Minute No. 80
Report – Executive Policy Committee – December 5, 2012

Item No. 5 **Amendments to Memorandum of Understanding to develop a parking structure in conjunction with the redevelopment project at the A&B Sound block on Portage Avenue (Daniel McIntyre Ward)**

COUNCIL DECISION:

Council concurred in the recommendation of the Executive Policy Committee and adopted the following:

1. That Recommendation 2 of the Council decision of October 19, 2011 "Approval of Memorandum of Understanding to develop a parking structure in conjunction with the redevelopment project at the A&B Sound block on Portage Avenue" (the "Council Decision") be amended to add at the end of such Recommendation ", and the following additional terms and conditions to be contained in the loan agreement between the City and 310 Donald Inc.:

    A. That the City's primary security for the $5,000,000.00 parkade loan (the "Loan") will be a mortgage (the "City Mortgage) registered against titles to the Office Property (located at NW corner of Donald Street and Portage Avenue – and the property legally described as Lot 1 Plan 53113 WLTO in RL1 Parish of St. John) and the Parkade Property (located at 309 and 329 Hargrave Street and legally described as Lot 1 Plan 53278 WLTO in RL 1 Parish of St. John). The City Mortgage will be a second mortgage (subordinate only to the Primary Lender Mortgage noted in clause B. below) until the Loan has been fully repaid. The City will discharge the City Mortgage upon repayment in full of the Loan irrespective of whether the parkade structure to be constructed on the Parkade Property has been substantially completed.

    B. That the primary lender (the "Primary Lender") of 310 Donald Inc.'s may register a mortgage (the "Primary Lender Mortgage") against the title to the Office Property and the Parkade Property in an amount equal to the debt financing required by 310 Donald Inc. for the purpose of completing the construction and development on the Office Property and Parkade Property. The City agrees that the Primary Lender Mortgage may be a first mortgage against each of the said properties.

Report – Executive Policy Committee – December 5, 2012

COUNCIL DECISION (continued):

C. That the City obtains additional security for the Loan by way of a guarantee in the principal amount of $5,000,000.00 plus interest from Longboat Development Corporation.

D. That except for air rights parcels, 310 Donald Inc. not be permitted to transfer the Parkade Property or the parkade structure constructed thereon without Council approval until the Loan has been fully repaid and that a caveat be registered against each of the said properties confirming this provision.

2. That Recommendation 3 of the Council Decision of October 19, 2011 be amended to replace the words "Longboat Development Corporation" with "310 Donald Inc.".

3. That Recommendation 4 of the Council Decision of October 19, 2011 be amended to add at the end of such Recommendation ", and such other terms and conditions deemed necessary by the City Solicitor to protect the interests of the City."

4. That the Proper Officers of the City do all things necessary to implement the intent of the foregoing.

Report – Executive Policy Committee – December 5, 2012

DECISION MAKING HISTORY:

Moved by His Worship Mayor Katz,

That the recommendation of the Executive Policy Committee be adopted by consent.

Carried

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On December 5, 2012, the Executive Policy Committee concurred in the recommendation of the Winnipeg Public Service and submitted the matter to Council.

ADMINISTRATIVE REPORT

Title: **Amendments to Council decision of October 19, 2011 "Approval of Memorandum of Understanding to develop a parking structure in conjunction with the redevelopment project at the A&B Sound block on Portage Avenue"**

Critical Path: Executive Policy Committee - Council

AUTHORIZATION

Author	Department Head	CFO	CAO
M. Ruta	M. Ruta	M.Ruta, CFO	D. Joshi, COO

RECOMMENDATIONS

1. That Recommendation 2 of the Council decision of October 19, 2011 "Approval of Memorandum of Understanding to develop a parking structure in conjunction with the redevelopment project at the A&B Sound block on Portage Avenue" (the "Council Decision") be amended to add at the end of such Recommendation ", and the following additional terms and conditions to be contained in the loan agreement between the City and 310 Donald Inc.:

   A. That the City's primary security for the $5,000,000.00 parkade loan (the "Loan") will be a mortgage (the "City Mortgage) registered against titles to the Office Property (located at NW corner of Donald Street and Portage Avenue – and the property legally described as Lot 1 Plan 53113 WLTO in RL1 Parish of St. John) and the Parkade Property (located at 309 and 329 Hargrave Street and legally described as Lot 1 Plan 53278 WLTO in RL 1 Parish of St. John). The City Mortgage will be a second mortgage (subordinate only to the Primary Lender Mortgage noted in clause B. below) until the Loan has been fully repaid. The City will discharge the City Mortgage upon repayment in full of the Loan irrespective of whether the parkade structure to be constructed on the Parkade Property has been substantially completed.

   B. That the primary lender (the "Primary Lender") of 310 Donald Inc.'s may register a mortgage (the "Primary Lender Mortgage") against the title to the Office Property and the Parkade Property in an amount equal to the debt financing required by 310 Donald Inc. for the purpose of completing the construction and development on the Office Property and Parkade Property. The City agrees that the Primary Lender Mortgage may be a first mortgage against each of the said properties.

C. That the City obtains additional security for the Loan by way of a guarantee in the principal amount of $5,000,000.00 plus interest from Longboat Development Corporation.

D. That except for air rights parcels, 310 Donald Inc. not be permitted to transfer the Parkade Property or the parkade structure constructed thereon without Council approval until the Loan has been fully repaid and that a caveat be registered against each of the said properties confirming this provision.

2. That Recommendation 3 of the Council Decision be amended to replace the words "Longboat Development Corporation" with "310 Donald Inc.".

3. That Recommendation 4 of the Council Decision be amended to add at the end of such Recommendation ", and such other terms and conditions deemed necessary by the City Solicitor to protect the interests of the City."

4. That the Proper Officers of the City do all things necessary to effect the intent of the foregoing.

REASON FOR THE REPORT

Council approval is required to:

- amend existing Council decisions
- authorize the terms and conditions upon which Council makes a loan pursuant to Section 218 of The City of Winnipeg Charter

IMPLICATIONS OF THE RECOMMENDATIONS

Longboat Development Corporation has advised that a related corporation, 310 Donald Inc., is the owner of the Parkade Property and will be constructing the parkade structure. Therefore, 310 Donald Inc. is the appropriate loan recipient and party to the loan agreement.

In addition, clarification is required to clearly specify the permitted terms of the first and second mortgage security. The City is also seeking additional security in the form of a loan guarantee from Longboat Development Corporation.

The City will advance the Loan to facilitate construction of the parkade structure and register its mortgage against the Parkade Property prior to the advance of funds by the primary lender. The City will postpone its mortgage in favour of the primary lender once the primary lender takes security.

HISTORY

On October 19, 2011, Council adopted the following recommendations:

1. That Council approves the selection of Longboat Development Corporation as the successful proponent to Bid Opportunity No. 374-2011, "*Request for Expressions of Interest and Proposals for the Investment Structure, Design, Construction and Financing of the North Corridor Parkade*".

2. Subject to approval of Recommendation #1, that Council approve the Memorandum of Understanding between the City of Winnipeg and Longboat Development Corporation for the construction of an approximately $20,000,000 multi-level parking structure.

3. That Council rescind its March 23, 2011 adoption of Recommendation 3B in the report of the Alternate Service Delivery Committee dated March 15, 2011, and substitute the following:

    - That a maximum of $5.0 million be allocated from the Land Operating Reserve from the proceeds of disposition of the Winnipeg Square Parkade to provide a 15 year loan to Longboat Development Corporation in respect of the North Portage Corridor Project, as set out and provided for in Section 218 of The City of Winnipeg Charter.

4. That the Chief Administrative Officer be authorized to finalize and approve the terms and conditions of all agreements required to implement matters as directed by Council.

FINANCIAL IMPACT

Financial Impact Statement Date: November 27, 2012

Project Name:

Amendments to Council decision of October 19, 2011

COMMENTS:

The financial impact statement completed in the October 19, 2011 report to Council continues to apply. There is no financial impact relating to the administrative recommendations included in this report.

:Original Signed By"
Mike Ruta
Chief Financial Officer

CONSULTATION

In preparing this report there was consultation with:

Legal Services
Planning, Property & Development

SUBMITTED BY

Department: Corporate Finance
Prepared by: M. Ruta
Date: November 29, 2012
File No.