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City of Alexandria, Virginia

MEMORANDUM

DATE: MAY 19, 2010

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER 

SUBJECT: CITY REAL ESTATE DISPOSITION POLICY

ISSUE: Adoption of Real Property Disposition Policy.

RECOMMENDATION: That City Council adopt the Real Estate Disposition Policy discussed below (Attachment 1).

BACKGROUND: The Mayor's Economic Sustainability Work Group established by Council provided over 100 recommendations on economic and fiscal issues affecting the City. Many of those recommendations have been implemented, and many are in various stages of implementation and are being monitored by the Economic Sustainability Implementation Group. One of the ten issue areas the Work Group made recommendations on was leveraging the City's real estate assets.

The City initiated a City property inventory study in June 2008. The study was conducted by consultants Jones Lang LaSalle with input from the City Manager's Office, Department of General Services, Department of Planning and Zoning, and staff of Real Estate Assessments. The purpose of the study was to address several of the recommendations of the Economic Sustainability Work Group regarding City assets. Subsequent to Council's May 26, 2009, actions on the City Property Report, staff has worked to identify a framework for solicitation and evaluation of proposals for council consideration, and to initiate actions related to specific properties that Council discussed in May 2009.

The proposed Real Estate Disposition Policy was received by Council at its February 9, 2010, legislative meeting. Staff then disseminated the policy for public comment. The request for comments was posted on the City's web site and the request for comments was advertised on the City's home page for comments from March 5-23. It was also sent to Planning and Zoning to send out to their distribution list. Staff sent a link to the draft to Ken Wire at McGuire Woods to distribute to the building industry and the link was also sent to the Eisenhower Partnership.

Following are the comments staff received from the public:

- 1) The City should:
 - Identify and compile a list of surplus properties;
 - Circulate the list with other City agencies to be sure there are no other potential City agency uses; and
 - Publish the list in the local newspaper soliciting public comment.
- 2) The City should alert the local community of any pending sale if it occurs more than one year from the initial listing in the newspaper.
- 3) There should be an approved appraisal or valuation by a qualified appraiser of the lands placed on the market for sale. This will alleviate public perception that there were any unusual motivations in making the sale.
- 4) There should be an opportunity to offer the property to adjoining property owners.
- 5) The preference should be to sell properties at advertised public auctions.
- 6) All final sales must be approved by the City Council.

The above comments are in agreement with the proposed Real Estate Disposition Policy and Section 9.06 of City Code (which addresses disposition of City Real Estate), with the exception of comment #5. Auction is contemplated as a potential method of sale by the Real Estate Disposition Policy, however, this may not be advantageous in cases in which the City would desire to have more direct control of future redevelopment of the real estate. Allowing multiple forms of open solicitation (such as Invitation to Bid or Request for Proposal) enables the City to better define future uses of property and to tailor the desired redevelopment within the sale process.

DISCUSSION: Section 9.06 of the City Code requires any sale of City property to be approved first by the Planning Commission and then by ordinance by City Council. In an effort to formalize the City process for reviewing and evaluating proposals to sell or lease City property, staff has developed the proposed Real Estate Disposition Policy as a part of this follow-up (Attachment 1).

The proposed City Real Estate Disposition Policy provides:

- 1) Guidance for the management of real estate, records and reporting, declaration of surplus real estate, and the process through which real estate sales should be evaluated.

- 2) The process for disposition includes:
 - (a) Solicitation of offers by invitation for bids when price is the only evaluative measure;
 - (b) Solicitation by request for proposals when price, proposed use, financial capacity of a proposer, experience, compatibility with the City's Master Plan, tax revenue and other factors may be evaluated; and
 - (c) Receipt of unsolicited offers, how they are received, evaluated, notices submitted, and how recommendation would be submitted for Council consideration.
- 3) The process:
 - (a) Allows for sale or long-term lease of a property; and
 - (b) Allows for direct sale to public or City-related non-profit entities
- 4) The process establishes several types of public input depending on the land redevelopment situation.

FISCAL IMPACT: Revenues from the sale of the City assets would be allocated to the City's Capital Improvement Program (CIP). This use of one-time revenues for one-time expenditures is sound fiscal policy and would supplement other pay-as-you-go, cash capital funding sources. It also may enable additional projects to be funded or reduce borrowing and future debt services costs.

ATTACHMENT:

Attachment 1: Real Estate Disposition Policy

STAFF:

Mark Jinks, Deputy City Manager

Michele Evans, Deputy City Manager

Edward Mandley, Director, Department of General Services

Jeremy McPike, Deputy Director, Department of General Services

City of Alexandria

Proposed Real Estate Disposition Policy

I. PURPOSE

To provide a comprehensive policy, process and guidelines for disposing of City of Alexandria real estate. This policy is intended to create a process that is transparent to the community which engages competition for desired City assets, that maximizes return on investment, and provides a vehicle for collaboration for desired reuse or redevelopment of the property that reflects the City's economic sustainability goals and desired community assets.

II. DEFINITIONS

Surplus Land	Land and buildings that are owned by the City of Alexandria and determined surplus by their use agency and City Council.
Developable Property	Land that can be independently improved.
Undevelopable Property	Land that can only be developable with the consolidation of adjacent land.
Solicited Offers	Formally requested offers for sale of property by the City of Alexandria.
Unsolicited Offers	Offers received with no formal initial solicitation by the City of Alexandria.

III. POLICY

A. Management of City of Alexandria Real Estate Assets

- (1) City-owned real estate shall be considered for sale and sold in accordance with this policy and any applicable provisions of the Constitution of Virginia, the Code of Virginia section 15.2-1800 and the Charter and Code of the City of Alexandria. City-owned property may also be leased for non-City uses under certain conditions.
- (2) The City Manager may delegate some or all of the duties required to dispose of real estate owned by the City, except for legal advice and assistance with real estate transactions which is within the purview of the City Attorney's

Office. Any reference to "City Manager" in this policy also applies to any person or department whom the City Manager delegates his or her responsibilities detailed in this policy.

- (3) The Department of General Services, as designated by the City Manager as the lead coordinating oversight agency for all maintenance, construction and operation of City facilities, is responsible for adopting and complying with this policy with respect to City assets such as real estate and buildings. The Department of General Services will from time to time, in conjunction with other City departments, review City assets and assess utilization. Where the utilization of the asset is no longer serving a public purpose or is underutilized, the asset may be recommended to the City Manager and City Council for designation as surplus real estate. Once designated, the Department of General Services will proceed with the sale and negotiation process as described herein consistent with the Code of Virginia and City of Alexandria Code.

B. Records and Reporting

- (1) City-owned Real Estate and Surplus Real Estate- The Department of General Services shall prepare and maintain records that enumerate:
 - (a) All parcels of City-owned real estate; and
 - (b) All City-owned real estate that any City officer reports is no longer needed for municipal or public purposes together with City Manager recommendations for the disposal of such real estate in accordance with this policy.
- (2) Upon determining that specific City-owned real estate is no longer needed for municipal or public purposes, the City Manager shall report such real estate with recommendations for the disposal of such to City Council.

C. Declaration of Real Estate as Surplus

- (1) Solicitations of offers, bids or proposals for the purchase or lease of City-owned real estate shall be sought by solicitation, whether by Invitation for Bids or Request for Proposals, or auction only after authorization by City Council, who shall first have received the City Manager's recommendation and authorized the subject surplus real property to be disposed, and authorized the seeking of offers, bids or proposals by solicitation, auction, or acceptance of unsolicited offers as described in Section F herein.
- (2) The City-owned properties approved by Council on May 26, 2009, for disposition shall be considered to have been declared surplus property under this Section.

D. Solicitation of Offers by Invitation for Bids

- (1) Invitation for Bids- If determined that it is in the best interest of the City to sell or lease surplus real estate with regard to price only, the City Manager shall invite competitive sealed bids for such real estate. All Invitations for Bids shall:
 - (a) Be expressly conditioned on Council approval of the sale of the real estate to the successful bidder in accordance with City Code Section 9.06;
 - (b) Provide that bids will be evaluated solely on the basis of the price and relevant terms not related to price as ~~stated~~ in the bid;
 - (c) Require that each bid be received by the City Manager's designee no later than a specifically stated date and hour; ~~and~~
 - (d) Require that a deposit in accordance with this policy accompany each bid.
- (2) Solicitation- All Invitations to Bid shall be initiated:
 - (a) By publication on the City's web site, and
 - (b) By such other means as to provide reasonable notice to the maximum number of persons reasonably anticipated to submit bids in response to the particular Invitation to Bid.
- (3) Acceptance or Rejection of Bids- ~~Once the date and hour for the receipt of bids has passed and the bids have been evaluated, the sale of the real estate will be recommended to Council if the bid has met minimum pricing requirements, the bidder has complied with the conditions of this section and offers the highest price for the City-owned real estate. No other criteria shall be considered in evaluating bids solicited under this section.~~

E. Solicitation of offers by request for proposals

- (1) Request for Proposals- If the City Manager determines that it is in the best interest of the City to sell or lease surplus real estate with regard to factors other than price, but which may include price, the City Manager shall request proposals for the real estate. All Requests for Proposals shall:
 - (a) Be expressly conditioned on Council approval of the sale of the real estate to the successful proposer in accordance with Section 9.06;
 - (b) Set forth in detail the factors upon which the proposals received pursuant to that request will be evaluated;
 - (c) Require that each proposal be received by the City Manager's designee no later than a specifically stated date and hour;
 - (d) Require, if deemed necessary by the City, additional information such as proposed future redevelopment plan schematics, drawings or other relevant information;
 - (e) Require that each proposal be accompanied by a deposit in accordance with this policy; and

(f) Clearly state the requirements of this policy and Section 9.06.

(2) Solicitation- All requests for proposals shall be solicited:

- (a) By publication on the City's web site; and
- (b) By such other means as to provide reasonable notice to the maximum number of persons reasonably anticipated to submit proposals for a minimum period of sixty (60) calendar days.

(3) Evaluation of Proposals, Factors- Each offeror proposal may be evaluated based on any or all of the following factors listed below provided such factors are enumerated in the Request for Proposals:

- (a) The proposed use of the real estate;
- (b) The financial ability of the proposer to develop the real estate based on the proposed use;
- (c) The experience of the proposer in the development and use of properties for uses similar to the proposed use;
- (d) The effect of the proposed use on other properties;
- (e) The compatibility of the proposed use with the City's Master Plan;
- (f) The price the proposer offers to pay for the real estate;
- (g) The anticipated tax revenue based on the proposed use; and
- (h) Such other evaluation factors the City may deem appropriate to the proposal.

(4) Evaluation Process- The City Manager shall evaluate and rank all proposals based solely upon the criteria enumerated in the Request for Proposals. The evaluation shall be completed within a reasonable period following receipt of proposals. The City Manager may negotiate with the highest rated responsible and responsive proposer. If such negotiations fail, the City Manager may negotiate with the next highest responsible and responsive proposer, and continue through the same process until such time a proposer has satisfactorily addressed critical items within the submitted proposal and deemed by the City Manager as in the best interest of the City. There shall be no requirement that the City Manager negotiate with any person or entity whose proposal is evaluated by the City Manager as not responsible or not responsive under the evaluation factors.

(5) Acceptance or Rejection of Proposals- Once the date and hour for the receipt of proposals has passed and the proposals have been evaluated, the offeror whose proposal complies with the conditions in this policy and determined to be in the best interest of the City, and a real estate sales contract has been negotiated, the proposed sale will be contingent upon final approval in accordance with Section 9.06 of City Code, as well as any other contingencies that the City may deem appropriate, such as approval by the City's Planning Commission and City Council of a Development Special Use Permit

F. Acceptance of Unsolicited Offers

- (1) Unsolicited offers, to purchase or lease City real estate may be accepted or rejected by the City Manager in his or her discretion based upon what is in the best interest of the City. Council shall be notified of any unsolicited offer and its disposition by the City Manager. Before disposition, the property must be declared surplus.
- (2) Unsolicited offers shall be evaluated using the evaluation factors listed under the Solicitation of Offers by Request for Proposal section of this policy. If an unsolicited offer is made to purchase City-owned real estate, the City Manager shall evaluate the offer and determine the appropriate review process based on the following factors:
 - (a) If the subject real estate is deemed independently developable, the offeror has complied with this policy, and the offer is deemed potentially to be in the best interest of the City, the City Manager shall notify Council of the unsolicited offer. Provided authorization is granted by Council to entertain the offer, the City Manager shall publically solicit additional offers following the Solicitation of Offers by Request for Proposal process outlined in this policy for a minimum of sixty (60) days. All proposals shall then be reviewed using Section E of this policy.
 - (b) If the subject real estate is a parcel that is not independently developable without the consolidation of adjacent land, only offers from adjacent land owners, or the contract purchasers of the adjacent land, will be accepted. The City Manager shall provide Council with notice of the unsolicited offer. If the offer is recommended as in the best interest of the City and the subject land is undevelopable as is, the City Manager shall notify any landowner immediately adjacent to the subject City real property, providing notice and soliciting additional offers. When additional offers are received within thirty (30) days of notice being sent, the evaluation of offers shall be consistent with the evaluation of Solicitation of Offers by Request for Proposals process within this policy. In the event that no additional offers are received from adjacent land owners, the City Manager may enter into final negotiations to address critical factors of the offer, including price, and proposed use have been resolved, and then initiate the requisite Section 9.06 and any other necessary approved processes for final decision-making.
- (2) Requiring Deposit from Offeror- Unsolicited offers to purchase City-owned real estate will not be evaluated until the offeror submits a deposit in accordance with this policy.
- (3) Any unsolicited offer shall provide detailed written information with that offer consistent with the Evaluation of Proposals section in Section E3 above. If any unsolicited offer is determined not to be complete in regard to the level of detail, the City Manager may request additional information from the offeror,

and reject such a proposal if the City Manager determines that further consideration of the submittal unsolicited proposal is not warranted.

G. Deposit

A deposit in the form of certified funds or a cashier's check in an amount equal to five (5) percent of the proposed purchase price or \$100.00, whichever is greater, shall be required at the time such offer, bid or proposal. At the time the City Manager and the selected offeror enters into a contingent real estate sales contract, the deposit shall be increased to ten (10) percent. The proceeds of the certified funds or cashier's check shall be applied to the purchase price of the City-owned real estate if the Council accepts the offer, bid or proposal. The City may retain or release the proceeds of the deposit based on terms it outlines in any solicitation issued by the City. However, the City shall not forfeit or waive any other remedies or rights the City may have otherwise by retaining the proceeds of the deposit. At the time either the City Manager determines a proposal not to be responsive and responsible, or if the Council either accepts an offer, bid or proposal, or rejects an offer, bid or proposal, the deposit submitted by each unsuccessful offeror, bidder or proposer shall be returned to that offeror, bidder or proposer as soon as feasible.

- H. The City Manager may approve other rules and processes related to the disposition or real estate as outlined in Sections D, E, F and G above, as determined in the best interest of the City to effectuate the intent of this real estate disposition policy. Such rules and processes shall not be inconsistent with this disposition policy.
- I. The City Manager shall develop appropriate mechanisms for public input and participation in the development of recommendations to dispose of real estate, as well as in any land use planning upon which the real estate sale is contingent. This shall include consultation with the civic association which represents the neighborhood in which the property is located.
- J. All solicited and unsolicited offers shall be considered proprietary and protected information until such time that a recommendation to sell the real estate to a specific buyer is docketed and acted upon by City Council.
- K. For any real estate disposition where there would need to be a redevelopment proposal (Development Special Use Permit, etc.) heard by the Planning Commission or the Board of Architectural Review, the City Manager shall solicit a representative of the civic association where the parcel is located to serve on any City staff evaluation panel that is established.
- L. In the case of a public entity or non-profit City-related entity, including but not limited to the Alexandria City Public Schools, the Alexandria Sanitation Authority, the Alexandria Redevelopment and Housing Authority, the Alexandria

Housing Development Corporation, the City, at the direction of City Council, may decide to forgo a competitive sale process for the disposition of City property, and negotiate the sale of City property with those City-related entities.

- M. In recognition that the City may decide it is in the City's best interest to lease a surplus City property long term and not sell it, notwithstanding the use of the words "purchase," "sale" or "sold" in this policy, the term "lease" or "leased" may be substituted to effectuate the guidelines for a lease transaction.