

Date: June 23, 2017
File: AG-17-100
Subject: Authority to Modernize Mandate - Commence Revised Real Estate Acquisition, Disposal and Leasing Strategy
Contact: Donn Bennett, Acting Senior Manager, Realty Services
Al Meneses, Commissioner, Community Services

Recommendations:

1. That the report from Donn Bennett, Acting Senior Manager, Realty Services, dated June 29, 2017, to the City Council meeting of July 05, 2017 entitled **Authority to Modernize Mandate - Commence Revised Real Estate Acquisition, Disposal and Leasing Strategy**, be received;
2. That cross-departmental staff, led by Realty Services, Legal Services, Economic Development and Finance working jointly, be authorized to enter into negotiations with property owners for the purpose of acquiring land and/or facilities for various identified City projects, identified municipal purposes, opportunity-driven purchases, and to address Council-approved strategic priorities;
3. That a by-law be passed to delegate authority to the Commissioner, Community Services and Treasurer to jointly execute Agreements of Purchase and Sale together with such other documents as may be required in connection with the City's purchase of properties for City projects, at fair market value, conditional upon the approval and ratification of the Agreement of Purchase and Sale by City Council and the approval of a budget to fund the acquisition costs by City Council and on such other terms and conditions as may be acceptable to the Senior Manager, Realty Services, and in a form acceptable to the City Solicitor or designate and to further amend Schedule "B" of By-law 191-2011, as amended, to effect the above described delegation of authority and to amend any applicable City policies which may conflict with any of the recommendations in this report;
4. That staff be authorized to deliver deposits of no more than 5% of the purchase price, per site, as may be required by any Agreement of Purchase and Sale executed by the City as purchaser pursuant to the delegation of authority

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recommended by this report, provided such Agreement of Purchase and Sale requires the City's deposit(s) be refunded without deduction in the event the conditions requiring Council's ratification and funding approval, are not satisfied;

5. That refundable deposits be funded initially from the General Rate Stabilization Reserve and that any and all future Council report recommendations to purchase include the most appropriate funding source based on each specific transaction, and
6. That any accepted Agreement of Purchase and Sale executed by the City pursuant to the delegation of authority recommended by this report, be reported to Council within 90 days of such acceptance and prior to waiver of any conditions for the City's benefit and completion of the purchase, in a recommendation report containing the business case and operational plan developed by staff for such purchase, for Council's review, approval and ratification of the agreement and approval of a budget to fund the acquisition costs;
7. That in the event that such ratification and approvals not be granted with respect to any such purchase agreement, then staff shall take such steps as required pursuant to the terms of the agreement to terminate it and retrieve the refundable deposit(s) given.

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OVERVIEW

- Realty Services is seeking authority to implement a City-wide real estate acquisition strategy, in concert with our renewed focus of being “future ready” and as part of our recent reorganization to become more “business-like”, to benefit Council-approved strategic priorities and all City departmental projects in a rapidly moving real estate market.
- The proposed strategy relates to the acquisition of properties identified as being required for municipal purposes, the disposal of City-owned property declared surplus to municipal needs and able to be listed on the open market, and the lease of City-owned properties.
- With respect to the acquisition of properties, this report recommends that staff be authorized to submit conditional offers to purchase identified property for future City projects and identified strategic priorities, and that Council authorize the Mayor and City Clerk to execute Agreements of Purchase and Sale together with such other documents, as may be required to secure each of the target sites, at market value as contemplated herein, and as approved by Council prior to completing the transaction. This report also recommends a corresponding amendment of the Delegation of Authority By-Law 191-2011 and any conflicting City policies.
- With respect to the acquisition of property for City projects, disposal of identified surplus City-owned property and leasing of City-owned property, staff have hired a real estate broker. The broker will assist with the marketing of property in a fair and transparent manner, and provide third party expert advice on the acquisition, disposal and leases in a rapidly moving real estate market.
- Any negotiated agreements requiring compensation above the limits currently defined in the Delegation of Authority By-law 191-2011, as amended, will be conditional upon approval by City Council in a subsequent report, approval of a budget for funding by City Council, and completion of satisfactory due diligence.

Background:

Acquisition of Property:

At the Community & Public Services Committee meeting of November 2, 2016, Realty Services submitted the report entitled “Authority to Negotiate Acquisition of Property for New Fire Stations 214 and 217, Wards 5 and 10” for consideration (the “Fire Station Report”).

The resulting recommendations allowed for staff to commence the modernization of realty services so that staff can work more proactively with a real estate acquisition

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strategy that focuses on strategic acquisitions that will add value over the long term, and better align our real estate practices with private sector best-practices.

Recent Council-approved strategic priorities also requires staff to be more proactive and forward-thinking. City staff need to be positioned to take advantage of opportunity-driven purchases, motivated to bring Council's vision to fruition and make long-term strategically sound investments in real estate.

Disposal/Sale of City-owned Property

At the closed session portion of the Community and Public Services meetings of December 2, 2015 and June 15, 2016, confidential reports were presented relating to Transitional Buildings. As a result of the approval of the report by City Council, three properties listed in the report were approved for future surplus declaration and disposal.

Staff has identified a need for an enhanced disposal strategy to generate optimal revenue for the City and help diversify the City's revenue streams. The recommended approach in this report will facilitate the disposal of identified surplus properties to generate additional revenue for the City, while respecting the current priority offering process.

For the past several years, staff have engaged real estate brokers on an as-needed basis. This historical practice was not efficient nor effective, as the process was time-consuming.

A Request for Proposal was issued in March 2017, to obtain a real estate broker for a one-year contract. A final contract has been signed to retain the Broker. The winning bidder will assist with the marketing of property for the disposal and lease of City-owned property in a fair, transparent, efficient and effective manner.

Lease of City-owned Property (City as a Landlord)

Currently, the lease of City-owned property is a result of cross-department collaboration efforts. For example, the lease of space in recreation centers is completed through negotiation by Recreation and Culture staff, and assistance with appropriate agreements by Realty and Legal Services staff. Inquiries to rent space are made through various departments and Council members at the City, which lead to agreements with the inquiring individuals.

Now that a Broker has been retained, staff will continue to utilize the expertise of each department and modify process to ensure that City property is leased in a manner that is more market driven, quicker and fair and transparent to the public. Once a potential space for lease is identified (via staff or via an inquiry by any party to trigger an investigation of said space), it is intended that the space will be listed for lease by the Broker on the open market.

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By marketing property in this manner, staff will ensure that all options for use of the space is considered. When space is available for lease, said space will be marketed by the Broker to ensure that staff receive optimum return on value and maximum exposure within the appropriate market place.

Current Situation:

Staff have identified a need to create an overarching Real Estate Strategy to ensure that the acquisition, disposal and lease of property is completed in a more modern and business-like manner.

The City's new Broker will assist primarily with:

- Marketing City-owned property for disposal
- Lease of City-owned property
- Proactive acquisitions that focus on Council's approved strategic priorities, opportunity-driven purchases, long-term strategic investments

Staff believe that this revised strategy will help generate optimal revenues and exposure to interested parties in a manner that is consistent with industry best-practices in the private sector while combining the required public sector oversight protecting public interests.

Proposed Process Improvement Summary:

With respect to the acquisition of property, by granting the authority recommended in this report, Realty Services would elevate the previously approved project-specific recommendations to a high-level real estate acquisition strategy for all City departments.

Historically, to acquire property, Realty Services presents two reports to City Council:

- A report seeking authority to commence negotiations, and
- A second report to authorize execution of an agreement.

The first report references project initiatives presented by client departments which have already been presented to City Council by said departments.

The second report transitions through an approximately two-month cycle, beginning from the report draft and staff commentary, to submission for internal signatures and reviews, to presentation at the applicable City Council meeting.

The proposed revised acquisition strategy would reduce the need for the first report, and move forward directly to the second report. This would allow Realty Services staff, working in conjunction with Legal and Finance, to capitalize on a quickly moving real

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estate market by negotiating and submitting conditional Agreements of Purchase and Sale to purchase property (“Offer”).

Any negotiated offer will be conditional on due diligence, a business case and operational plan being presented and approved by City Council, and the required budget approval.

Offers will provide for a refundable Deposit such that the funds will be returned to the City if Council does not approve and ratify the purchase agreement and approve a budget to fund the acquisition costs or if any other condition inserted for the City’s benefit is not satisfied or waived by the City. However, if Council approves and ratifies the purchase agreement and approves the required budget, and the balance of the City’s conditions are satisfied or waived, the deposit will be credited toward the purchase price on completion.

Should negotiations or further investigation reveal that additional funds are required, a report to request a budget amendment will be brought to City Council for approval.

Corporate Implications:

Financial Implications:

There are no direct financial implications associated with this report. Sufficient funding is available in the Reserve 12 for any deposits required for conditional offer to purchase. Staff will report back with any offers in the future with a recommendation of funding source, pending Council approval.

Other Implications:

Corporate Services - Legal Services – will provide advice regarding terms to be negotiated, will review and approve as to form all agreements and other documents as required and will complete the purchase transaction once all conditions are satisfied or waived.

Economic Development and Culture – is in agreement with the recommendations, will play an active role on the cross-departmental deliberations of each identified priority and supports this initiative. Staff concur with the new business-like approach, which will allow the City to move quickly to strategically acquire and dispose of property as required.

Strategic Plan:

The recommendations of this report support the Corporate Strategic Plan priority of Smart Growth to achieve societal and economic success, and Strong Communities to create distinct, lively spaces and activities to unite people and business to install civic pride.

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Conclusion:

Realty Services recommends the commencement of a City-wide real estate strategy to address the needs of long-term projects and Council-approved strategic priorities, throughout the City, in a manner that is responsive to a quickly moving real estate market.

As such, this report recommends that Council endorse the acquisition, disposal and leasing strategy through approval of this report, and as per the acquisition strategy noted in this report, authorize staff to commence required negotiations, and to authorize the Commissioner, Community Services and Treasurer to execute agreements for the City at fair market value and on terms and conditions outlined in this report and otherwise satisfactory to the Senior Manager, Realty Services.

Approved by

Approved by

Donn Bennett
Acting Senior Manager, Realty Services

Al Meneses
Commissioner, Community Services

Report co-authored by:

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