

**APPENDIX 1**

**MANAGEMENT OF CAPITAL PROJECT  
129 PETER STREET**

**SHELTER, SUPPORT AND HOUSING ADMINISTRATION,  
FACILITIES MANAGEMENT AND  
REAL ESTATE DIVISIONS**

**May 31, 2010**



**Auditor General's Office**

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Jeffrey Griffiths, C.A., C.F.E.  
Auditor General  
City of Toronto

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## EXECUTIVE SUMMARY

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### *Construction contracts review in 2009 Audit Work Plan*

The Auditor General's 2009 Audit Work Plan included a review of construction contracts. The review of construction contracts was included in our Work Plan based on the general extent of expenditures as well as ongoing issues identified in previous construction contract audits.

We reviewed three projects managed by Design, Construction and Asset Preservation (DCAP) in the Facilities Management Division. The three projects reviewed were:

### *Three projects selected for review*

- 129 Peter Street Assessment and Referral Centre and Homeless Shelter
- Nathan Phillips Square Revitalization – Toronto City Hall Podium Green Roof
- Building Addition and Site Work to Fire Services Maintenance Garage at 40 Toryork Drive.

Our review of the Nathan Phillips Square Revitalization – Toronto City Hall Podium Green Roof and the Building Addition and Site Work to Fire Services Maintenance Garage at 40 Toryork Drive indicated that these projects were relatively well managed. The issues which we identified in our review of these two projects were minor and have been discussed with DCAP staff.

The focus of this report is the project known as 129 Peter Street Assessment and Referral Centre and Homeless Shelter renovation.

### **SUMMARY OF ISSUES IDENTIFIED**

Broadly speaking, the issues identified in this report can be summarized as follows:

***Final project costs  
estimated at \$11.5  
million***

- The initial budget for the Peter Street project was \$5.5 million and was determined before the building to be purchased was identified. Costs estimated to the end of May 2010 are approximately \$11.5 million. The cost of various City initiatives such as compliance with the Green Roof strategy as well as decisions made by City Council contributed to the increased cost of the building. City initiatives and Council decisions added \$1 million in costs.

Management have advised us that *“there were several significant scope changes to this project as it progressed that contributed to cost increases. Where direction was given to make changes or where it made sense to invest more in this important asset senior management made concerted decisions to do so as the project progressed. We took advantage of opportunities as they arose to create a better building and facility than originally envisioned. We estimate the cost of these scope changes to be at least \$2.4 million.”*

Exhibit 1 attached to this report estimates that scope changes and additional work approximated \$3.1 million over and above the original budget.

- Additional costs subsequent to May 2010 are unknown at the present time. It has been difficult to verify the total costs of the project as the cost information provided to us continues to change. Since costs have been charged to a significant number of accounts and not consolidated in one capital project account it is possible that costs may have been charged elsewhere. The total project costs in this report represent costs that we have been able to identify. Shelter, Support and Housing Administration (SSHA) and DCAP have confirmed in writing that to *“their knowledge there are no other costs.”*
- The original anticipated completion date for the project was May 2008. Staff indicate they expect the building will be ready for occupancy in June 2010.

***Cost of the building used up most of the initial budget***

- The initial budget of the project in the amount of \$5.5 million was unrealistic in view of the purchase price of the building of \$4.7 million. At the time of purchase, staff were aware that the building required costs in excess of \$800,000 (the cost of the building less the initial budget). City Council was not advised at the time 129 Peter Street was acquired that the project would cost significantly more than \$5.5 million even though information concerning other renovation and upgrade costs was available to them.

***Costs of the project do not include an appropriate amount of project management fees***

- The estimated cost of the project of \$11.5 million does not include an appropriate amount of internal project management fees. The charging of project management fees are required as provided in a City Council approved policy. Project management fees currently to be charged to the project are in the range of \$180,000.

DCAP project management fees are generally based on a sliding scale which is tied into the cost of the project. For projects over \$4 million, the rate has been set at \$160,000. However, the set rate amount also provides that “*resource requirements and project management fees for projects over \$4 million annually to be confirmed on a case by case basis with the Director, DCAP.*” In the case of 129 Peter Street, the management fee charged for the first \$4 million cost for this project was \$160,000 with the balance of the administration fee of \$20,000 for the remaining renovation costs of approximately \$2.8 million. This in our view is unreasonable, particularly in the context of the time it has taken to complete the project as well as its complexity.

***SSHA direct salary costs not included in project costs***

- As of May 2010, the costs of the project do not include an allocation of SSHA direct salary costs. A specific capital budget guideline issued by City Financial Planning requires that “*Capital project expenditures are to include all direct costs to construct a capital project including internal staff costs that are technical in nature that are directly related to the construction or purchase of the capital asset. For example, costs should include all direct internal salaries and benefits for staff working on the project including technical design, construction supervision, and legal support*”.

Records were not kept in regard to the extent of time SSHA staff spent on this project, neither have any estimates been made of the time spent.

***Significant amendments to the renovation tender documents***

- Expedited planning resulted in significant amendments to the renovation tender documents. Staff from Purchasing and Materials Management Division expressed concerns that the constant amendments might have limited the number of bidders as well as potentially increased the contract cost. In spite of these concerns, the City did however, receive seven qualified bids for this tender.

***Lack of clarity in terms of who was accountable***

- There was a lack of clarity in terms of the responsibility for the project. The contractor was accountable to DCAP while the architect reported to SSHA. Differing opinions between DCAP and SSHA in regard to the requirements to meet accessibility guidelines led to the late addition of an elevator to the building. The addition of an elevator at such a late stage added significantly to the cost.

***Change orders were significant***

- An inordinate number of contract change orders were made during the renovation of the building. These change orders approximated \$2.6 million which was 90 per cent of the original contract cost of \$2.9 million. In these circumstances it was appropriate that the work required as a result of the change orders was completed by the on-site contractor. However as a result, none of these change orders was the subject of a competitive procurement process.

***Capital lease should be included as a capital cost***

- Included in the total costs of the project is a proposed capital lease for \$273,300 with Toronto Hydro for the supply of various solar related energy equipment. This amount was not originally included as a cost of the project by staff.

In regard to lease agreements generally, City Council, in 2004, adopted a statement of lease financing policies in regard to lease transactions. The policy indicates the following:

*“Before entering into any particular financing lease transaction, the Chief Financial Officer and Treasurer is required to prepare a report to Council with recommendations, an assessment of the costs and financial and other risks associated with the proposed financial lease, including:*

- (i) a comparison between the fixed and estimated costs and the risks associated with the proposed lease and those associated with other methods of financing;*
- (ii) a statement summarizing, as may be applicable, the effective rate or rates of financing for the lease, the ability for the lease payment amounts to vary, and the methods or calculations, including possible financing rate changes, that may be used to establish that variance under the lease;”*

Prior to the drafting of any lease agreement, a financial analysis/business case should have been evaluated by City Finance. There is no point in finalizing a lease agreement prior to an evaluation by City Finance. Quite frankly, it is our view that neither DCAP nor SSHA were aware of the City policy.

### **Conclusion**

Many of the issues identified in this report point to an expedited planning process prior to the completion and issue of renovation tender documents. This is evidenced by:

- The significant and ongoing amendments to the tender document immediately prior to the tender submission deadline.
- The significant and ongoing change orders caused in certain instances by site conditions and scope changes to the renovation project. Work in connection with the change orders by necessity was completed by the on-site contractor without the benefit of a competitive process.

The expedited planning in our view was necessary to take advantage of time limited federal funding. Federal funding was initially available up until December 2007, and as a result, there was a desire to ensure that this funding could be used on the Peter Street project.

Management have indicated to us that the expedited planning was needed also “*to put in place on an urgent basis a replacement assessment referral centre and shelter.*” We question the “urgent basis” as the shelter is still not open approximately 35 months after the building was purchased.

***Stimulus funding projects also require expedited planning***

The issues raised in this report have relevance to funds available under the federal government’s Infrastructure Stimulus Fund, whereby qualified projects are required to be completed by March 2011. The short time frame for project completion will inevitably create a tension between the need for due diligence, appropriate planning and the need for expedient execution.

***Risk of similar problems***

There is a risk that if the issues identified in relation to the 129 Peter Street project were prevalent in current and ongoing stimulus funded projects the consequences could be significant. While we have not reviewed any stimulus funding agreements, it is our understanding that, where project costs exceed budgets and where projects are delayed beyond the March 2011 deadline, stimulus funding may be at risk. We have had specific discussions with the City Manager on this particular issue and have conveyed our concerns to him in writing.

Finally, management has indicated that “*this project has resulted in the development of a valuable asset to the benefit of the City, homeless individuals and taxpayers alike. There is no reference to this important fact in your report.*”

We of course acknowledge that after spending \$11.5 million, an asset exists.

However, we do question whether or not the \$11.5 million represents value for money, especially since the shelter beds due to be located at Peter Street have over the past 35 months or so been accommodated elsewhere in the shelter system. In addition, the assessment centre has also been located elsewhere in the City at a much lower cost than the funds expended on Peter Street.

Finally, the question needs to be asked as to whether or not City Council would have approved this facility if it had known that the costs of the project would ultimately be in the range of \$11.5 million.

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## **BACKGROUND**

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***Auditor General  
regularly reviews  
construction  
contracts***

In the past several years, the Auditor General's Office has reviewed several construction projects managed at the divisional level. These reviews have consistently identified a number of areas where improvements were needed. In 2007, the audit of future construction contracts was deferred in order to provide staff with an appropriate time frame to address recommendations from previous audit reports. In 2009, the audit of construction projects was recommenced.

As a result of an audit by the Auditor General entitled "Maintenance and Administrative Controls Review – Facilities and Real Estate" in 2005 the City Manager initiated a review by the firm of PSTG Consulting. This review recommended that responsibility for managing the state of good repair and building maintenance services for City-owned property be transferred to the Design, Construction and Asset Preservation (DCAP) in the Facilities Management Division. The transfer of this responsibility, previously a joint responsibility between divisions and the Facilities Management Division, is being phased in over three years starting in 2008.

***Previous  
recommendations  
made by Auditor  
General***

The realignment of responsibilities was in direct response to a recommendation made by the Auditor General which stated that:

*“1. The City Manager review the current Corporate governance structure of Facilities and Real Estate and building maintenance service arrangements and determine the extent of resources allocated to building maintenance functions in all City divisions, with a view to:*

- (a) evaluating the feasibility of centralizing ownership, control and accountability of City buildings and integrating all building maintenance operations and related funding within the Facilities and Real Estate Division; and*
- (b) reporting to the Policy and Finance Committee by July 2006. Such report to include the following:*
  - (i) proposed organizational structure to integrate all building maintenance services;*
  - (ii) costs and benefits of such change;*
  - (iii) roles and responsibilities of the Facilities and Real Estate Division and all City-user divisions;*
  - (iv) impact on the operating and capital budgets of the Facilities and Real Estate Division and all other City divisions;*
  - (v) recommended action, including specific timelines for implementation; and*
  - (vi) direct consultation with City divisions.”*

PSTG Consulting validated the recommendations of the Auditor General and at the same time recognized that there will be “opportunities to achieve efficiencies through consolidation.”

***Why we did this  
audit***

The 2009 approved capital plan for DCAP included \$73.3 million in spending on state of good repair renovation and construction projects. Planned increases in City capital spending combined with DCAP’s increasing responsibility will translate into DCAP being responsible for significantly more capital dollars. Combining this with the fact that we have not audited DCAP’s operations in the past, we selected them as the focus for our audit.

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## AUDIT OBJECTIVES, SCOPE AND METHODOLOGY

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***Auditor General's  
2009 Audit Work  
Plan***

The Auditor General's 2009 Audit Work Plan included a review of the adequacy of controls in the management of construction and or renovation projects at City divisions. Based on the extent of expenditures and risks related to renovation and construction projects, we selected three projects managed by DCAP).

***Audit Scope***

This review focused on transactions from January 1, 2007 to March 31, 2010 for three projects that were under construction as follows:

- 129 Peter Street Assessment and Referral Centre and Homeless Shelter
- Nathan Phillips Square Revitalization – Toronto City Hall Podium Green Roof
- Building Addition and Site Work to Fire Services Maintenance Garage at 40 Toryork Drive.

This report pertains to the 129 Peter Street Assessment and Referral Centre and Homeless Shelter.

***Audit Objective***

The objective of this review was to assess the adequacy of controls in the management of construction projects. In particular, we reviewed whether:

- Construction projects are properly planned
- Contracts are awarded in an open, fair and competitive process
- Contracts provide adequate terms and conditions that protect the interests of the City
- Projects are completed in accordance with contract terms and conditions, as well as established policies and procedures
- Projects are completed on time and within budget
- Contract payments are accurate, properly authorized and supported by adequate documentation.

***Audit  
Methodology***

Our audit methodology included the following:

- Review of policies and procedures
- Review of Committee and Council minutes and reports
- Interviews with staff of Facilities Management and the client divisions
- Site visits
- Examination of documents and records
- Evaluation of management controls and practices
- Review of contract audit reports in other jurisdictions in Canada and the U.S.
- Other procedures deemed appropriate.

***Compliance with  
generally accepted  
government  
auditing standards***

We conducted this audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence that provides a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## **AUDIT RESULTS**

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***Focus of review  
was 129 Peter  
Street***

The focus of this report is the capital project known as the 129 Peter Street Assessment and Referral Centre and Homeless Shelter.

The other two projects included in the annual work plan were the:

- Nathan Phillips Square Revitalization – Toronto City Hall Podium Green Roof
- Building Addition and Site Work to Fire Services Maintenance Garage at 40 Toryork Drive.

Our review of these two projects did not identify any specific concerns other than minor administrative issues which we have discussed with staff from DCAP. The contents of this report relate to the purchase and renovation of 129 Peter Street.

## **A. PURCHASE OF 129 PETER STREET**

***Converting 110 Edward Street to affordable housing created the need for a new location for the Assessment and Referral Centre***

Shelter, Support and Housing Administration Division (SSHA) manages the City's homeless shelter services. To better serve the homeless, SSHA operates an Assessment and Referral Centre to direct homeless people into vacant beds in the shelter system. Until the spring of 2007, the Assessment and Referral Centre was located in part of the temporary shelter facility at 110 Edward Street. In 2007, that location was approved by Council for conversion to affordable housing and, as a result, it was necessary to relocate the Assessment and Referral Centre and replace the temporary shelter beds.

The building at 129 Peter Street was to be renovated to accommodate the Assessment and Referral Centre combined with a 40 bed shelter. This was to provide homeless individuals with short-term accommodation until they could be transferred to longer stay shelter or permanent housing.

***129 Peter Street was the only available property that met criteria***

Following a search by the City's Real Estate Services Division, 129 Peter Street was identified as the only property that met the criteria established by SSHA. Those criteria were communicated to City Council in a report dated May 2007. The criteria included a requirement that the location be in compliance with the City's Municipal Shelter By-law, accessible to 24 hour transit and a need to be close to Nathan Phillips Square.

***Property purchased for \$4.7 million***

The building was purchased in 2007 for \$4.7 million which represented approximately 13 per cent over its independently appraised value of \$4.1 million. Real Estate Services were of the view that the purchase price was reasonable, although at the high end of an acceptable range. Due to the absence of any other suitable property and the fact that the location of the building met all of SSHA's criteria, City Council approved the acquisition.

The report to Council recommending the acquisition also indicated that "*Source funding for this acquisition is the Federal Government's Supporting Communities Partnership Initiative (SCPI). Commitment of the funding, which was originally confirmed until March 31, 2007, has since been extended until December 31, 2007.*" The same report also indicated that funding of \$5.5 million was available to finance the purchase. The only condition attached to the offer to purchase was "*satisfactory results of Due Diligence Condition.*"

Various building assessments were conducted prior to purchasing the building. The purpose of these assessments was to determine the extent of funds required to renovate the building.

***Building condition reviewed prior to purchase***

First, DCAP staff conducted a high level building condition assessment the results of which consisted of a summary of building deficiencies and costs. This assessment estimated it would cost \$2.2 million to bring the building to the required state of good repair. We were advised that this estimate included costs which were long-term in nature and were not immediately required. The assessment along with projected costs was completed by DCAP staff on March 17, 2007.

***Documentation supporting renovation costs of \$2.2 million was incomplete***

Documentation supporting the costs of \$2.2 million was incomplete as it did not include costs relating to “environmental remediation”. The document indicated that an “estimate was forthcoming end of March” for the environmental remediation. We have requested details of this estimate from a number of sources, but have been advised that this information was not compiled because invasive testing could not be performed prior to sale closure.

***A second assessment was completed***

Secondly, on March 26, 2007, a further report was completed by DCAP and SSHA which indicated that immediate state of good repair costs were required in the amount of \$662,000. We were advised by management that after this particular work was completed the facility could be occupied. In this context, management have indicated that the extent of their work was within the \$800,000 budget contemplated for renovations.

***Environmental assessments completed***

However, subsequent to March 2007, two separate environmental assessments were completed which indicated that costs over and above the \$662,000 were likely. An independent consultant, Terrapex Environmental Ltd. conducted two separate environmental studies. These studies were an “Environmental Site Assessment” and a “Designated Substance Survey.” These studies are required to ascertain the presence of any contaminants or hazardous materials in the property.

The independent assessments involved testing of samples of materials from the building but did not include any specific invasive testing. Without invasive testing it is difficult to determine the extent of any hazardous material. Property vendors understandably do not allow invasive testing prior to sale closure.

***Environmental concerns identified***

The consultant found that, based on the testing conducted, 129 Peter Street contained a number of environmental concerns typical of older buildings in the downtown area. This included the existence of asbestos.

Finally, a further report dated July 10, 2007 was prepared by the architect on the project. This report indicated that “*the overall hard construction costs to provide the City with basic renovations to get the new ARC operating at a minimal standard is \$1,489,763.*”

Based on the information provided, even taking into account the lowest cost building assessment, it was clear that the cost to renovate the facility would be in excess of \$800,000.

In any event, in May 2007 a recommendation was made to Council to proceed with the acquisition and the property was purchased for \$4.7 million.

***Report to Council indicated “no financial impact” with respect to the purchase price of 129 Peter Street***

Under the section of the report entitled “Financial Impact” it indicated that, “*This acquisition will have no financial impact beyond what has already been approved in the 2007 Capital Budget. Funding of \$5.5 million is available in the 2007 Approved Capital Budget for Shelter, Support and Housing Administration, capital account CHS030-01-4995 for the replacement of 110 Edward Street Shelter and Referral Centre Project. Total cost of this acquisition is \$4,708,275.*”

The implication from the Financial Impact statement was that the balance of the funds available in the budget after the acquisition of the building which approximated \$800,000 would be adequate to finance the state of good repairs required for its intended use.

***Financial impact statement incomplete***

In our view, the financial impact statement was incomplete as DCAP staff had already estimated prior to the actual purchase that there were additional costs to bring Peter Street to a state of good repair as a building.

**Recommendation:**

- 1. The City Manager direct all staff to prepare reports which contain accurate and complete financial impact statements. Such reports to address all financial implications both capital and operating. Reports relating to capital acquisitions contain information on required future state of good repair budgetary requirements.**

## **B. THE STATE OF GOOD REPAIR – SUMMARY OF PROJECT COSTS AND FUNDING**

### **B.1. The Project Costs Were Difficult to Determine and Are Not Yet Finalized**

***Project costs difficult to verify***

It has been difficult to specifically verify the total costs of the project as the information provided to us continues to change. Since costs have been charged to a significant number of accounts and not consolidated in one capital project account it is possible that costs may have been charged elsewhere. The total project costs in this report represent costs that we have been able to identify. We have requested and SSHA and DCAP have confirmed in writing that to “*their knowledge there are no other costs.*”

***The project costs to date are \$11.5 million***

The documentation we have been provided indicates a total cost in the range of \$11.23 million. However, added to this cost is a capital lease for \$273,300 with Toronto Hydro for the supply of various solar related energy equipment. Consequently, the total cost including the capital lease is in the range of \$11.5 million.

***Capital lease should be added to the cost***

The lease was not regarded by staff as a cost of the project as the intent is to finance the lease as an annual operating expense. The lease should be accounted for as a capital cost. While we have not been provided with the repayment terms of the lease, it is likely that the annual interest costs will likely be in the range of \$16,000. It is also likely that the costs to finance the capital lease are in excess of the City’s debt borrowing costs.

Prior to the drafting of any lease agreement, a financial analysis/business case should have been evaluated by City Finance. There is no point in finalizing a lease agreement prior to a cost benefit evaluation by City Finance. Quite frankly, it is our view that neither DCAP nor SSHA were aware of the City policy. It is our understanding that the lease has not yet been approved.

***Management fees are understated***

For 129 Peter Street, DCAP has assessed approximately \$180,000 in project management fees. DCAP project management fees are generally based on a sliding scale which is tied into the cost of the project. For projects over \$4 million, the rate has been set at \$160,000. However, the set rate amount also provides that “*resource requirements and project management fees for projects over \$4 million annually to be confirmed on a case by case basis with the Director, DCAP.*” In effect, the management fee charged for the first \$4 million cost for this project was \$160,000 with the balance of the administration fee of \$20,000 for the remaining construction costs of approximately \$2.8 million. This in our view is unreasonable, particularly in the context of the time it has taken to complete the project as well as its complexity.

***SSHA salary costs have not been included in the capital costs***

Further, the involvement of SSHA staff in the management of this project was significant. A specific capital budget guideline issued by City Financial Planning requires that “*Capital project expenditures are to include all direct costs to construct a capital project including internal staff costs that are technical in nature that are directly related to the construction or purchase of capital asset. For example, costs should include all direct internal salaries and benefits for staff working on the project including technical design, construction supervision, and legal support*”.

Records were not kept in regard to the extent of time SSHA staff spent on this project, neither have any estimates been made of the time spent. Consequently, the project does not include any direct internal costs as required by the capital budget guidelines.

***Final accounting of all costs is required***

Finally, when the project is complete there needs to be a full and final accounting of all costs on the project. This accounting should be reported to City Council.

Our high level analysis of the costs is appended to this report as Exhibit 1.

**B.2. The Project Budget Kept Changing and Was Difficult to Determine**

Throughout this review, we have not been able to locate any documentation which unequivocally stated the total budget for this project. Rather, what we have identified are ongoing budget approvals for additional funds to cover the costs of various ongoing and in some cases unanticipated expenditures.

The source of the funds to finance the estimated final project cost of \$11.5 million compared to the original budget in 2007 are:

<i>All funding requests except the capital lease were approved by Council</i>	<u>2010 Funding</u>	<u>2007 Funding</u>
Federal Funds	\$7.7 million	\$5.0 million
Debt	2.1 million	.3 million
Development Charges	.2 million	.2 million
Operating Accounts	1.2 million	
Capital Lease	<u>.3 million</u>	<u>                    </u>
	<u>\$11.5 million</u>	<u>\$5.5 million</u>

We have been able to locate various approvals for all budget amounts except for the capital lease.

In requesting additional funds from Council for specific projects such as 129 Peter Street, the staff recommendations including the Financial Impact information do not provide an adequate level of detailed cost and funding information. The reasons for the requests for additional funds are articulated but there is little information on the total project costs to date along with a comparison with the budget. For example, a report to Council in November 2009 entitled “Purchase Order Amendment for the Building Renovations and Upgrades to 129 Peter St Assessment Referral Centre and Homeless Shelter” requested a purchase order amendment of \$1,000,000. The staff recommendations were:

- 1) *“City Council amend Purchase Order No 6024794 for Tender Call 294-2007 to Balmain Construction Ltd in the amount of \$1,000,000 net of GST for the Building Renovations and Upgrades to the 129 Peter Street Assessment Referral Centre and Homeless Shelter and*
- 2) *Increase the 129 Peter Street Shelter and Referral Centre capital project by \$1,000,000 gross and \$0 net with cash flow requirements of \$1,000,000 in 2010.”*

The Financial Impact statement was:

*“The total Purchase order Amendment identified in the report is \$1,050,000 including all applicable taxes and charges. The cost net of GST is \$1,000,000. The funding is available through the Federal Homelessness Partnership Initiative.”*

The report provided no information on the financial history of the project or whether additional funding might be required.

*Difficult to determine the actual costs and funding sources*

In summary, it has been difficult to determine the actual costs and the specific funding sources for this project. Costs for the project kept escalating as the project scope changed and various issues were identified during the project. Certain of these issues could have been dealt with more appropriately if the project was adequately planned. Staff determined that there was a need to proceed expeditiously on this project to take advantage of the availability of federal funds. The availability of these funds had a specific deadline at which point in time it was believed that access to these funds would no longer be available.

**Recommendations:**

- 2. The City Manager direct all staff that under no circumstances should capital lease agreements be negotiated prior to consultation with the Deputy City Manager and Chief Financial Officer. The City Manager further advise all staff that potential lease agreements only be consummated after compliance with City policy.**
- 3. The Deputy City Manager and Chief Financial Officer propose amendments to the Financial Control By-law requiring that final total capital project costs for all major capital projects are reported to the appropriate Standing Committee. Such reporting include a comparison of costs to budget as well as a comparison of actual completion date to projected completion date.**
- 4. The City Manager direct staff, when requesting Council approvals for additional financing, to include complete project costs, including management fees and direct salary costs, and budget information as well as estimated project completion dates in all reports.**

## **C. PROJECT PLANNING FOR STATE OF GOOD REPAIR TO 129 PETER STREET**

### **C.1. Lack of Project Charter**

#### ***Major projects with client divisions require a project charter***

Project charters, a best practice for managing large contracts, define the scope of work, objectives, budget, key deliverables, risk assessment and project timelines and is signed by all parties to signify agreement. DCAP for the most part manages projects on behalf of City divisions and generally operates on the basis of a mutually agreed upon project charter.

A project charter was not prepared for the 129 Peter Street project. We were advised that the project needed to be finalized as quickly as possible and the need for a project charter did not seem to serve the successful delivery of the capital project. Responsibilities for various aspects of the project, probably the most important component in the successful delivery of the capital project, were not clearly defined.

#### ***Need for clarity in respective roles of DCAP and client divisions***

In summary, DCAP is in the business of managing construction projects. Client divisions are in the business of providing services. When projects are being constructed to assist divisions in providing their service, the divisional role should be to work with DCAP to ensure the end product meets their service delivery needs. It is DCAP's role to provide overall project management, consulting the divisions as and when required.

DCAP should have insisted on a mutually agreed upon project charter irrespective of any potential delays such a process may have caused. In view of what transpired with 129 Peter Street as the project progressed, the lack of a project charter was likely an important omission throughout the process.

**Recommendations:**

- 5. The City Manager direct that the Design, Construction and Asset Preservation section of the Facilities Management Division be designated as the lead project manager for all renovation projects. The role of client divisions be clearly defined.**
- 6. The City Manager, in consultation with the Executive Director, Facilities Management, require that project charters be prepared for all capital projects. Project charters should define the scope of work, objectives, key deliverables, and project timelines and be approved in writing by both the Design, Construction and Asset Preservation section and the client division.**

**D. REASONS FOR INCREASED PROJECT COSTS WERE VARIED**

**D.1. Impact of Council Decisions on Project Costs**

*City Council direction to locate the smoking area on the roof*

The purchase of 129 Peter Street was approved by Council in May 2007. The approval of the purchase, however, included a number of further Council recommendations. Council directed that “The outdoor smoking area for the facility must be located on the roof”. At the same time, Council directed that “the patio area on the south side of 129 Peter Street be returned to full public use as a sidewalk and this should be done before the new facility is opened.” This transformation was termed the “streetscape”. The streetscape budget was subsequently transferred to the budget of Transportation Services and had no impact on the Peter Street facility.

The cost of adding the smoking area and the streetscape were not known at the time Council made their recommendations. In actual fact, the cost of both of these changes received little attention in terms of how the cost of the project would be impacted.

*Rooftop smoking area costs \$294,000*

The high level building condition assessment conducted prior to purchase indicated that the construction of a rooftop smoking area would require additional work to the roof structure. The construction contract included a cost of \$294,000 for the rooftop smoking area.

To achieve environmental benefits envisioned in various “green initiatives” by the City, where the roof of a City building was being replaced, a green roof was to be installed “where technically practical”. A January 23, 2008 report to Executive Committee entitled “Update on Green Roof Strategy” states that technically practical does not mean monetary feasibility. Rather, the cost of implementing the standard would be dealt with on a case by case basis through the budgeting process. Management have indicated that “*in the case of 129 Peter Street it was decided that benefits of the green roof was worth the cost.*”

To follow the direction expressed in the City’s green initiatives the project design for 129 Peter Street included such items as a roof top garden area and solar “flowers” (a form of solar panels).

*The green roof and smoking area added approximately \$1 million to cost*

129 Peter Street, constructed in 1920, could not support the weight of a green roof and a smoking area without significant structural changes. Based on the architect’s analysis, we estimated that the addition of a green roof, smoking area and other roof related costs added approximately \$1 million to construction costs.

In situations where Council decisions have a significant financial impact, these decisions should be made with an adequate level of support. These decisions are made without the benefit of staff input or involvement and as such staff are not able to provide supporting financial impact documentation on a timely basis. In such situations there needs to be a protocol to allow this to happen.

**Recommendation:**

- 7. The City Manager, in consultation with the City Clerk, give consideration to the development of a process or a protocol which would enable Councillors, when considering Motions, to be advised of the financial implications of such Motions. If this is not possible prior to decisions being made then consideration be given to providing this information at a subsequent meeting.**

## **D.2. Timelines Were Based on Funding Availability Rather Than Project Realities**

Due to the possibility of losing federal funding which at the time of the approval to acquire the building was only committed to December 31, 2007, early planning and design work was unduly expedited and incomplete. The federal funding was eventually extended to March 2011, but staff were not informed of that decision until December 2007.

*Original completion date was not realistic*

129 Peter Street was originally estimated to be completed in May 2008, only 10 months after the purchase of the property. The project is now anticipated to be ready for occupancy in June 2010 a full 35 months from the date the building was purchased.

In presenting the initial project completion date of May 2008, the architect was very clear that the date was only being suggested at the request of SSHA and that it was unrealistic.

DCAP staff indicated that, in their experience, a project the scope of 129 Peter Street would be expected to take about two years to complete from the time a suitable property was purchased. Using this timeline, the earliest completion date would have been July 2009.

*Tender issued with incomplete drawings and specifications*

Tenders for bids on the renovation for the 129 Peter Street project were issued with incomplete drawings and specifications. As a result, significant changes were made after the tender was issued. The incomplete design resulted in the issue of eight addenda to the tender, the last one coming two days before the tender closing date.

Facilities Management staff are responsible for reviewing drawings and specifications prepared by architects under their direction to ensure they are accurate and complete. For the 129 Peter Street contract, the responsibility for the preparation and review of appropriate drawings and specifications was unclear. The involvement of SSHA along with the reporting relationship of the architect to SSHA also made this process unclear. In any event, the end result of this process was an inadequately prepared tender document.

***Drawings and specifications were amended after the Peter Street tender was issued***

As indicated, the tender document for 129 Peter Street issued to bidders was changed eight times. A complete set of new drawings and specifications was handed out at the pre-tender meeting on November 15, 2007. The original closing date for submission of tender documents was November 23, 2007.

Various correspondence on file indicates that purchasing staff had significant concerns relating to the strict project timelines and need for constant late design changes. Purchasing staff were further concerned that these issues would have an impact on the number of bidding contractors as well as the contract price. In spite of these concerns, seven qualified contractors responded to the tender document. In addition, in view of the significant changes to the tender document the closing date was extended to December 4, 2007.

It is not possible to determine what impact the design changes had on the final contract price but it is likely that bids were higher than they might have been if accurate tender documents were issued at the beginning of the process.

**Recommendation:**

- 8. The Executive Director, Facilities Management, in consultation with the Director, Purchasing and Materials Management, project managers and external consultants, ensure that project design documents are complete and as accurate as possible prior to tender issue.**

**D.3. Accessibility Guidelines Were Not Incorporated into Original Design**

***In May 2004, City Council approved Accessibility Design Guidelines***

In May 2004, City Council approved Accessibility Design Guidelines. These guidelines apply to construction and renovation of City-owned facilities. In June 2005, the Province also enacted the Accessibility for Ontarians with Disabilities Act, 2005 with a goal of developing, implementing and enforcing accessibility standards for Ontarians with disabilities by 2025.

***Original design did not comply with City guidelines***

Due to budgetary concerns, SSHA directed the architect to remove the elevator from the original project design of 129 Peter Street. As an alternative, SSHA included a room on the first floor for disabled residents. DCAP and SSHA disagreed on the requirement for an elevator.

*Elevator costs  
higher than  
initial estimate of  
\$200,000*

According to DCAP and contrary to the understanding of SSHA, the building required an elevator to meet the City's Accessibility Design Guidelines. The conflicting views on the need for an elevator points to the need for one division to have the overall responsibility for the project and in particular the responsibilities be assigned to the project experts and not the service providers. In any event, the need for an elevator was incorporated into the design of the building.

In August 2009, Council approved spending up to \$500,000 on the elevator, \$300,000 higher than estimated by the architect in the initial design. The reasons for the increased costs are essentially two fold, one of which was the late incorporation of the elevator into the renovation itself. Secondly, the increased costs were also due to the need for structural improvements to the elevator shaft necessary as a result of incorporating the solar energy equipment and a roof top smoking area into the building design.

The current quote on installing the elevator is in excess of \$800,000, but approval has not been given by DCAP who disagree with this high a quotation. Consequently, the amount is under review and negotiation with the contractor. We have used the quoted amount in our estimate of the projected final actual cost of the project.

**Recommendation:**

- 9. The Executive Director, Facilities Management, be given sole authority to make decisions on the method by which accessibility requirements be incorporated in all relevant tender documents. The design of construction and renovation projects be required to comply with the City's Accessibility Design Guidelines and any new requirements under the Accessibility for Ontarians with Disabilities Act, 2005.**

#### **D.4. The Presence of Asbestos Was Not Fully Assessed Prior to Commencing Construction**

The Environmental Site Assessment and the Designated Substance surveys completed prior to acquisition of 129 Peter Street reported that asbestos was present in the building. It recommended that further asbestos testing and removal be performed following purchase by the City. As required by legislation, DCAP retained a specialized contractor to remove asbestos prior to commencing construction.

The City policy on asbestos requires that tender requests include a building asbestos assessment report and building asbestos record. This was not done for the tender for 129 Peter Street. However, DCAP advised that they provided the contractor with copies of the environmental report in February 2008 prior to the commencement of construction.

*Final cost for asbestos removal was \$338,000*

The contractor located asbestos while performing initial demolition work. Disturbing asbestos during the demolition process is a significant health hazard which requires immediate remediation. To identify all asbestos and mould in the building, DCAP arranged for an environmental consultant to prepare an asbestos building survey “to establish locations, conditions and the types of asbestos contained in the building.” As a result, significant further removal work was necessary during construction. The removal of the additional asbestos resulted in a delay in construction of about three months. The final cost for asbestos removal was \$338,000.

#### **Recommendation:**

**10. The Director, Design, Construction and Asset Preservation, comply with the City’s asbestos management policy that requires tender documents include a building asbestos assessment report and building asbestos record. In addition, if necessary and practical, an intrusive asbestos survey should be completed prior to commencing renovations or construction work to confirm the presence of asbestos in the building.**

## **E. ONCE THE TENDER WAS AWARDED, CHANGE ORDERS WERE ISSUED ON A REGULAR BASIS**

*Change orders were excessive and would have been avoided with adequate planning*

Change orders are additional or unanticipated work that was not included in the original tender document. The extent of change orders at 129 Peter Street was significant and indicative of expedited planning at the tendering stage of the project. Change orders in any project should be minimized as any work required under a change order must, in the majority of cases, be completed by the on-site contractor. Change orders are therefore not subject to a competitive procurement process.

*\$2.6 million in change orders approved or 90 per cent of contract amount as of February 28, 2010*

As of February 28, 2010, DCAP has identified an additional \$2.6 million relating to over 90 change orders for 129 Peter Street mainly relating to site conditions and scope changes. This amounts to 90 per cent of the original construction contract amount of \$2.9 million. In addition, further change orders are being processed in 2010. DCAP advise that change orders in the range of 25 per cent of the original construction contract would be reasonable for a renovation project such as 129 Peter Street.

The \$2.6 million in change orders identified to February 28, 2010 2009 were as follows:

Unknown site conditions	\$1,075,000
Elevator	789,000
Design changes requested by SSHA	555,000
Green initiatives	156,000
Other	<u>49,000</u>
<b>Total</b>	<b><u>\$2,624,000</u></b>

### **Recommendation:**

- 11. The City Manager direct all staff involved in the design of major construction and renovation projects to ensure that all tender and design documents are complete and signed off by the Facilities Management Division and incorporate the scope of work as agreed with the client division.**

## E.1. Reasons for the Change Orders

### Change Orders as a Result of Unknown Site Conditions

The building assessment conducted prior to purchase identified certain concerns with the condition of the building. This assessment, by its nature, was conducted at a high level and made reference to the fact that “further investigation” was required prior to “any foundation and waterproofing work.” However, at the time the tender document was issued no further assessment of the condition of the building was completed. Such an inspection would likely have identified issues which should have been incorporated into the tender document. There was adequate time to complete such an inspection since the City took possession of the building in July and the initial construction tender document was issued in November of 2007.

A number of problems were not identified until construction, causing delays and requiring change orders to authorize the additional work. For example, the original drawings submitted with the tender document assumed that the existing drains and sewers were in a reasonable condition. However, a camera inspection during construction found that the drains had to be replaced at a cost of \$315,000.

#### *Change orders required for a number of reasons*

Further change orders were required for issues identified during renovation. These included the following:

Asbestos and mould investigation and removal	\$167,000
Waterproofing	\$173,000
Roof repairs and various demolition costs	\$113,000
Stairs and guard rail	\$72,000
Revisions to wallboard	\$55,000
Mechanical work	\$41,000
Other work related to site conditions	<u>\$139,000</u>
	760,000
Drain Replacement	<u>315,000</u>
<b>Total</b>	<b><u>\$1,075,000</u></b>

Due to the fact that these issues were identified during renovation, the work was completed by the original contractor. As a result, none of this work was the subject of a competitive bid process.

**Recommendation:**

- 12. The Executive Director, Facilities Management, on a case by case basis, evaluate the need to conduct detailed building condition assessments prior to tendering major construction and renovation projects. The results of assessments be adequately documented and conveyed to project management staff.**

**E.2. Change Orders Requested by Shelter, Support and Housing Administration**

Design and operational changes requested by SSHA included the need for an impact resistant drywall, additional security systems, a new communication system, a separate drainage system for the bathroom and kitchen, and a medical examination room. These design changes were made after construction started and added over \$300,000 to the contract price.

Finally, SSHA requested changes to the hoarding which essentially consisted of temporary wooden fencing around the building. SSHA requested changes to the hoarding to protect the vacant building in an area that receives high foot-traffic on some nights of the week, highlight the “green” nature of the project and provide the public more information at the site. This included covering the initial hoarding with green synthetic grass and fencing and making the hoarding four feet higher to add signage and provide additional security. These changes cost \$43,000.

**Recommendation:**

- 13. The City Manager direct that Design, Construction and Asset Preservation staff consult with Divisions at the design stage of all projects. Appropriate sign off of all drawings be standard practice by Design, Construction and Asset Preservation staff in consultation with Division staff. Such a process be incorporated into the Project Charter.**

### **E.3. Potential to Recover or Minimize Costs for Change Orders**

Construction contracts allow for markups for overhead and profit where change orders are required. Change order markups from the contractor for 129 Peter Street were not calculated in accordance with the contract yet were approved for payment. The project manager indicates that the rates used were as per instructions from his supervisor, although there is no documentation to support the use of the incorrect rates.

*Need to recover \$50,000 in over billings*

We calculated that change order invoices were over billed by over \$50,000 to May 31, 2010.

#### **Recommendation:**

**14. The Executive Director, Facilities Management, ensure that contractor invoices and change orders are calculated in accordance with the terms of the relevant contract. Further, the Executive Director, Facilities Management, take action as warranted after consultation with the City Solicitor to recover any excess change order amounts paid to the 129 Peter Street contractor.**

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## **CONCLUSION**

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This report presents the results of our review of the 129 Peter Street Shelter Renovation Project. The objective of our review was to assess whether there were appropriate controls over the management of construction projects.

Addressing the recommendations in this report will improve the management of construction contracts to minimize change orders, facilitate meeting project timelines and budgets and ensure that significant capital projects and requests for capital funding are accurately reported to Council.

**Exhibit 1****129 Peter Street  
Analysis of Costs Incurred to May 31, 2010**

		<b>\$ in Millions</b>
Original purchase price		4.7
Architect fee		0.6
Renovation contract costs		2.9
Project management fees		<u>0.2</u>
		8.4
<b>Scope Changes/Additional Work:</b>		
Elevator	0.9	
Various green initiatives	0.7	
Asbestos removal	0.4	
New water main	0.3	
Water proofing	0.2	
Stair and guard rail and other costs	0.1	
Other design work	<u>0.5</u>	
		<u>3.1</u>
<b>Total Cost</b>		<b><u>\$11.5</u></b>