



STAFF REPORT ACTION REQUIRED

Acquisition of 3495 Lake Shore Boulevard West - Supplementary Report

| | |
|--------------------------|--|
| Date: | February 3, 2010 |
| To: | Government Management Committee |
| From: | Chief Corporate Officer |
| Wards: | Ward 6 – Etobicoke Lakeshore |
| Reference Number: | P:\2010\Internal Services\RE\Gm10006re – (AFS-11427) |

SUMMARY

The purpose of this report is to seek amendments to the conditions of a property acquisition previously approved by Council. City Council approved the acquisition of 3495 Lake Shore Boulevard West at its meeting held on August 5 and 6, 2009. This property is currently leased by the City from the Toronto District School Board (TDSB) and is operated by Children's Services as the Thomas Berry child care centre.

Negotiations with the Toronto Land Corporation (TLC), the agent for TDSB and the staff report approved by Council were based on the property having an area of 2,024 m² (0.50 acres). However, when the draft reference plan for the property was completed it was discovered the property had an area of 2,969 m² (0.73 acres) and that access easements needed to be secured. The additional land area and access easement have resulted in an increased value of the property which exceeds the original amount approved by Council for this acquisition. The Toronto District School Board cannot sell its assets at less than fair market value. As such, in order for this transaction to be completed, additional funding for this transaction must be approved by Council.

Proposed terms of the offer are set out in Appendix "A". The terms are considered to be fair and reasonable.

RECOMMENDATIONS

The Chief Corporate Officer and the General Manager, Children's Services recommend that:

1. City Council authorize the City to enter into an Offer to Sell with the Toronto District School Board to acquire the property municipally known as 3495 Lake Shore Boulevard West at a purchase price of \$2,062,556.00 plus applicable taxes and registration fees, estimated at \$28,764.00 substantially on the terms outlined in Appendix "A" to this report and on such other terms and conditions as may be acceptable to the Chief Corporate Officer and in a form satisfactory to the City Solicitor.
2. City Council authorize the 2010 Capital Budget for Children's Services be increased by \$2,094,000.00 gross, \$0 net for the "Thomas Berry Child Care Centre Acquisition" Capital Project , with funding of \$1,369,000.00 from the Child Care Capital Reserve Fund (XR-1103) and \$725,000.00 from the Land Acquisition Reserve Fund (XR-1012) with any year end surplus replenishing LARF, if available.
3. City Council authorize the City to divide any profits 50/50 with the Toronto Land Corporation should the City decide to sell or redevelop the property for non-municipal purposes within 10 years of this transaction closing, if the sale price of the property exceeds the purchase price recommended within this report.
4. The Chief Corporate Officer and the Director of Real Estate Services, be severally authorized to execute the Offer to Sell on behalf of the City.
5. The City Solicitor be authorized to complete the transaction on behalf of the City, including paying any necessary expenses, amending the closing, due diligence and other dates, and amending and waiving terms and conditions, on such terms as she considers reasonable.
6. The appropriate City officials be authorized and directed to take the necessary action to give effect thereto.

Financial Impact

The total cost of this acquisition is approximately \$2,091,320.00 including all taxes and charges.

Funding in the amount of \$1,369,000.00 was approved in the 2009 Approved Capital Budget of Children's Services for the "Thomas Berry Child Care Centre Acquisition" Capital Project. The full under-expenditure of \$1,369,000.00 in 2009 funding is recommended to be carried forward into 2010. The Land Acquisition Reserve Fund (XR-1012) has \$725,000.00 in available funds to be added to "Thomas Berry Child Care Centre Acquisition" Capital Project. The Land Acquisition Reserve Fund will be replenished by year-end surplus funding, if available.

During the 2009 negotiations, the Toronto Land Corporation was concerned that the potential redevelopment value of the property was much higher than the actual appraised value and wanted to assure its Board that if the City were to sell or redevelop the property for non-municipal purposes, they would share in the potential profit. As part of the negotiations it was agreed that if the City were to sell or redevelop this property for non-municipal purposes within 10 years of taking title to it, any profit in excess of the original purchase price would be divided 50/50 between the City and TLC. This condition was not captured in the original approval and is now a recommendation in this report. With the Thomas Berry child care centre being located on this property, its current enrolment levels and lack of funding to build a new facility, the likelihood of the City selling or redeveloping this property in the near future is highly unlikely.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

The subject property is owned by the Toronto District School Board (TDSB) and was declared surplus to their needs pursuant to the provisions of *Ontario Regulation 444/98* made under the *Education Act, R.S.O. 1990* at its meeting of June 25, 2008. Pursuant to *Ontario Regulation 444/98* any offers to purchase the above noted properties needed to be received by the TDSB by December 12, 2008.

At its meeting held on August 5 and 6, 2009 City Council approved the acquisition of 3495 Lake Shore Boulevard for \$1,350,000.00 on the basis the property had a site area of 0.5 acres.

ISSUE BACKGROUND

Properties owned by the Toronto District School Board (TDSB) are declared surplus to their needs pursuant to the provisions of *Ontario Regulation 444/98* made under the *Education Act, R.S.O. 1990*. Under *Ontario Regulation 444/98* there is a “pecking order” of who has first right to the property. Several educational institutions (TCDSB, French School Board, French Separate School Board, Universities & Colleges and independent schools funded by the Ministry of Education) have priority over the City to these properties if they submit an offer. No other party has expressed interest in the property the City is trying to acquire.

The Thomas Berry child care centre operated by Children’s Services has leased 3495 Lake Shore Boulevard West from TDSB since 1979. The City runs the risk of losing this property if it does not purchase it. This child care centre has an operating capacity of 107 children. Over 90% of the children enrolled live in the ward, 78% of the enrolled children are from single parent families and 28% live in families receiving social assistance. Loss of this child care centre would have a major impact on service provision for this area. Children’s Services would like to acquire this site in order to maintain the child care centre as a continuous fixture in the community.

Leading up to the Council approval of acquiring this property in August 2009, all appraisal work undertaken, negotiations with the Toronto Land Corporation (TLC) for this property and the staff report approved by Council were based on the property having an area of 2,024 m² (0.50 acres). However, when the draft reference plan for the property was completed for the Offer to Sell, it was discovered the property had an area of 2,969 m² (0.73 acres) and access easements that needed to be secured. The additional land area and access easement have resulted in an increased value of the property which exceeds the original amount approved by Council for this acquisition.

The Toronto District School Board cannot sell its assets at less than fair market value. As such, in order for this transaction to be completed additional funding for this transaction must be approved by Council.

COMMENTS

If the City does not purchase 3495 Lake Shore Boulevard West (Thomas Berry child care centre) the loss of these child care spaces in the community will have a major impact on provision of child care services for this area. The City has invested substantial amounts of capital into this facility since leasing it in 1979. Remaining at this location is more cost effective than relocating.

If the City is unable to find the additional funding required for this acquisition, the TLC will not be able to recommend the Offer to Sell to their Board, as the Toronto District School Board cannot sell its assets at less than fair market value.

CONTACT

Joe Casali
Director
Real Estate Services
Tel: (416) 392-7202
Fax: (416) 392-1880
jcasali@toronto.ca

Elaine Baxter-Trahair
General Manager
Children's Services
Tel: (416) 392-8128
Fax: (416) 397-4518
ebaxter@toronto.ca

SIGNATURE

Bruce Bowes, P. Eng.
Chief Corporate Officer

ATTACHMENTS

Appendix "A"-Summary of Terms and Conditions -3495 Lake Shore Boulevard West
Appendix "B" - Location Map- 3495 Lake Shore Boulevard West

Appendix “A” – Terms

3495 Lake Shore Boulevard West, Toronto

| Terms | |
|---------------------------------|---|
| (1) Owner: | Toronto District School Board |
| (2) Location: | 3495 Lake Shore Boulevard West, Toronto, as shown in Appendix "B" |
| (3) Legal description: | Part of PIN No. 07591 0246 (LT), being Part Lot 8, Broken Front Concession and Part of Lot 117, Plan 1545-York, designated as Part 1 on the draft Reference Plan (Job No. 2009-0858). |
| (4) Approximate Lot Size: | 0.3 hectares (0.73 acres) |
| (5) Improvements: | School Building |
| (6) Zoning: | C1- Commercial |
| (7) Official Plan: | Mixed Use Area |
| (8) City Appraised Value: | \$2,062,556.00 |
| (9) Closing registration costs: | \$100.00 |
| (10) Land Transfer Tax | \$28,664.00 |
| (11) GST/HST | \$103,128.00 |
| (12) Irrevocable date: | 20 days after owner's execution of Offer to Sell |
| (13) Due diligence period: | 30 days following City's acceptance of Offer to Sell |
| (14) Closing date: | March 31, 2010 |
| (15) Conditions: | Satisfactory results of due diligence inquiries. If the City were to sell or redevelop this property for non-municipal purposes within 10 years of taking title to it, any profit in excess of the original purchase price would be divided 50/50 between the City and TLC. |

Appendix “B” Map - 3495 Lake Shore Boulevard West



