Agenda – Council – October 22, 2013

Report – Executive Policy Committee – October 21, 2013

Item No. 1 Report to Winnipeg City Council - New Fire Paramedic Stations Construction Project

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 21, 2013, the Executive Policy Committee, in its capacity as the Audit Committee, concurred in the recommendations outlined in the Fire Paramedic Stations Construction Project Review dated October 2013, and recommended to Council that the following be implemented immediately:

1. The City needs to examine the basis under which they allow single source contracting. We believe that Council needs to consider at what threshold single source negotiation decisions are brought to their attention. Council also should consider the contract award delegation limits as it relates to single source contracts.

2. Currently City procurement policies allow for proponents to propose substitutes for City RFP specifications during the procurement process. We concur that proponents should be encouraged to offer suggestions or substitutes to be considered by the City. We however, suggest that the City change its current approach of not informing other proponents during the bidding process, of the City's acceptance of a substitute. A truly open and transparent process requires such.

3. Shindico was provided information not available to other proponents in respect to both RFP's. Prior to issuance of a RFP, MM should obtain the details of all discussions that have taken place with proponents from the user departments in order to develop a strategy to inform all proponents of information that may not be known and not disclosed in the RFP. Such action is required to ensure all proponents are bidding from a level playing field.

4. The competitive nature of the original RFP was considerably limited by the City's desire to try and identify properties to be used for construction of new stations. We recommend that the City, via the Planning, Property and Development Department, conduct a detailed assessment of City owned properties potentially available and/or conduct land only acquisitions in advance of similar future RFP's. The use of design/build or build only RFP's rather than ones that include the provision of land will create a more competitive environment that should help ensure good value to the City.

5. Project management of real estate construction projects and the lead in all real estate transactions should reside with the Planning, Property and Development Department. If capacity constraints exist, a plan to address such needs should be developed.

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6. We are concerned that certain policies such as the establishment of a Major Capital Steering Committee and delegations established by Council, including the authority to enter into contracts above $10 million can be by passed if a project is split into a number of smaller contracts. Council should make a clear statement to the Public Service in respect to their expectations in this regard.

7. Clear policies must be established which document expected disclosure to Council, when transactions have not occurred in a manner that is established by City Policies. For example, disclosure to Council should be required when the following situations occur: the commencement of construction in advance of contract award, splitting of contracts due to lack of approved funding, real estate transactions not having been led by the Planning, Property and Development Department, and Legal agreements not having been approved by Legal Services.

8. The Planning, Property and Development Department needs to develop, for Council approval, a policy regarding land exchange transactions that will speak to the timing and basis under which land valuations are to be done and the means under which any value gaps determined are to be dealt with.

9. Legal Services should establish clear policies regarding:
    - Land acquisition agreements;
    - Construction contracts related to land acquisition; and
    - Authorities to be sought for LOI or similar documents

10. We do not believe that Legal Services acted in a manner to sufficiently protect the interests of the City. Additionally we believe at least part of this was caused by the reporting structure at the City. The Legal Services “gatekeeper” function would be enhanced if Legal Services reported to City Council rather than the City Administration, via the Chief Administrative Officer. This is the structure in place for at least one major city in Canada.

11. Prior to issuing building permits on City projects, the Planning, Property and Development Department should be required to obtain from MM signed statements that appropriately awarded contracts are in place and from Legal Services that all ownership rights in the subject property are unconditionally held by the City.

12. We recommend that City policies regarding real estate transactions, including the declaration of surplus properties, be clarified as to identify at what stage of a proposed transaction Council Approval is to be sought.

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13. Corporate Finance should determine a standardized protocol for the challenging of capital budget submissions and project reporting.

14. Corporate Finance should develop a means under which non cash transactions, such as a land exchange, are captured so that the true costs of projects can be reported against the approved capital budget.

15. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

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DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On October 21, 2013, the Executive Policy Committee concurred in the recommendations outlined in the Fire Paramedic Stations Construction Project Review dated October 2013 for immediate implementation and submitted the matter to Council.

Further on October 21, 2013, the Executive Policy Committee received a communication dated October 21, 2013 from David M. Sanders with respect to the Report to City Council – New Fire Paramedic Stations Construction Report.