



## ADMINISTRATIVE REPORT

Report Date: April 12, 2016  
Contact: Jerry Evans  
Contact No.: 604.873.7430  
RTS No.: 11384  
VanRIMS No.: 08-2000-20  
Meeting Date: May 4, 2016

TO: Standing Committee on Policy and Strategic Priorities

FROM: General Manager of Real Estate and Facilities Management in consultation with the Director of Finance

SUBJECT: Standing Authority to Execute Various Agreements

### **RECOMMENDATION**

- A. THAT Council authorize the Director of Real Estate Services, Associate Directors of Real Estate Services, or Supervisor of Property Negotiations, to execute Licence Agreements, Month to Month Leases, Offers to Lease, and Leases (the "Commercial Lease"), where the City is either the lessor or lessee, or licensor or licensee, where the total rental or licensee fee value is less than \$750,000 and the term (including renewal options) is no more than ten (10) years; and
- FURTHER THAT the General Manager of Real Estate and Facilities Management or the Director of Finance approve the material terms of each Commercial Lease, which, in cases where the City is the licensee or lessee, may include a commercially reasonable indemnity in favour of the licensor or lessor.
- B. THAT the Director of Real Estate Services report back every five (5) years on the appropriateness of the existing threshold for total rental and licensee fee values, and to seek Council approval for any increase that may be warranted as a result of any increase in commercial rental values during the preceding five (5) year period.

### **REPORT SUMMARY**

The report seeks Council approval to increase the total rental and licensee fee value threshold for which the Director of Real Estate Services or delegate has authority to execute Commercial Lease agreements as either lessor or lessee, or licensor or licensee and to allow the Director of Real Estate Services or delegate to approve the material terms of each Commercial Lease, which may include a commercially reasonable indemnity by the City in favour of a lessor or licensor. The current

threshold (less than \$250,000 total rental value) was approved by Council in April 1996, and rental and license fee values have increased significantly over time reflecting the general rise in property values over this period. The standing authority to execute various agreements is intended to reduce the amount of Council time taken up dealing with frequently routine real estate leasing transactions that are of lower value in relative terms, and reducing the amount of staff time taken in preparing reports seeking Council approval for such real estate transactions. Staff recommend that Council authorize the Director of Real Estate Services or delegate to execute Commercial Lease agreements that are less than a \$750,000 threshold in total value, with a term of no more than ten (10) years and to approve the materials terms thereof.

### ***COUNCIL AUTHORITY/PREVIOUS DECISIONS***

Section 190 of the Vancouver Charter authorizes Council to provide for disposing of any real or personal property of the City by lease or license when in Council's opinion such property is not required by the City, upon such terms and conditions as may be deemed expedient.

Pursuant to Council Resolution dated April 23, 1996, the Manager, Deputy Manager or Supervisor of Negotiations of Real Estate Services are authorized to execute Licence Agreements, Month to Month Leases, and Offers to Lease and Leases where the total rental value is less than \$250,000 and the term (including renewal options) is no more than 10 years ("Commercial Lease"). The Director of Finance can approve the material terms of the Commercial Lease, if the total value is less than \$250,000 and the term is no more than 10 years.

### ***GENERAL MANAGER'S COMMENTS***

The General Manager of Real Estate and Facilities Management recommends approval of the foregoing.

### ***BACKGROUND***

In a Council resolution dated April 23, 1996, Council delegated authority to the Manager, Deputy Manager, or Supervisor of Negotiations of Real Estate Services to execute Commercial Lease that do not exceed a total rental value of \$250,000 or the term is no more than ten (10) years.

It has been over twenty (20) years since setting the authority limit and commercial property values in Vancouver have increased significantly since that time. The resulting increase in commercial rental rates has resulted in an increase in transactions that exceed the \$250,000 rental value threshold. Furthermore, the City now generally uses a gross lease in which total rent includes other costs such as operating costs, rather than a net lease where other costs such as operating costs are charged separately as additional rent. This practice results in a higher total rent value in a typical lease, which in turn results in the total rental value exceeding the

\$250,000 threshold in many cases. In addition, the 1996 standing authority did not clarify whether the Commercial Lease agreements included agreements where the City was licensee or lessee. In most circumstances, such agreements include a commercially reasonable indemnity in favour of the lessor or licensor whereby the City agrees to indemnify the licensor or lessor for any costs or claims arising from the City's use of the land pursuant to the Commercial Lease, unless such costs or claims are caused by the negligence or wilful misconduct of the lessor or licensor. This would be required by the City when acting as licensor or lessor and is commercially reasonable in the circumstances. However, unless such approval of the indemnity had been previously delegated by Council, the indemnity would need to be approved by Council.

Consequently over time, the number of transactions that require a report to Council have increased significantly. Operationally, each report requires staff preparation and departmental approvals, and review by Finance, Legal Services and the City Manager, followed by Council deliberation and approval prior to proceeding with transactions. A review of commercial real estate transactions indicates that an increase in the threshold as proposed will result in approximately a 50% reduction in real estate leasing transactions requiring reports to Council for approval (i.e. in 2015 fifteen (15) leases went to Council for approval).

## *DISCUSSION*

An underlying principal with respect to real estate standing authorities is that various types of real estate/property matters, frequently routine in nature and/or relatively lower value in dollar amounts, can unduly and unnecessarily increase the amount of time spent by Council on such matters. This also results in delays in implementing the necessary lease transactions and legal agreements, thereby placing the City at a disadvantage when competing in the commercial real estate market, translating into potentially missed opportunities for the City.

The following internal controls are in place for real estate leasing transactions to mitigate contract, legal and financial risk:

- Process initiation:
  - Renewals and extension of leases and licences begin as expiry dates near.
  - New leases and licenses are initiated by staff if the transaction does not exceed the threshold of \$250,000 or 10 year term; and require Council approval if over these thresholds.
  - Documents are prepared in a form approved by Legal Services.
  - The Director, Associate Directors and Supervisor of Property Negotiations review the documents prior to submitting any material changes from approved documents to Legal Services for review.
- Final Approvals:
  - Transactions within Council approved thresholds may be executed by the Director of Real Estate Services or delegate. The Director of Finance can approve the material terms of the Commercial Lease, if the total value is less

than \$250,000 and the term is no more than ten (10) years. Transactions above these thresholds are submitted for Council approval.

- o Once the required approvals are received, the transactions are finalized.

Recommendation A seeks approval to delegate authority to the Director of Real Estate Services or delegate to execute agreements for licensing/lease transactions, where the City is either the lessor or lessee, or licensor or licensee, up to \$750,000 and a maximum term of ten (10) years (including renewal options). This threshold increase will result in approximately a 50% reduction in real estate leasing transactions requiring reports to Council for approval, thereby freeing up a significant amount of Council and staff time involved with the review and approval of such transactions.

The Director of Real Estate Services reports to the General Manager of Real Estate and Facilities Management. Recommendation A gives authority to the General Manager of Real Estate and Facilities Management or the Director of Finance to approve the material terms of the Commercial Lease, which may include a commercially reasonable indemnity in favour of the lessor or licensor. Recommendation B requires that the Director of Real Estate Services report back every five (5) years on the appropriateness of the existing value threshold for total rental and licensee fee values, and to seek Council approval for any increase that may be warranted as a result of any increase in commercial rental and licensee fee values during the preceding five (5) year period. This will allow for thresholds of total rental and licensee fee value to rise over time to reflect increases in commercial rental values.

To summarize, the proposed change will:

- Adjust thresholds to \$750,000 to achieve an approximate 50% reduction in commercial real estate leasing and license transactions requiring Council approval, noting the significant inflationary increases over the past twenty (20) years in commercial rental values;
- Maintain the maximum ten (10) year term (including renewal options) for staff approvals;
- The General Manager of Real Estate and Facilities Management or the Director of Finance may approve the material terms of the Commercial Lease, which may include an indemnity; and
- Require the Director of Real Estate Services to report back every five (5) years on the appropriateness of the existing Council approved threshold and seek approval to increase as necessary.

### ***IMPLICATIONS AND RISK***

As the City grows and transaction volume increases, it is prudent to review the authority levels and adjust those in accordance with the risk level. In this way, the City can continue to gain efficiencies in its processes while aligning to the desired outcomes. This analysis will take place across a number of areas in the upcoming months and changes will be recommended as appropriate. At this time, the authority for real estate transactions is being brought forward following an analysis of the volume and risk. Regarding these transactions, the risk of introducing higher

thresholds is mitigated by existing internal controls, noting that a higher threshold is warranted given the increase in commercial rental and licensee fee values over time, and leasing practices.

*FINANCIAL*

There are no further financial implications. The risk of error is mitigated by internal controls and review processes and subject to compliance measures by internal and external auditors, from time to time.

*CONCLUSION*

The proposed changes to standing authorities for Real Estate Services as presented in this report will improve the City's administrative processes by reducing the number of commercial real estate leasing transactions that require Council approval.

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