with OFM a flat fee charge to cover the costs for the outdoor market. This will be implemented by Q1 2018.

For the indoor market, the Ottawa Farmers' Market have been paying \$1,400 per day of use for occupancy-related expenses of the Aberdeen Pavilion. The City will reassess this fee based on utility usage this winter and review annually for increase in unit costs.

Recommendation #17

That the City determine a process to deal with situations that arise at Lansdowne Park that are not specific to the Lansdowne agreements, and which could have a financial impact on the City.

Management Response:

Management agrees with this recommendation.

The General Manager of RCFS, or designate, will develop a process to identify each partner's role as it relates to items that are not addressed within an agreement. If the item has financial implications affecting the multiple partners, the relevant parties shall attempt to resolve the issue through negotiation. This process will be completed by Q2 2018.

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The detailed section of this report is currently available in English only. The French version will be available shortly. For more information, please contact Ines Santoro at 613-580-2424, extension 26052.

La partie détaillée de ce rapport n'existe qu'en anglais. Elle sera disponible en français sous peu. Pour tout renseignement, veuillez communiquer avec Ines Santoro, 613-580-2424, poste 26052.

Detailed audit report

Introduction

The Audit of the Management of the Lansdowne Contract was included in the 2016 Audit Plan of the Office of the Auditor General, approved by City Council on December 9, 2015.

Background and context

Lansdowne Park is a historic venue in existence since 1847. It is a 40-acre site located by the Rideau Canal which links the neighbourhoods of the Glebe, Old Ottawa South, and Old Ottawa East. The site has been used as a facility for a variety of sports and entertainment events. Between 1888 and 2010, the Central Canada Exhibition was held at the site. However, over the years, the condition of the facilities at the site had deteriorated and become expensive for the City to maintain.

The City's vision for the site is for a world-class park accessible to all, hosting a variety of activities to attract both residents and visitors. The redeveloped Lansdowne Park is seen as a regional gathering place with mixed-use facilities for community use with programmed activities, retail and green space. Minimizing capital and operating costs at the site while preserving and modernizing the heritage buildings (Horticulture Building and Aberdeen Pavilion) is also important. A farmers' market at the site is also a key element of programming.

On June 28, 2010, the City entered into a public private partnership with Ottawa Sports and Entertainment Group (OSEG) to transform Lansdowne Park. Delays due to stakeholders' concerns were resolved during 2011 (Ontario Municipal Board appeal and Friends of Lansdowne litigation). On October 10, 2012, Council approved the *Lansdowne Partnership Plan (LPP)*, and a limited partnership agreement was signed on October 12, 2012, with the City and OSEG as limited partners and Lansdowne Master GP Inc. as the general partner. The contract award value was \$141.9 million plus HST

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and a project management fee equal to 3% of the costs of the parking structure area designated for City use. In addition, the City contributed approximately \$210 million. The *Lansdowne Partnership Plan* is based on a 30-year closed financial system, or waterfall. The waterfall captures contributions and capital costs as agreed by both partners, and cash flows from operations. It forms the basis for the distribution of net cash flow to the City and OSEG until the waterfall expires on December 31, 2044. At that time, the responsibility for the stadium and parking structure will be transferred back to the City.

The City of Ottawa's *Public Private Partnership Policy* defines a Public Private Partnership (P3) as: *A contractual agreement between a public authority and a private entity for the provision of infrastructure and/or services in which:*

- i. The private sector participant assumes the responsibility for financing part or all of the project; and/or*
- ii. The City seeks to transfer risks that it would normally assume, based on the private sector participant's ability to better manage those risks; and/or*
- iii. The arrangement extends beyond the initial capital construction of the project.*

"The LPP is comprised of a master limited partnership, and includes limited partnerships for each of the LPP components which are: (1) the stadium component; (2) the retail component; (3) the CFL team; and, (4) the Ottawa 67's hockey team. The City is a party to a unanimous shareholder agreement for the master limited partnership as well as for each of the four component limited partnerships noted above for the purpose of enforcing the provisions of each agreement. All of these agreements were on file with the City Clerk and Solicitor at the time that Council approved the final LPP Legal Agreements and the legal close of the LPP on 10 October 2012."

"The Partnership Plan is governed by approximately 50 Legal Agreements (including Reciprocal, Ancillary, Air Rights and other Site Related Agreements and Ancillary Certificates and Instruments) outlining where consents, approvals, agreements or decisions are to be given or made by the City."

One of the agreements is the *Lansdowne Redevelopment Plan Project Agreement*, a multi-year contract that outlines the redevelopment of the whole of the Lansdowne Park site, as well as the Urban Park component of the site. The plan includes residential, retail and office components, an urban park, a stadium and sports teams.

In the third quarter of 2014, major site components, such as TD Place and the underground parking garage, were complete, and the site transitioned from "construction" to "operational". The site was opened in stages, with the first opening on

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July 18, 2014 for the first CFL RedBlacks game. The next opening was that of the Urban Park, on August 15, 2014. The retail and office building opened fully by the spring of 2015. The site became fully operational in the fall of 2015 with the completion of the residential component.

OSEG has responsibility for the day-to-day operation and maintenance of the stadium, arena and parking garage and the public areas throughout the retail and residential areas of the site. This includes programming of events such as concerts or football games, and maintenance and repairs of the stadium, arena and parking garage buildings. OSEG also maintains and repairs the Urban Park area of the site on behalf of the City.

The City's Recreation, Cultural and Facility Services (RCFS) department has overall responsibility for Lansdowne Park. The Director, Community Recreation and Cultural Programs is responsible for the Community Recreation Core unit. As part of the branch, the Lansdowne/City Hall Park Programs Unit (LPU) maintains an office on-site in the Horticulture Building with 5 full-time staff. The branch is responsible for programming in the Horticulture Building, Aberdeen Pavilion, Aberdeen Square and the Urban Park. The Urban Park includes the Great Lawn, outdoor skating rink, children's play structure, community garden, outdoor plazas and the transformable public artwork called Moving Surfaces. Scheduling and coordination of events at the site requires an ongoing dialogue between the City and OSEG regarding attendance capacity, transportation management and maintenance requirements. The LPU also manages and oversees the Ottawa Farmers Market (OFM) Licence of Occupation. For Lansdowne Park operations, the branch had a total budget of \$1,062,000 in 2016 (\$1,042,000 in 2015).

The Facilities Operations Core/South branch of Facility Operations Services, RCFS is responsible for the maintenance and operation of the Horticulture Building and Aberdeen Pavilion and the oversight of the maintenance agreement. The branch had a budget of \$1,720,000 in 2016 (the same in 2015) for these functions.

Other areas of the City that may provide support to RCFS for management of the Lansdowne agreements include but are not limited to:

- Corporate Real Estate Office (CREO) for leases for commercial space in the Horticulture Building and management of residential and office air rights;
- Planning, Infrastructure and Economic Development (PIED) for oversight of lifecycle, including major maintenance and repair of the buildings and the amenities on the site;

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- Corporate Services for monitoring of financial performance and reporting of financial information;
- Office of the City Clerk and Solicitor for legal interpretation of agreements; and
- Supply Services for reporting requirements under the City's P3 Policy for delegated authority.

The Office of the Auditor General has previously issued the following related audit reports:

- Audit of Public/Private Partnerships (P3) Processes, 2006;
- Audit of the Lansdowne Park Proposal Process, 2009; and
- Audit of the Lansdowne Park Proposal (LPP) Financial Model, 2010.

Audit objectives and criteria

The overall objective of this audit is to provide reasonable assurance that the City is managing the Lansdowne Partnership Plan P3 contract agreements effectively and efficiently.

Based on an assessment of risks, the audit focused on two main areas:

- Corporate governance and oversight, and
- Provision of services under the contract agreements.

Audit criteria were developed and applied during the audit to assess the City's performance of contract management. Criteria used to assess the City's contract management processes were based on the City's P3 Policy, Procedures and Guidelines and "A Framework for evaluating the implementation of Private Finance Initiative projects" published by the National Audit Office (United Kingdom).

Please refer to Appendix A for further details of the audit criteria.

Scope

The audit focused on the City's management of the *Lansdowne Partnership Plan* agreements in relation to contract management for the ongoing operations and maintenance phases of the project. The period in scope was from July 2014 through April 2017.

Please refer to Appendix B for further details of the contract agreements in scope.

Matters beyond the scope of the audit

This audit did not examine the construction phase of the *Lansdowne Partnership Plan*, any agreements strictly related to construction, nor the accounting for the waterfall.

Audit approach and methodology

The audit work in this report was conducted in accordance with the OAG Audit Standards. While the OAG adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of the Institute of Internal Auditors.

As part of our regular audit process, we obtained management's agreement with the findings in this report.

The audit methodology included the following activities:

- Interviews with staff members of:
 - the Recreation, Cultural and Facility Services department, including the General Manager and staff members within the Community Recreation and Cultural Programs service, and the Community Recreation Core branch;
 - the Facility Operations Services within the Recreation, Cultural and Facility Services department, including the Facility Operations Core/South unit and the Building Engineering and Energy Management branch;
 - other City departments such as the City Manager's Office; the Office of the City Clerk and Solicitor (Legal Services); Corporate Services (Finance and Supply Services); the Corporate Real Estate Office; and Planning, Infrastructure and Economic Development department; and
 - the Ottawa Sports and Entertainment Group;
- Review of relevant documentation, such as reports to Council, by-laws, policies and procedures, contracts, lease agreements, insurance certificates, organizational charts, meeting minutes, utility bills, invoices from OSEG, etc.; and
- Testing a sample of invoices for the Ottawa Farmers' Market and OSEG against supporting documentation.

Audit observations and recommendations

A) Oversight of the Lansdowne contract agreements

- 1. Clear responsibility and accountability for effective monitoring of compliance to all provisions of the *Lansdowne Partnership Plan* agreements has not been established.**

The City does not have a comprehensive document to effectively monitor compliance to all *Lansdowne Partnership Plan* agreements.

The primary agreement for the *Lansdowne Partnership Plan* (LPP) is the *Lansdowne Redevelopment Plan Project Agreement*, which outlines the financial and other responsibilities of the partners over the duration of the agreement. The LPP is governed by approximately 50 legal agreements. These agreements have numerous provisions that need to be monitored by the City to ensure that the P3 relationship is protecting the City's buildings and property and that activities are aligned with the City's plan for the redeveloped Lansdowne Park.

The LPP establishes reporting requirements to Council and the City, as required under the City of Ottawa's *Public Private Partnership Policy*. The annual Lansdowne Master Limited Partnership (LMLP) meetings are the highest level of oversight for the Lansdowne partnership. On June 11, 2014, City Council amended the delegated authority previously given to the City Manager, the City Treasurer, and the City Clerk and Solicitor to include the operations phase of the LPP. This included representing the City at the LMLP meetings and making decisions on the City's behalf. Examples of decisions made include the adoption and approval of financial statements and the appointment of an auditor for the partnership.

Reporting to Council for the LPP includes, but is not limited to, the annual audited financial statements of the LMLP, the *Lansdowne Partnership Plan Annual Report*, and a yearly update information report to the Transportation Committee². Reporting to City Council and Committee as required by the City's policies and FEDCO have been met.

Through the *Delegation of Authority By-law*, the General Manager, Recreation, Cultural and Facility Services (RCFS) is delegated the authority to negotiate, approve, conclude, and execute agreements related to programming, including events, occurring at the

² With the tabling of the 2016 report, this report has now been discontinued as per Council's directive

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Urban Park of Lansdowne Park³. We interpret, and staff concurred, that this includes overall responsibility for the Lansdowne Partnership.

RCFS uses two documents for monitoring and reporting purposes: one entitled *Lansdowne Operations Monitoring Dashboard* and the other, *Lansdowne Reporting Requirements* (the “LRR”). The dashboard outlines the activities under the various agreements which impact the Lansdowne Urban Park on a monthly basis, and is the responsibility of the Director, Community Recreation and Cultural Programs. The LRR outlines various reporting requirements (e.g. under the primary agreement, the *Urban Park Property Management Agreement*, the *Master Site Agreement*, the *Ottawa Farmers’ Market Licence of Occupation*, the *Parking Structure Reciprocal Agreement*, and the “Stadium Agreement”). With the City re-organization in October 2016, responsibility for the LRR shifted to the Business and Technical Support Services (BSS) branch of RCFS. However, we were told that the transfer of responsibility from the director to the BSS could take up to a year.

Although these two documents provide a starting point, they are not comprehensive. They do not take into account some of the reporting requirements under the Lansdowne agreements that are not financial in nature, such as technical reporting requirements under the *Urban Park Property Management Agreement*. The documents also do not address monitoring of other requirements under the Lansdowne agreements that are not strictly related to the Urban Park, such as the insurance requirements under the *Stadium, Retail and Office Leases*.

A third document used to guide City staff is the *Lansdowne Site Operations Manual*. The manual has a dual purpose, to provide a high level overview of Lansdowne to City employees, and to help operations staff understand their roles and responsibilities. Although the manual is intended to provide a summary of operational roles and responsibilities, we found that two of the three senior staff members of the LPU had not read the manual. In addition, while the manual mentions other City departments that provide support under the Lansdowne agreements, it does not give sufficient detail as to what the support entails.

Keeping track of the financial, operational and technical reporting and other requirements of the multiple Lansdowne agreements is important in order for City management to be able to receive the information they need to make informed decisions about their operations in a timely manner. As part of the transition from the

³ By-law 2016-369 November 2016, and previously By-law 2014-435, December 2014

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construction phase to the operating phase of the P3 relationship, we expected to find a document outlining the key details and interaction of the key requirements of all of the Lansdowne agreements, including monitoring and reporting requirements. However, one does not exist.

The audit team reviewed various requirements for the agreements in scope and looked for evidence that the Lansdowne partners were meeting the requirements as stated in the agreements. For more than half of the requirements we examined, we found that they are not being met. During the audit, we found no evidence that some of the contract provisions were being monitored at all, and in some cases there was confusion as to who had the responsibility to monitor them. Please see Appendix C for the Lansdowne agreement contract requirements that were reviewed during the audit and identification of whether or not the requirement was met and whether or not the requirement is outlined in the City's three documents⁴ used for monitoring and reporting purposes. Note that this appendix is based on the agreements that we reviewed, and does not include all of the requirements in all of the agreements.

Recommendation #1

That the City create a comprehensive document in order to effectively track and monitor compliance to all *Lansdowne Partnership Plan* agreements.

Management response:

Management agrees with this recommendation.

Legal Services is creating a comprehensive document to effectively track and monitor compliance to all Lansdowne Partnership Plan ("LPP") agreements that are of ongoing relevance. The comprehensive document will outline the key details of all relevant LPP agreements and their interaction between those agreements in a matrix. The matrix will highlight the following: (1) important obligations and ongoing rights of all parties; (2) which party is responsible for fulfilling each obligation or enforcing each right; and (3) dates when each obligation must be fulfilled or when each right may be enforced.

Legal Services is also creating a supplementary document to inventory the number and high-level nature of all pertinent LPP agreements.

⁴ Lansdowne Reporting Requirement; Lansdowne Operations Monitoring Dashboard; and Lansdowne Site Operations Manual

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The General Manager of Recreation, Cultural and Facility Services (RCFS), or their assigned designate, is responsible for ongoing monitoring and ensuring that the above described documents are kept up-to-date.

Management expects that the foregoing shall be implemented by Q1 2018.

Insurance certificates required under the various agreements have not been received nor requested by the City.

The audit team interviewed staff members in five City departments and OSEG to gain an understanding of the contract monitoring in place for the insurance provisions for the following seven Lansdowne agreements:

- *Ottawa Farmers' Market Licence of Occupation;*
- *Urban Park Property Management Agreement (UPPMA);*
- *Master Site Agreement;*
- *Parking Structure Reciprocal Agreement;*
- *Retail Lease;*
- *Stadium Lease;* and
- *Office Lease.*

The insurance provisions in these agreements outline various types of insurance coverage that the agreement partners are required to have. For example, coverage for commercial general damages related to operations including sewer back-up, flood and earthquake, tenants and property. Note that there may be other insurance requirements in some of the other partnership agreements.

Overall, monitoring of the insurance provisions for the Lansdowne agreements is not in place. The audit team asked for evidence for 2015 and 2016 that insurance certificates had been received by the City and were reviewed for validity and compliance with the terms of the agreements. With the exception of the *OFM Licence of Occupation*, we found that the City did not have any up-to-date insurance certificates.

Based on interviews conducted, we found that there is no clear understanding within the City as to who is responsible and accountable to monitor and review insurance provisions in contracts and agreements with third-parties who provide services for, or on behalf of, the City.

From the inception of the LPP agreements, the Legal department was responsible for tracking and monitoring third-party insurance certificates, with the information kept in a central database. An email from the Manager, Legal Operations and Support Services, on August 29, 2016 stated that effective immediately, City departments are responsible

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for tracking insurance requirements and renewals on their own contracts and agreements with third parties. With the decentralization of the responsibility for tracking insurance requirements and renewals, a staff member in Legal Services indicated that the central database is no longer being updated.

It is unclear whether all City staff have been made aware of the change in responsibility as the email provided to the audit team had limited distribution. In mid-March 2017, the Director with responsibility for Lansdowne Park stated that while they were aware that a change was coming, they were not aware of the date the change became effective.

Without on-going monitoring and review of insurance certificates by City staff, there is a risk that parties to the Lansdowne agreements are not maintaining insurance coverage as required, which could have significant financial consequences for the City if an incident were to occur.

Recommendation #2

That the City verify that insurance policies as outlined in all Lansdowne Partnership agreements are in place.

Management response:

Management agrees with this recommendation.

Based on the comprehensive document created by Legal Services, a list of all insurance policies outlined in all relevant LPP agreements will be compiled. The General Manager of RCFS, or designate, will verify and ensure that all required policies are in place by Q2 2018.

Recommendation #3

That the City formally establish responsibility and accountability for monitoring insurance certificates on an on-going basis for the Lansdowne agreements.

Management response:

Management agrees with this recommendation.

The General Manager of RCFS, or designate, will use the list of insurance policies to request the relevant insurance certificates from the appropriate party/department as required. RCFS will also centrally track and retain these certificates on an-ongoing basis to ensure their validity.

Reporting requirements under the *Master Limited Partnership Agreement*, the *Urban Park Property Management Agreement*, the *Master Site Agreement*, or the *Parking Structure Reciprocal Agreement* have not been met.

The City of Ottawa's *P3 Policy* states Council shall receive annual reports on the financial and service level performance of the P3 partner. At the highest level, the audited financial statements of the Lansdowne Master Limited Partnership provide information to the City on the financial health of the partnership. Additional reporting requirements under the Lansdowne agreements include a range of financial, operational and technical reports. These operational and technical reports help the City to ensure that City-owned facilities and property are being managed, maintained and repaired. Without these reports, the City cannot make informed decisions about the P3 partnership and Lansdowne Park operations.

We found that both City staff and OSEG lack awareness of certain reporting requirements in the Lansdowne agreements. Had a comprehensive monitoring and reporting requirements document existed, awareness would have been increased. In addition, this document would have been beneficial in determining whether or not OSEG was in compliance with all the requirements under the agreements. Given that OSEG is not in compliance with all requirements, it is important that the City is able to document the details of non-compliance for future reference, if necessary.

Master Limited Partnership Agreement

Both the 2014 and 2015 audited financial statements of the Lansdowne Master Limited Partnership were submitted late, however in both cases, a major decision was passed by the limited partners to waive the 120-day requirement, enabling compliance with the agreement. As of June 2017, the 2016 audited financial statements were more than a month overdue.

Over the course of 2015 and 2016, only two of the required six sets of quarterly statements were provided within the 90-day requirement.

For the 2014 and 2015 fiscal year-ends, annual unitholder meetings were held within the requirement of 180 days after the end of each fiscal year.

Urban Park Property Management Agreement

The City has entered into a property management agreement with Lansdowne Stadium Limited Partnership for a five-year term effective July 15, 2014 through June 30, 2019. Within this agreement, there are a number of operational and technical reporting requirements for the manager, OSEG. For example, operational reports include an

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annual budget, annual and quarterly financial reports with comparatives of actuals to budget, and third quarter year-end projections. Annual technical reports include, but are not limited to, reporting on inspection and testing of all fire alarm and detection systems and preventive maintenance on HVAC equipment. Ad-hoc reporting requirements include reports giving detailed site information to overviews of all electrical power systems equipment. The City can request reports on the maintenance of outdoor rink and ice plant equipment and controls.

We found that while annual financial reports were issued, no quarterly reports had been issued in 2015 and 2016. The 2017 budget was submitted more than three months late. While budgets were prepared for 2015 and 2016, we were unable to conclude definitively on the dates that they were submitted.

For the technical reporting requirements reviewed, we found that some of the annual fire system reports existed, but they had not been submitted to the City, nor had the City requested the reports. A report on HVAC was not requested as the agreement was written before the Horticulture Building HVAC system was designed, and the HVAC systems for both the Horticulture Building and the Aberdeen Pavilion are fairly rudimentary. Given the newness of the equipment, the City did not request reports on the electrical power systems or the maintenance of the ice plant equipment.

Master Site Agreement and Parking Structure Reciprocal Agreement

At Lansdowne Park, there are areas on-site where maintenance and repair costs are shared by numerous parties. For both of these agreements, the Shared Facilities Manager is OSEG. OSEG is to provide annual budgets, shared cost estimates, actual cost statements and written reports on operations. Meeting and reporting requirements under these agreements are not being met.

We found that the 2016 MSA budget was submitted on time, and the 2015 and 2017 budgets were late. All of the 2015 through 2017 PSRA budgets were submitted late.

We found a major decision had been passed by the parties to the MSA to waive the 90-day requirement for the 2015 budget, and major decisions had been passed by the parties to the PSRA to waive the 90-day requirement for the 2015 and 2016 budgets. With these decisions, compliance to the agreements was enabled.

For both agreements, we found that the requirement for an annual estimate of shared costs was met each year. For the statements of actual shared costs, the MSA 2016 statement met the deadline but we were unable to conclude as to when the 2015

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statement had been issued. For the PSRA, while the statements were issued for 2015 and 2016, we were unable to conclude as to when they had been issued.

For both the MSA and the PSRA, an Owners' Liaison Committee meeting is to be held at least quarterly. The Shared Facilities Manager is to provide written reports on the ongoing operation of the shared facilities at the meetings and separately. The MSA meetings are held jointly with the PSRA meetings. There were two meetings held in 2015 and one in 2016. The Shared Facilities Manager confirmed there have not been any written reports prepared under either agreement during 2015 and 2016. In addition, although both agreements require the Shared Facilities Manager to ensure there are proper written records of all meetings and members' decisions, there were no recorded minutes for the two meetings held in 2015.

The PSRA requires submission of an annual statement of Adjustment of Parking Net Operating Income. The Shared Facilities Manager stated that they were not aware of this requirement and confirmed that statements have not been prepared for 2015 or 2016. City staff interviewed were uncertain as to which department has responsibility for oversight in this area.

Lifecycle plans for the stadium and the parking garage

The main buildings at Lansdowne Park are the stadium, the parking garage, the Horticulture Building and the Aberdeen Pavilion. OSEG has responsibility for the stadium and parking garage, and the City has responsibility for the Horticulture Building and the Aberdeen Pavilion.

As part of the City's asset management program, buildings are subject to periodic building condition assessments in order to identify deficient or degraded elements within the facilities or their immediate surroundings. The assessments help in the development of plans for major repairs and replacement over the life of the building (a lifecycle plan).

With the *Stadium Lease* and PSRA, lifecycle plans are required for the stadium and the parking garage. The plans include an initial assessment of the condition of the buildings when OSEG took over responsibility for them, and a schedule of the major repairs and replacements that OSEG must make over time in order to ensure that the buildings will be in good condition when they are returned to the City after forty years. The lifecycle plans include a forty-year schedule, and a short-term 5-year plan. The 5-year plan is to be updated every 5 years.

Under the agreements, OSEG is to provide an annual report to the City on the repairs and maintenance that have been done in accordance with the plans. There is an

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additional reporting requirement, a summary of withdrawals from the reserves, when certain criteria are met.⁵ OSEG confirmed that there have not been any reports issued for 2015 and 2016 as they were not aware of the reporting requirement; they had understood it was a five year reporting cycle. They stated that City staff had not requested the reports. City staff interviewed also had understood that no report was due for five years.

Withdrawals for lifecycle repairs and maintenance that are within annual amounts of the current lifecycle plan, or not greater than 10% in excess of an individual budgeted line item in the current plan, or not greater than 5% of the total annual budgeted amount in the current plan, are deemed to have been approved by the City. Under the current lifecycle plans, \$42,000 of work⁶ was identified to be done in 2016. The 2016 draft consolidated financial statements of the Lansdowne Master Limited Partnership show that \$704,486 was spent for the lifecycle plans in 2016. OSEG stated that the work done in 2016 was for HVAC replacements⁷. By spending \$662,486 more than budgeted in 2016, the criteria for the additional reporting requirement was met, and OSEG should have prepared a summary of withdrawals from the reserves for 2016. However, OSEG confirmed that no report has been prepared, and City staff confirmed that no report has been received. In April 2017, the City Program Manager, Infrastructure Renewal who has responsibility for Lansdowne Park, was not aware that any work had been done in 2016.

The *Stadium Lease* agreement requires that the expenditure for the above noted HVAC replacements be approved in writing. We found that neither the City, nor OSEG, had documented evidence of an approval for this expenditure. In addition, both OSEG and City staff confirmed there is no process in place to compare planned versus actual lifecycle repair and maintenance costs.

Without reports on lifecycle plans, the City cannot be certain that the plans are being carried out. There is a risk that important maintenance and repairs may not occur as agreed by the City and OSEG, and these City assets could fall into a state of disrepair, which would increase future maintenance and repair costs.

⁵ A summary of the withdrawals made in each year which exceed the recommended amount for any item and the amount by which total withdrawals in that year exceed the total amount contained in the current lifecycle plan is to be provided.

⁶ The budgeted work to be done was to replace the coiling concession stand shutters in the Civic Centre.

⁷ The HVAC replacement was not included in the 5-year lifecycle plan.

Recommendation #4

That the City clearly establish responsibility and accountability including effective monitoring of compliance for reporting requirements for all contracts and agreements and confirm agreement with OSEG on relevant requirements.

Management response:

Management agrees with this recommendation.

Lansdowne partnership has been monitored through annual reports, operating dashboards and reporting checklists combined with scheduled quarterly meetings and regular check-ins. Additional meetings are held as required.

To supplement current monitoring, Legal Services is developing a comprehensive list of reporting requirements for all contracts and agreements related to the Lansdowne partnership that are of ongoing relevance. The General Manager of RCFS, or designate, will review the full list of reporting requirements with OSEG to confirm a common understanding and agreement on those requirements. RCFS will monitor and track the relevant components centrally in conjunction with OSEG and the appropriate City departments responsible for the areas in question. This process will be established by Q2 2018.

Recommendation #5

That the City monitor progress against the lifecycle plans for the stadium and the parking garage.

Management response:

Management agrees with this recommendation.

The General Manager of RCFS, or designate, will request and obtain the lifecycle plans for the stadium and the parking garage each year and the General Manager of Planning, Infrastructure & Economic Development (PIED), or designate, will monitor the progress. Moving forward, PIED will receive, review and compare the proposed annual itemized work plan against the lifecycle plans as received from the OSEG Shared Services Manager, for the upcoming year. In case of any discrepancy, PIED will raise their concerns at the annual Owners' Liaison Committee meeting prior to the budget being approved.

Trust accounts for stadium and parking garage reserve funds have not been set up as required.

In order to have money available to carry out the lifecycle plans, OSEG is required to deposit approximately \$119,000 each month into two reserves, one for the stadium and one for the parking garage. Under the agreements, OSEG is required to set up two dedicated trust accounts for the reserves, and the amounts in the trust accounts, plus interest earned, are to be used solely for lifecycle requirements.

OSEG confirmed to us that trust accounts have not been opened, and the lifecycle reserve funds are held in their general bank account. The amount required to be contributed for the reserves is shown as restricted cash on the 2015 audited and 2016 draft consolidated financial statements of the Lansdowne Master Limited Partnership, with a corresponding note as to the nature of the restriction. However, OSEG has not allocated any interest earned on the funds.

A trust account is an account in which a bank or trust company, acting as an authorized custodian, holds funds for specific purposes (for example to pay property taxes or insurance premiums, or in this case for lifecycle repairs and replacements). Without this provision, the funds that are meant to be used for a specific purpose could be used for other purposes or not be available when needed.

Recommendation #6

That the City monitor the funding of the lifecycle reserves to ensure that they are funded as agreed.

Management response:

Management agrees with this recommendation.

Corporate Finance reviews the audited financial statements prepared by OSEG each fiscal year. As part of this review, Corporate Finance confirms the amount that has been put aside for the lifecycle reserves. This is reported as a separate line item on the financial statements. Corporate Finance can confirm that the correct amount has been reported in each of the prior years. Although these funds were reported and tracked separately, a separate trust account had not been set up for these funds and Corporate Finance should have requested evidence of those trust accounts. This will be completed by Q4 2017, including an annual review of the transactions in these accounts.

Recommendation #7

That the City take action to ensure that the trust accounts are set up, including appropriate interest allocation, as agreed in the *Stadium Lease* and the *Parking Structure Reciprocal Agreement*.

Management response:

Management agrees with this recommendation.

Corporate Finance will ensure that there are two separate trust accounts for the Stadium lifecycle reserve and for the Parking Structure lifecycle reserve by the end of Q4 2017. Corporate Finance will review the transactions in these accounts, including the inflows, outflows and interest earned. This review will be conducted annually as part of the Audited Financial Statement review.

OSEG does not have a dedicated Transportation Demand Management (TDM) Coordinator or TDM office as required under the *Site Plan Agreement*.

The importance of an on-going TDM program to promote and support the use of sustainable transportation was recognized during the approval process for the Lansdowne agreements. On June 28, 2010, Council approved the Transportation Impact Assessment Study and the Transportation Demand Management (TDM) Plan authored by McCormick Rankin Corporation. The recommendations in these reports and three follow-up reports to Council form the basis for the TDM requirements set out in the *Site Plan Agreement* (SPA), which is an agreement between the City of Ottawa, the Ottawa Sports and Entertainment Group (OSEG), the Lansdowne Stadium Limited Partnership and the Lansdowne Retail Limited Partnership.

The SPA sets out the requirement for the provision of a TDM Coordinator and a TDM Office. It outlines the requirement for “an individual to be retained to serve as an on-site TDM Coordinator”, and details the role and responsibilities, which include, but are not limited to:

- Developing a TDM program and a monitoring program;
- On-going promotion of the use of sustainable modes of transportation for access to the Lansdowne site;
- On-going provision of information and acting as a point of contact for residents, employees, visitors and others on transportation and travel options in respect of the site; and
- Monitoring the TDM program.

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A dedicated TDM Coordinator was employed by OSEG beginning in early 2014. Since then, this individual actively participated in the Lansdowne Transportation Management Operations Committee (LTMOC), and has provided the City with OSEG's yearly Lansdowne TDM reports.

Effective January 2017, OSEG no longer has a dedicated TDM Coordinator as required under the SPA. The Chair of the LTMOC confirmed that OSEG had informed the Committee at the October 2016 meeting, however the minutes of the meeting do not mention the upcoming vacancy.

With the departure of the dedicated TDM Coordinator, the TDM role has been divided between two people, Securitas' Director of Security & Public Safety⁸ at TD Place Stadium and Lansdowne Park, and OSEG's Property Manager. During interviews with OSEG, we were informed that the TDM Coordinator's responsibilities with respect to transportation and site access and the TDM plan have been transferred to Securitas, and OSEG's Property Manager is responsible for access to the parking garage. OSEG has stated that they intend to hire the previous TDM Coordinator on a contractual basis for special events from time to time. The loss of the dedicated TDM Coordinator and new division of responsibility had not been communicated to the Director, Community Recreation and Cultural Programs who, on February 1, 2017, was unaware of the change.

The SPA also states the requirement for a centrally located and publicly accessible TDM Office to support the role of the TDM Coordinator. However, we found that there is no TDM Office accessible to the public at Lansdowne Park.

Under the TDM Plan, traffic data at Lansdowne was to be collected for three years, 2014 through 2016. This requirement has now been fulfilled. The Special Events Advisory Team (SEAT) committee addresses event related traffic and transportation needs, and Traffic Service's daily operations handle the day-to-day traffic related issues. For these reasons, the *Lansdowne Transportation Monitoring Operations Committee (LTMOC) 2016 Update - Final Report to Transportation Committee* tabled in April 2017, recommends that Council receive the report, and approve the discontinuation of the LTMOC. The report does not mention the vacated TDM Coordinator position but does state that "OSEG will continue, as a part of the various responsibilities of the site's TDM Coordinator, to provide a yearly monitoring report to the General Manager of the Planning, Infrastructure and Economic Development

⁸ Securitas is the third party security partner of the Ottawa Sports and Entertainment Group.

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department as set out in the *Site Plan Agreement* between OSEG and the City. A yearly TDM update to the Transportation Committee will no longer take place”. In discussions with management, it was felt that the department which has overall responsibility for Lansdowne Park should also receive the yearly monitoring report.

With the TDM Coordinator position vacant, the TDM duties are shared by two people who have other full-time primary responsibilities. With the divided role, there is a risk of decreased effectiveness of the TDM program. Traffic management operational issues, normally identified through on-going monitoring of operational plans, may not be identified or addressed in a timely manner, if at all.

The final LTMOOC report, tabled at the Transportation Committee and Council in April 2017, identifies many unresolved traffic issues (e.g. access to the parking garage, street parking management, etc.) that residents would like the City to address. During medium and large size events, traffic and parking can overwhelm Bank Street and surrounding streets if it is not managed effectively.

Recommendation #8

That the City ensure that the contractual obligation is fulfilled with respect to having a dedicated TDM Coordinator and TDM Office accessible to the public.

Management response:

Management agrees with this recommendation.

The box office at Lansdowne has been designated and used by OSEG as the TDM Office. This office is accessible to the public and is a one-stop-shop for residents and visitors to address their Lansdowne transportation-related inquiries or issues.

OSEG continues to provide TDM support to the City for events, reports, inquiries, etc. with a part-time TDM Coordinator. The shift to a part-time TDM Coordinator was discussed and agreed upon at a meeting held in the spring of 2017 between OSEG and some City departments, including Transportation Services (TSD), PIED and Legal Services and was confirmed under the existing delegated authority of the General Manager PIED.

The TDM Coordinator will continue to assist in preparing the annual report and will participate in defining any adjustments to the TDM program that might be determined through the annual reporting. These reports will be submitted to TSD, who in consultation with RCFS, will review and sign-off.

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Ongoing monitoring will occur and, if at any time it is felt that the operational needs and expectations are not being met as set out in the TDM program, RCFS in consultation with TSD, PIED and Legal Services, will meet with OSEG to ensure that a full-time TDM coordinator is re-instated.

2. The City has not established a risk management plan for Lansdowne Park operations.

The City's *Enhanced Risk Management (ERM) Framework and Policy* was approved by Council in April 2010 to mitigate the City's most significant risks. As a result, the City's *Corporate Risk Profile* was developed to identify the City's top risks and to enable risk-based decision-making. Together, the *Corporate Risk Profile* and the *ERM Framework* support the ongoing risk management and mitigation practices within the City to ensure that essential services are delivered. Under the ERM policy, managers are accountable for effective risk management in their departments, and all City employees have a shared responsibility to manage risk.

The revitalization plan for Lansdowne Park is a complex 30-year, \$300 million project between the City and OSEG and other parties for the redevelopment and operation of Lansdowne Park. As such, it is one of the largest projects that the City has undertaken. The project has elements of both risk sharing and risk transfer. With the Lansdowne P3 agreement, the City sought to transfer risks that it would normally assume to the private sector partners (e.g. facility maintenance and service provision), based on the partners' ability to better manage those risks.

Two objectives of a risk assessment are to reduce events or conditions that create uncertainty, and to ensure that unplanned events are managed effectively. A risk management plan can identify risks, estimate the impact of those risks, take action to prevent the risks that can be avoided and minimize the risks that cannot be avoided. In the case of Lansdowne Park operations, risks could include some or all of the following as identified in the City of Ottawa's *P3 Guidelines*:

- Facility Management Operations Risk from the private partner's delivery of required services, e.g. property maintenance and programming; and
- Asset Lifecycle and Ownership Risk from maintenance, obsolescence, and market competition which affects the project financing, revenue and value of the infrastructure, e.g. maintenance and repair of the buildings on site.

Based on the magnitude of the Lansdowne project, we expected the RCFS department to have a risk management plan. The 2016 departmental risk inventory identifies a general risk related to issues arising from working with partnering organizations offering

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programming on the City's behalf, but does not identify any risks related to Lansdowne Park. During interviews with City management and staff, it was confirmed that there is no risk management plan in place. We found that discussion of risk in the LPU is focused on occupational health and safety, and not on Lansdowne Park as a programming facility with capital assets involved in a complex P3 relationship.

On-going risk management will help to ensure that all risks are managed effectively throughout the life of the Lansdowne project, and to provide management with information to make informed decisions on issues that relate to operations.

Without a risk management plan, the City could be faced with potential negative outcomes of elements the P3 relationship or failure of the P3 relationship as a whole. The City could be forced to assume risk that it had transferred to the project partners related to the facilities at Lansdowne.

Recommendation #9

That RCFS establish an operational risk management plan for the Lansdowne Park Partnership and review it, at a minimum, every three years.

Management response:

Management agrees with this recommendation.

RCFS staff mitigate risk on an ongoing basis and work with OSEG regularly in this regard. RCFS will determine the scope required for a formalized Risk Management Plan for the Lansdowne Park Partnership by Q1 2018. This plan will be developed within the parameters of the City's Enhanced Risk Management Module, including establishing a timeline for the plan to be reviewed.

3. Responsibility for utilities at Lansdowne Park is not clearly separated between the City and OSEG.

The responsibility for utilities at the Lansdowne site was not fully allocated to the proper owners and/or understood. The City has paid for the cost of utilities for which they are not the end user. However, City management discovered the issue and is in the process of rectifying the situation for the future, as well as recovering the excess funds paid for water usage. Excess funds paid for natural gas have already been recovered.

OSEG, as operator of TD Place, has contracted with a utility sub metering company to install meters, read them, and bill clients for water and hydro. For Lansdowne Park, the City receives hydro bills and a water bill through this company.

Initial hydro bills were incorrect

When the City first received hydro bills for the Lansdowne site, they were scrutinized by a staff member of the Facility Operations Services within RCFS, and numerous errors were found on more than one occasion. The staff member stated that once these issues were resolved, the City has been provided with consistent billing. The bills continue to be monitored every three to four months by the same staff member.

Delay in transfer of responsibility for natural gas at TD Place

During the transition period from construction to operations, the responsibility for natural gas charges for TD Place was not changed over from the City to OSEG. In early 2015, a staff member of the Facility Operations Services, RCFS discovered that the City was still paying for gas at TD Place. The City received a reimbursement for approximately \$185,000 paid for TD Place gas usage for late 2014.

Allocation of responsibility for water costs at the site is on-going

There are three water meters in place on the Lansdowne Park site. The City is responsible for one meter at the Horticulture Building and TD Place is responsible for two other meters. The water meter located at the corner of Fifth Avenue and the Queen Elizabeth Driveway, for which the City is responsible, supplies water to the wading pool in the Sylvia Holden Park and the Urban Park.

In early 2017, a staff member of the Facility Operations Services, RCFS noticed that there was a significant increase in water usage at the City meter, which was costing approximately \$4,000 per day. Initially, it was thought that perhaps the meter was not measuring properly, but a check by City staff in February 2017 indicated that this was not the case. City staff found a consistent, high level of flow of water running at the meter into the Lansdowne site.

The staff member approached OSEG to enquire about the cause of the significant increase in water usage, as it was clear that the water was not being used strictly for City purposes in the Urban Park. To date, the City has been paying for all of the charges at this meter.

Another issue at the site is the lack of a water meter for the Aberdeen Square, the Aberdeen Pavilion and the Great Lawn. The City is responsible for the water used at these locations, but as there is no meter, they have not been invoiced. The City is uncertain as to who is paying for the water in these locations, but suggests it could be OSEG.

Overall, between these two issues identified, Facility Operations Services, RCFS estimated that the City is owed about \$100,000 as of the end of February 2017. City staff have been in discussions with OSEG to resolve the issue. The City proposed a solution and was scheduled to meet with OSEG in early April 2017 to come to an agreement.

Recommendation #10

That the City continue to work with OSEG to ensure that responsibility for utilities at the site is resolved in 2017.

Management response:

Management agrees with this recommendation.

Both natural gas and electricity usage for the site have been reconciled. The isolation of water for metering purposes, has proved to be challenging as it has a direct impact on day-to-day site operations. Due to the major events planned on site as part of Ottawa 2017, the isolation of water and metering of water supply can only be completed by Q2 2018.

4. As the Lansdowne site moved from construction to day-to-day operations, the City did not have a transition plan, as required by its *P3 policy*.

A transition plan is important to minimize operational risk in the implementation phase of a P3 relationship. During the implementation phase, the Lansdowne project transitioned from a construction to an operational site. A transition plan could have been beneficial in establishing responsibilities and accountabilities for monitoring of the Lansdowne agreements, thereby reducing operational risk.

The City's *P3 Policy*, under the implementation phase states that, "a transition plan shall be developed to monitor and report on activities required to bring the project to its operational state."

The City's *P3 Procedures* do not refer to a transition plan in the implementation phase. Instead, under the contract management and on-going monitoring phase, it states, "develop a transition plan to monitor and report on activities required to bring the project to its operational state." This is inconsistent with the *P3 policy*.

The City's *P3 Guidelines* "set out the guidelines and procedures to be followed to achieve the assessment, procurement, delivery and monitoring of capital projects as P3s". It further states that the guidelines are, "intended to provide guidance, rigor and consistency in the definition, selection, analysis, delivery and monitoring of P3 projects."

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However, as the guidelines do not mention a transition plan, they do not clarify the meaning of one nor what the structure of the plan would entail.

A transition plan is a document that outlines in detail, the tasks and activities to be followed during a transition phase. Key elements of a plan include identification of the transition team, consideration of logistics, transfer of knowledge, and detailed schedules for implementation. The plan helps to ensure that the project is implemented with the best possible chance of success.

Late in the fourth quarter of 2013, the City established a transition team to prepare for opening day at the newly revitalized Lansdowne Park. The targeted opening day was the July 14, 2014 football game, however there were subsequent phased-in opening days in different areas of the site, such as the opening of the Urban Park in August 2014. As planned, a member of the Design and Construction branch of the Infrastructure Services department led the transition. The team included one staff member of RCFS, the department that is now responsible for Lansdowne Park.

As per discussions with the team lead, the City did not have a transition plan, as required by the City's *P3 Policy*. A draft project charter (a requirement of the City of Ottawa's *Business Case and Project Management Policy*) was written for the team in January 2014. However, contrary to the policy, the draft Project Charter was never approved by management. The policy states, "*The Project Charter must be approved by the person that has delegated authority over the relevant operations to ensure the scope of work suggested is complete, approved and the appropriate levels of authority for management of scope and decision making purposes have been identified.*"

A key deliverable of the team, as stated in the charter, was the creation of work plans for each identified work area. The expected date for delivery of the work plans was February 14, 2014. However, team members confirmed that work plans were not developed. These work plans could have been used as the basis for a transition plan.

Instead of a transition plan or work plans, the Lansdowne transition team relied on a spreadsheet matrix entitled, *Lansdowne Opening Day Preparedness Issues Log*. As per the charter, the matrix was intended to provide a strategic risk assessment for each aspect of the project. It was used to track the status of activities to be completed by "work package", e.g. construction, transportation, etc. However, it did not identify who had responsibility to ensure the activities were completed, nor the target dates for completion.

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The *Project Management Agreement* between the City (as “Owner”) and OSEG (as “Project Manager”), which outlines post-construction phase deliverables. Some of these deliverables include:

- Providing operating and maintenance manuals, as-built drawings, and guarantees, including for example, a registry of trade contractors and suppliers, purchase orders, etc.;
- Working with other members of the project team to make a complete inspection of the project eleven months after the work was substantially completed, and assisting the City in pursuing that all required repairs or replacements are carried out.

The audit team asked for evidence that these contract deliverables had been met, but no evidence was provided. A transition plan could have helped to ensure that all of the post-construction deliverables under the agreement were met. A comprehensive monitoring and reporting requirements document would have shown that these contract deliverables were not met.

Recommendation #11

That the City review the P3 Policy, Procedures, and Guidelines to ensure inconsistencies are addressed and that they provide sufficient guidance to employees responsible for similar projects.

Management response:

Management agrees with this recommendation.

The P3 Policy, Procedures and Guidelines will be updated by Q2 2018 to ensure inconsistencies are addressed and that they provide sufficient guidance to employees responsible for P3 projects.

Recommendation #12

That the City ensure that future P3 projects adhere to the City’s project management and P3 policies, and include a transition plan.

Management response:

Management agrees with this recommendation.

The City’s management accountability framework identifies that General Managers, or their assigned designates, are responsible for ensuring adherence to the project management and P3 policies. The requirement to be compliant with

these policies is ongoing, as is the responsibility to be aware of and adhere to, any revisions made to them as they arise.

Recommendation #13

That the City obtain all contract deliverables in accordance with the agreements.

Management response:

Management agrees with this recommendation.

The General Manager of RCFS, or designate, will review the list of contract deliverables for all contracts and agreements related to the Lansdowne partnership. RCFS will monitor and track the relevant components centrally in conjunction with OSEG and the appropriate City departments responsible for the areas in question. This process will be established by Q2 2018.

B) Provision of services under the contract agreements

1. The City has established a good working relationship with its P3 partner.

The City has established a good working relationship with OSEG based on a common business focus, the co-location of services, and the ability to easily contact each other when necessary.

The current foreseen end-date for the Lansdowne Master Limited Partnership is December 31, 2044. Given the length of the partnership, it is important that the partners establish a good working relationship in order to ensure the on-going success of the Lansdowne project in all areas, for example, programming of events, and park maintenance. The relationship was built on mutual respect from the top-down, starting with the former City Manager and the CEO of OSEG. The City has worked together with its partners in a positive and collaborative manner to resolve issues as they arise to ensure the long-term success of the revitalized Lansdowne Park.

The organizational structures of both entities have undergone changes at various times over the past two to three years. Each organization also has a slightly different focus which defines the relationship and interactions they have on a daily basis. For the day-to-day operations, interaction is through the Lansdowne Park Unit and the OSEG Property Manager and OSEG staff.

While City staff reported that OSEG's and the City's business focus differ, both parties were found to be respectful of the other, sharing most information openly with a common focus on the site becoming a tourist destination and a site for events.

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A common goal for Lansdowne Park is for the Urban Park and stadium events to complement each other and to maximize public use of the site. The *Urban Park Programming Agreement*, between the City and the Lansdowne Stadium Limited Partnership, sets out the roles of each party for programming of events on the site. Programming of events is coordinated through the use of a shared events calendar, weekly production meetings, and logistics meetings. Both the City and OSEG interact with community associations and the Ward Councillor on a regular basis to ensure a flow of communication.

The co-location of services is important to maintaining the positive working relationship. Both OSEG and the City have offices on the grounds of the Lansdowne Park site. This makes it easy to meet on a regular basis and whenever the need arises.

Overall, we found that City staff can easily contact OSEG for discussion of all topics, including financial, event planning, shared services and property management. They are able to frequently interact with OSEG by phone, email or in person. While there have been growing pains with the UPPMA, the City and OSEG are working toward a common understanding and improvement.

2. Ottawa Farmers' Market (OFM) revenues and utility cost recoveries do not comply with the *OFM Licence of Occupation*.

The City has committed to having a Farmers' Market within the Urban Park as a permanent element of the programming at Lansdowne Park. It signed a licence of occupation with the Ottawa Farmers' Market (OFM) on August 19, 2014 for a 16-month term beginning on November 1, 2014 (the "2014 licence"). It subsequently signed a licence of occupation on July 5, 2016 for five years beginning March 1, 2016 (the "2016 licence"). The two licences were signed by the President of the Ottawa Farmers' Market Association and the General Manager, Parks, Recreation and Cultural Services⁹.

Revenue management

Outdoor Market

The Lansdowne Park Unit (LPU) is responsible for overseeing the OFM and ensuring compliance with the *OFM Licence of Occupation*. The fee per stall is \$10 for the Outdoor Market and the annual revenue was approximately \$22,000 in 2016. We found that the City relied on the stall count provided by the OFM instead of their own count for invoicing the OFM.

⁹ The department is currently named Recreation, Cultural and Facility Services.

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Under the licence, the OFM determines the fee schedule for vendors. Stall fees are collected from the vendors by the OFM. The OFM is required to pay the City ten dollars for each 10 by 20-foot stall per day in the Outdoor Market. The OFM and the City are to monitor and confirm the number of stalls on a weekly basis. The OFM remits the stall fees to the City after the City issues an invoice to them.

The audit team found that the OFM is providing a count of the stalls by market day to the LPU on a monthly, rather than a weekly, basis. The LPU stall count records did not reconcile with the OFM's count. A customer service representative was asked to record the number of stalls per market day on a tracking sheet. The audit team compared the stall count for eleven market days. In all cases, the numbers on the City's tracking sheet were well under the OFM's count. In total, for these eleven days, the City counted 390 equivalent 10 by 20-foot stalls, and the OFM counted 716. We were told that clearer instructions would be given to the customer service representatives in the future to obtain a more accurate count.

Indoor Market

Under the *OFM Licence of Occupation*, the OFM's payment to the City for the use of the Aberdeen Pavilion, "acknowledges the City's commitment to a producer based farmers' market selling local products and the non-exclusive and shared use of the facility, shall, among other factors, be based on the City recovering all direct operating costs including: heating, security...and any building cleaning costs".¹⁰

A separate agreement to the *OFM Licence of Occupation* to reduce the indoor Winter Market rates for the period January 11 to April 26, 2015 was signed by the Market Manager, OFM, and the Portfolio Manager of the LPU. The Portfolio Manager did not have sufficient authority under the delegation of authority by-law to sign the agreement.

The audit team reviewed a sample of invoices and found that the OFM did not pay the agreed daily rate under the licence in 2015 and 2016.

For the period January through March 2015, the cost for heating the Aberdeen Pavilion was \$36,737¹¹. The total charged to OFM during this period for heat and hydro was \$10,980. The OFM was the primary but not exclusive user of the pavilion, having been present on 11 days out of a total 12 days of use, with 4 of those days shared with Winterlude. Heating costs would have been higher on days that the OFM was present

¹⁰ From "Licence of Occupation for Ottawa Farmers' Market at Lansdowne Park", Ottawa, July 9, 2014

¹¹ Analysis provided by Facility Operations Services, RCFS

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than when the building was empty. The invoice request form created by the LPU for this period did not consistently identify when the OFM shared the facility which increases the risk of billing errors.

With the separate agreement, the City stated it was prepared to absorb the costs for the 2014/2015 season only, with the intention to monitor to ensure that for the 2015/2016 season an actual cost recovery amount could be determined. We did not find evidence of monitoring to determine an actual cost recovery amount, or that the City is recovering all direct operating costs for utilities for the Indoor Market. The lower rates in the separate agreement have continued to be used to charge the OFM for the 2016 and 2017 indoor market seasons.

OFM utilities costs

The 2014 licence states that “meters have been installed to measure the electrical and water consumption related directly to the Market and those charges will be passed on to the OFM”. The 2016 licence states that “OFM agrees it is responsible for the cost of water and electricity usage for the indoor and outdoor markets based on meters being installed for this purpose”.

There is a hydro meter for the Aberdeen Pavilion and the Aberdeen Square, and a gas meter for the pavilion. There is no water meter although water is available in both the pavilion and the square. The Facilities Operations Core/South branch of RCFS receives and pays the hydro and water bills for the Urban Park. The LPU is responsible to invoice the OFM for these costs, however we found no evidence of hydro and water costs for the outdoor market being paid by the OFM.

There is a financial loss to the City for the cost of hydro and water which has not been recovered from the OFM. We are unable to quantify this loss due to a lack of information.

Recommendation #14

That the City implement a reasonable process to reconcile the number of OFM stalls per day to verify the revenue received under the agreement.

Management Response:

Management agrees with the recommendation.

RCFS has put a process in place to reconcile the number of OFM stalls per day. As part of this process, staff were made aware of the size of a standard stall (3m by 6m) for the outdoor market and how to record the number of stalls. On every

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market day, a reconciliation is done by City staff with a representative from the OFM, prior to invoicing. If any discrepancies are identified, they are discussed and resolved with the Ottawa Farmers' Market Manager.

Recommendation #15

That the City ensure that any amendments to the *OFM Licence of Occupation* are authorized by staff with the appropriate level of authority under the *Delegation of Authority* by-law.

Management Response:

Management agrees with the recommendation.

The Program Manager, Community Recreation Core Programs, RCFS, has reviewed the levels of delegated authority with staff on-site. Going forward, staff will be reminded of these levels whenever an agreement is up for negotiation or a new agreement is being drafted. All new full-time staff members joining the Lansdowne team will be required to review the Delegation of Authority by-law.

Recommendation #16

That the City establish a process to determine the amounts to invoice for recovery of utility costs from the OFM.

Management Response:

Management agrees with this recommendation.

The exact recovery of utility costs for the Ottawa Farmers' Market is not possible given the final as-built conditions of the site, and non-exclusive use of the space by the Ottawa Farmers' Market. Taking these factors into consideration, the City will discuss with OFM a flat fee charge to cover the costs for the outdoor market. This will be implemented by Q1 2018.

For the indoor market, the Ottawa Farmers' Market have been paying \$1,400 per day of use for occupancy-related expenses of the Aberdeen Pavilion. The City will reassess this fee based on utility usage this winter and review annually for increase in unit costs.

3. There is no process to determine how costs that arise outside the Lansdowne agreements should be handled.

The Lansdowne agreements do not include a process to deal with issues that are not specifically covered in the agreements. The Lansdowne agreements were written before the site was operational, and not all situations could be foreseen. However, a process could have been included in the agreements to deal with unforeseen or other issues that might arise over the course of the lengthy partnership.

The audit team looked at a sample of eight invoices from OSEG to the City over the period October 2014 through December 2016 which totaled approximately \$70,000. These invoices remained unpaid as of the beginning of February, 2017 as the City had not yet determined whether or not to pay them.

In one instance, an environmental condition was found in the stadium that potentially required containment and/or removal. The City had been informed that there was an issue, but was not aware that the remediation work had taken place until months later, when it received an invoice from OSEG for reimbursement. The City was not provided with an opportunity to assess the issue and give approval for the work to be done before OSEG proceeded. The *Stadium Lease* states that the City is responsible for all remediation costs relating to environmental conditions on or in the stadium component that existed before construction began. However, as environmental conditions arise, it can be difficult to establish whether or not a condition is pre-existing or not.

The City operates on the basis of an annual approved budget based on taxpayer contributions. It does not have the same flexibility as the private sector for dealing with extra costs that arise from time to time. It is important that the City has a formal agreed process in place to be able to assess situations and agree with OSEG on how costs will be covered before any work occurs.

Recommendation #17

That the City determine a process to deal with situations that arise at Lansdowne Park that are not specific to the Lansdowne agreements, and which could have a financial impact on the City.

Management Response:

Management agrees with this recommendation.

The General Manager of RCFS, or designate, will develop a process to identify each partner's role as it relates to items that are not addressed within an agreement. If the item has financial implications affecting the multiple partners, the

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relevant parties shall attempt to resolve the issue through negotiation. This process will be completed by Q2 2018.

Appendix A – Audit objectives and criteria

Overview of the audit objectives and criteria

Audit Criteria	
Audit objective #1: Corporate governance and oversight	
1.1	Management’s oversight of the Lansdowne contract agreements, including clear definitions of roles and responsibilities and governance, is designed and operating effectively.
1.2	The City has procedures in place to deal with loss of staff and knowledge over the life of the contracts.
1.3	Management’s oversight in reporting to City Council and Committees are accurate, timely and effective.
Audit objective #2: Provision of services under the contract agreements	
2.1	The City is monitoring the effectiveness of the contract agreements to objectives by monitoring and assessing whether service levels provided meet contractual expectations and is taking steps to resolve any discrepancies.
2.2	Guidelines for programming and scheduling of events within the Stadium and the Urban Park exist and are being followed along with coordination and cooperation for concurrent events.
2.3	There are efficient and effective systems and practices in place to ensure accurate and timely accounting, reporting, monitoring and collection/payment of scheduled payments and invoices relating to the contract agreements.

Audit criteria were developed and applied during the audit to assess the City’s performance of contract management. Criteria used to assess the City’s contract management processes were based on the City’s P3 Policy, Procedures and Guidelines and “A Framework for evaluating the implementation of Private Finance Initiative projects” published by the National Audit Office (United Kingdom).

Appendix B – Lansdowne contract agreements

Overview of the Lansdowne contract agreements in scope

Agreement	Partner(s)	Purpose
Lansdowne Redevelopment Plan Project Agreement	OSEG; Lansgreen Investments Inc.; Shenkman Lansdowne Ltd.; Trinity Lansdowne Ltd.; Keljay Ltd; and Friarmere Holdings Inc.	The primary agreement between the City and the Ottawa Sports and Entertainment Group. Sets out financial and other fundamental elements of the relationship between parties in respect of the project and gives a high level description of the requirements for each of the elements of the project.
Project Management Agreement	OSEG	Governs how OSEG as the Project Manager will supply pre-construction, construction and post construction management services. Schedule A sets out Project Manager's Services by phase, including Post-Construction.
Master Limited Partnership Agreement	OSEG; Lansgreen Investments Inc.; Shenkman Lansdowne Ltd.; Trinity Lansdowne Ltd.; Keljay Ltd; and Friarmere Holdings Inc.; and Lansdowne Master GP Inc.	Establishes a Manitoba limited partnership and sets out the rights and obligations of the parties with respect to the limited partnership.
Master Site Agreement	OSEG; Lansdowne Stadium Limited Partnership; Lansdowne Retail Limited Partnership; Minto (Lansdowne Office) Inc.; and Lansdowne Residential Limited Partnership	Deals with overall site matters, including site access, provision of shared facilities and shared services, shared facilities manager, cost sharing, etc.
Site Plan Agreement	OSEG; Lansdowne Stadium Limited Partnership; and	Outlines items including the site specific conditions, responsibilities and obligations, including

Agreement	Partner(s)	Purpose
	Lansdowne Retail Limited Partnership	transportation demand management requirements.
Urban Park Property Management Agreement	Lansdowne Stadium Limited Partnership	Engagement of Lansdowne Stadium Limited Partnership (LSLP) as the exclusive property manager to maintain and repair Lansdowne Park. OSEG is the property manager.
Urban Park Programming Agreement	Lansdowne Stadium Limited Partnership	Sets out the roles of each party for programming and scheduling of events, including a farmers' market on site.
Parking Structure Reciprocal Agreement	OSEG; Lansdowne Stadium Limited Partnership; Lansdowne Retail Limited Partnership; Minto (Lansdowne Office) Inc.; and Minto Communities Inc.	Outlines items including management of the of parking structure, cost and revenue sharing, maintenance and repair including lifecycle plans. OSEG is the Shared Facilities Manager.
Office Lease	Minto (Lansdowne Office) Inc.; and Minto Properties Inc.	Lease agreement for the office component.
Stadium Lease	Lansdowne Stadium Limited Partnership	Lease agreement for the stadium component.
Retail Lease	Lansdowne Retail Limited Partnership	Lease agreement for the retail component.
Licence of Occupation for Ottawa Farmers' Market at Lansdowne Park, Ottawa	Ottawa Farmers' Market	Sets out respective roles and responsibilities of the City and OFM for a year-round farmers' market within the Urban Park of Lansdowne Park.

Appendix C – Monitoring tools in use

This table outlines the majority of the Lansdowne agreement contract requirements that were reviewed during the audit, identifies whether or not the requirement was met and whether or not the requirement is outlined in the City’s three documents¹² used for monitoring and reporting purposes. In some cases, the documents may have been provided but not within the required timeframe outlined in the agreements. It is not an exhaustive list of all the requirements under all the Lansdowne agreements, and does not include reporting requirements to Council or Committee.

Reporting requirement – Agreement and Article	Requirement identified in City document	Requirement met?
LMLP		
VI 6.1(a) Annual financial statements	LRR and LOMD	Yes
VI 6.1(b) Quarterly financial statements	LRR	No
VI 6.1(c) Annual unitholder meetings	Not identified	Yes
UPPMA		
3.3(a)(i) Annual financial updates	LRR and LSOM	Yes
3.3(a)(i) Quarterly financial updates	LSOM	No
3.3(a)(iii) Methodology	Not identified	No
3.4 Base budget	LRR and LSOM	No
4.1 Manager’s insurance	Not identified	No
Schedule B Base service specifications reporting	Not identified	No
Master Site Agreement		
8.2 Annual budget	LRR, LOMD, and LSOM	Partial

¹² LRR = Lansdowne Reporting Requirement; LOMD = Lansdowne Operations Monitoring Dashboard; LSOM = Lansdowne Site Operations Manual

Reporting requirement – Agreement and Article	Requirement identified in City document	Requirement met?
8.4 Estimate of shared costs	LRR, LOMD and LSOM	Yes
8.5 Annual shared costs actual	LRR, LOMD and LSOM	Partial
8.10 Capital budget	LRR and LSOM	No
10.1 Quarterly meetings	Not identified	Partial
10.6 Meeting records	Not identified	Partial
12.1 Insurance	Not identified	No
PSRA		
6.4(f) Annual implementation report	LRR and LSOM	No
6.6(a) Trust account	Not identified	No
6.6(b) Summary of withdrawals	Not identified	No
8.3 Annual budget	LRR, LOMD, and LSOM	Yes
8.5 Estimate of shared costs	LRR and LSOM	Yes
8.6 Annual shared costs actual	LSOM	Partial
8.11 Capital Budget	LRR and LOMD	No
10.5 Annual NOI statement	LRR and LOMD	No
12.1 Quarterly meetings	Not identified	Partial
12.6 Meeting records	Not identified	Partial
14 Insurance	LSOM mentions requirement for maintenance of appropriate insurance coverage as set out in the lease agreement and as required by City; no mention of monitoring by City	No

Reporting requirement – Agreement and Article	Requirement identified in City document	Requirement met?
Stadium Lease		
6.6 Annual implementation report	LSOM	No
6.7(b) Trust account	Not identified	No
6.9(a) Summary of withdrawals	Not identified	No
12.5 Insurance	LSOM mentions requirement for maintenance of appropriate insurance coverage as set out in the lease agreement and as required by City; no mention of monitoring by City other than to increase insurance limits	No
Retail Lease		
12.5 Insurance	LSOM mentions requirement for maintenance of appropriate insurance coverage as set out in the lease agreement and as required by City; no mention of monitoring by City	No
Office Lease		
14.5 Insurance	Not identified	No
Site Plan Agreement		
Schedule D, Section 24 TDM Coordinator	LSOM	No from Jan 1/2017; Yes until Dec 31/16
Schedule D, Section 25 TDM Office	Not identified	No
OFM		
6 Annual report	LRR, LOMD	Yes

Reporting requirement – Agreement and Article	Requirement identified in City document	Requirement met?
7 Calendar	LRR, LOMD and LSOM	Yes
8 OFM by-laws	Not identified	Yes
9 Meetings	Not identified	Yes
26/27 Utilities installation costs	Not identified	Yes
28 Water and Hydro reimbursement	Not identified	No
31-33 Indoor Market Fees	LOMD	Partial
40 Insurance	Not identified	Yes