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Item No. 13.3
Halifax Regional Council
September 1, 2020
In Camera (In Private)

TO: Mayor Savage and Members of Halifax Regional Council

SUBMITTED BY: Original Signed by 
Jacques Dubé, Chief Administrative Officer

DATE: July 17, 2020

SUBJECT: Property Matter RE-8 - Property Sale – 2748, 2786, and 2788 Agricola Street

PRIVATE & CONFIDENTIAL

ORIGIN

This report originates from:

- August 15, 2017 (deferred from June 13, 2017), Item 9.1 Bloomfield Property Disposal Process, whereby Regional Council approved the following Motion:
 - That Halifax Regional Council:
 1. Categorize the Bloomfield property as Inter-governmental pursuant to Administrative Order 50 (AO50), and direct staff to negotiate the sale of a portion of the property to the Province for a new school site at fair market value as supported by an appraisal to be commissioned by Halifax Regional Municipality (HRM). The Province shall have 120 days from the date of written notice from HRM to enter an Agreement of Purchase and Sale for the property. In the event the Province declines the opportunity, the land shall be categorized as Economic Development and disposed of pursuant to AO50;
 2. Categorize the balance of the Bloomfield property as Economic Development pursuant to AO50, and direct staff to consult with Imagine Bloomfield to incorporate key elements and principles of the Bloomfield Master plan as terms and conditions of any sale, specifically including:
 - I. A minimum of 10,000 square feet of commercial market space, targeted to creative industry;
 - II. A minimum of 20,000 square feet of affordable community and cultural space;
 - III. A minimum of 20 percent of the site as open space, public and private; and,
 - IV. That the Fielding Building be considered as the site for any cultural hub component.
 3. Explore the potential to reinstate Bloomfield Street, either as a public or private right-of-way as part of the redevelopment of the site; and
 4. Direct the CAO to return to Regional Council with a report and recommendations regarding stabilizing and maintaining the Fielding Building and Common Building for winter 2017/18 and;
 5. Explore incorporating affordable housing, as a condition of sale, consistent with policy direction to be set out in the Centre Plan.
- February 13, 2018 (deferred from January 30, 2018), Item 13.1, Bloomfield Property Process Update, Information Report.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter

19 Open meetings and exceptions

- (2) The Council or any committee appointed by the Council may meet in closed session to discuss matters relating to:
 - (a) acquisition, sale, lease and security of municipal property.

61 Powers of Municipality regarding property

- (3) The property vested in the Municipality, absolutely or in trust, is under the exclusive management and control of the Council, unless an Act of the Legislature provides otherwise.
- (5) The Municipality may
 - (b) sell property at market value when the property is no longer required for the purposes of the Municipality.

Administrative Order Number 50, Respecting the Disposal of Surplus Real Property

Section 4 Disposal Methods

(1) (d) Economic Development Properties

These properties viewed by Council to be strategic may be disposed through individually recommended processes contained in the Surplus Properties Report and may include referral to a special committee or task force of HRM created for overseeing the strategic use and disposal of a property.

Properties under this category are required by the Charter to be sold at market value and can include partnership models between private developers and non-profits and municipally defined public use or service delivery components.

RECOMMENDATION

It is recommended that Halifax Regional Council:

1. Authorize the Chief Administrative Officer to direct the Mayor and Municipal Clerk to execute an Agreement of Purchase and Sale, Deed, Buy-Back Agreement and other requisite documents, on behalf of the Municipality, to complete the sale of 2748, 2786, and 2788 Agricola Street, Halifax to the recommended Purchaser, as per the terms and conditions outlined in Table 1 of this report; and,
2. It is further recommended that this report not be released to the public until the transaction has closed.

BACKGROUND

Regional Council, on August 15, 2017, approved recommendations to declare the single property at 2748, 2786, and 2788 Agricola Street, Halifax, as surplus to municipal requirements pursuant to Administrative Order 50, Respecting the Disposal of Surplus Real Property. Regional Council further directed that the net proceeds of sale be earmarked to Q606, Strategic Capital Reserve, to fund Council’s strategic capital projects.

The objective of Council's motion was to build on the principles of the conceptual Bloomfield Master Plan and await certainty around the property’s future development potential by first completing the necessary plan amendment work via Centre Plan Package A prior to the sale of the property.

Public Benefits

In addition to zoning regulations set out in Centre Plan, the property was offered for sale with the following public benefits, as required by Regional Council. For clarity, these public benefits are in addition to the public benefit and bonus zoning requirements under the Center Plan LUB. These conditions will be added on title as restrictive covenants, and/or form conditions of separate agreements as HRM in its sole discretion, determines.

1. The Purchaser shall provide a minimum of 10,000 square feet of commercial space within the development to be targeted to creative industry sector.
2. The Purchaser shall provide a minimum of 20,000 square feet of affordable community and cultural space.
3. A minimum of 20% of the lot area shall be reserved for publicly accessible open space;
4. The Purchaser shall establish a Bloomfield Street view corridor as a pedestrian travelled way through the site as part of the redevelopment of the site.
5. The Purchaser shall provide a minimum of ten (10) percent of the residential units developed on the site as designated affordable housing units for a minimum of fifty (50) years. To be considered affordable, the residential units would either:
 - a) be gifted to a registered non-profit or charitable housing organization or government housing provider; or,
 - b) provide rents at a minimum of 40% below the market rent for the area census tract.

Centre Plan Package A was subsequently approved in September 2019 by Regional Council, which overlaid the property with a Centre-2 (CEN-2) zone, as summarized in the Property Characteristics table:

PROPERTY CHARACTERISTICS	
Property Area	11,595.16 m ² / ~2.87 acres
Road Frontage	Agricola Street: 107m Almon Street: 109m Robie Street: 107m
Permissions under Centre Plan Zoning	As per Centre (CEN-2) Zone, Package A, Regional Centre Land Use By-Law, permits mixed-use developments including, but not limited to: multi-unit residential including townhouses; a broad range of commercial uses; institutional uses; community recreation and parks.
Floor Area Ratio (FAR)	4.0
Heritage	Neither the subject property or buildings are register heritage properties. Furthermore, the subject property is not included in the “Bloomfield District” a future additional Heritage Conservation Study District as per Center Plan. The proposed study district is east of Agricola bounded by Bloomfield Street and Gottingen.

Estimated Maximum Development Potential	46,355 square metres / 498,961 square feet
Integrated Mobility	Portions of the property, running parallel to Robie Street (12m wide) and Almon Street (4m wide), were subdivided as Parcels AR and CR, respectively, from the original property, and retained by HRM as additional rights-of-way under the Integrated Mobility Plan (IMP), specifically as a dedicated Transit corridor (Robie Street) and off-road Active Transportation routes (Robie and Almon Streets).

In preparation to bring this and other properties to market, HRM issued a request for proposals (RFP) for commercial brokerage services. The RFP was awarded to Cushman Wakefield Atlantic (CWA) in 2018.

CWA formally launched its marketing campaign and bid submission process for the property on June 8, 2020. Bids were accepted until July 15, 2020.

DISCUSSION

Cushman Wakefield Atlantic’s (CWA) structured bid campaign reached over 50 firms from a mix of local developers, consultants, and other interests. The structured bid process involves a set date for initial bids followed by a short-listing and request for final and best offers. The initial offer was released to potential purchasers on June 8, 2020. Eight (8) offers were received by deadline on July 6, with the following compilation of bids submitted the next day to the Municipality by CWA:

First Round (Net)¹ Offers – July 6, 2019:

Bidders	Amounts
[REDACTED]	[REDACTED]

The top 7 bidders were short-listed and subsequently invited to submit second offers by July 15, 2020:

Second Round Offers – July 15, 2020:

Bidders	Amounts
[REDACTED]	[REDACTED]

Second offers resulted in a tight gap between the top three bids. CWA subsequently returned to the top three bidders requesting final bids, which were received by end-of-day on July 16, and which resulted in the following final offers:

¹ Bids from [REDACTED] were not submitted on As Is basis and have been adjusted to net offers.

Final Second Round Offers – July 16, 2020:

Bidders	Amounts

On July 17, 2020, HRM Corporate Real Estate conditionally accepted an offer from BANC Investments Limited, subject to Halifax Regional Council's approval.

Staff recommend that Regional Council approve the terms and conditions of sale as set out in **Table 1** below.

TABLE 1

KEY TERMS AND CONDITIONS	
Purchaser	BANC Investments Limited
Purchase Price	\$23,778,500.00 (plus applicable taxes)
Deposit	\$1,188,925.00 (5% of Purchase Price)
Due Diligence End Date	60 days from execution of the Agreement of Purchase and Sale by the Purchaser
Closing Date	Shall take place twenty (20) business days after the later of: (i) Halifax Regional Council approving the sale to the Purchaser on the terms and conditions set out herein; and (ii) the expiry or waiver of the Due Diligence Period. The Manager of Corporate Real Estate shall have authority to approve amendments to the closing date.
Buy-Back Agreement	The Agreement of Purchase and Sale shall be subject to a Buy-Back Agreement as mutually agreed-to between the parties to ensure a timely start to construction on the property (i.e., within 60 months after transaction closes).
Special Conditions	
The transaction is also contingent upon the Purchaser undertaking to complete the following conditions. These conditions are in addition to the requirements set out in the Regional Centre Secondary Plan (Centre Plan Package A) By-law:	
<p>a) Creative Industry Space – The Purchaser shall, for a minimum of ten (10) years from the date which any portion of the Creative Industry Space is available for occupancy in accordance with applicable laws, provide a minimum of 10,000 square feet of commercial space within the development to be targeted to the creative industry sector (the "Creative Industry Space"). Creative Industry Space shall mean any commercial leasable space within the Property. The Purchaser shall be entitled to offer the Creative Industry Space at market rents. Creative Industry Space shall include, without limitation, the following industries: advertising, architecture, visual art, crafts, fashion (including, without limitation, the manufacture, design, or sale of jewelry) and textiles, design, performing arts, music, photography, film and video, computer games, radio and TV, writing and publishing, heritage, software/electronic publishing or development, cultural education, or any other similar industry generally considered to be creative.</p> <p>b) Community and Cultural Space - The Purchaser shall, for a minimum of twenty (20) years from the date which any portion of the Community and Cultural Space is available for occupancy in accordance with applicable laws, reserve a minimum of 20,000 square feet of affordable community and cultural space (the "Community and Cultural Space") for lease. Community and Cultural Space shall generally mean: cultural programming, recreation and leisure, the arts, seniors' programming and services, day cares, and not-for-profit service organizations. The leasing of the Community and Cultural Space shall be subject to the following additional terms and conditions:</p>	

- c) The Community and Cultural Space may be located anywhere within the commercial spaces on the Property and does not need to be contiguous, provided that the Community and Cultural Space is subdivided into no fewer than three (3) non-contiguous spaces. The Purchaser shall use its best commercial efforts to ensure that the Community and Cultural Space has street level access. Further provided that a tenant of the Community and Cultural Space may prefer a unit which does not have street level access, but which shall nonetheless count towards the 20,000 square feet of Community and Cultural Space;
- d) The base rent payable for the Community and Cultural Space shall be determined by the Purchaser but shall be a minimum of 40% below the market base rent for commercial space in similar premises in the city of Halifax, as determined by an appraiser certified as an Accredited Appraiser Canadian Institute ("AACI Appraiser").
- e) Increases in rents for the Community and Cultural Space units may be determined:
- A. by the annual percentage increase in the consumer price index in the province of Nova Scotia, as published by Statistics Canada; and
 - B. at the Purchaser's sole option and discretion, every five years, by re-setting the rent to 40% below the market rent as determined by a new appraisal by an AACI Appraiser;
- f) If the Purchaser, acting reasonably, is unable to find a suitable tenant for any part of the Community and Cultural Space within two years of first offering the Community and Cultural Space and it being made available for tenant occupancy in accordance with applicable laws, the Municipality will either:
- A. enter into a lease with the Purchaser for any or all (at the discretion of the Municipality) vacant portions of the Community and Cultural Space at the rent specified in this section to use the Community and Cultural Space for uses acceptable to the Purchaser, at the Purchaser's sole discretion; Provided that, without the consent of the Purchaser, the Municipality shall not be permitted to lease Community and Cultural Space which would result in any remaining portion of contiguous Community and Cultural Space being less than 1,000 square feet; or
 - B. release the Purchaser from the requirements in this section with respect to any Community and Cultural Space not leased by the Municipality, or any other tenant, in accordance with this section.
- g) **Open Space** - A minimum of 20% of the total area of the Property shall be reserved for publicly accessible open space, to be owned by the Purchaser (the "Open Space") the location, dimensions and design of which shall be at the Purchaser's sole discretion, provided the design meets the minimum requirements to be set out in a separate agreement. The Purchaser may have underground uses (including parking) beneath the Open Space. The Purchaser shall be responsible for maintaining the Open Space. The Municipality shall reimburse the Purchaser, on a schedule to be determined, for the annual maintenance costs for the Open Space as determined by the Municipality and the Purchaser acting reasonably. A separate agreement for the Open Space reflecting the terms shall be entered into between the Municipality and the Purchaser.
- h) The Purchaser shall establish a Bloomfield Street access corridor (the "Bloomfield Street Access Corridor") on the Property as part of the redevelopment of the site. The Bloomfield Street Access Corridor shall run in a straight line from Agricola Street. The Bloomfield Street Access Corridor shall be for pedestrian or non-motorized vehicle access and may be opened to motorized vehicle access on a sporadic basis, as far into the site as what would be the extension of Fern Street.
- i) **Affordable Housing** - The Purchaser shall provide a minimum of ten percent (10%) of the residential units developed on the site as designated affordable housing units for a period of time determined by the Purchaser, but which shall be for a minimum of fifty (50) years from the date of issuance of occupancy permits for the units. The affordable housing units will be subject to the following conditions:

- I. To be considered affordable, the residential units would, at the sole discretion of the Purchaser, either:
 - A. be gifted to a registered non-profit or affordable housing organization or government housing provider; or
 - B. provide rents at a minimum of 40% below the market rent as determined by an AACI Appraiser provided on or around the date an occupancy permit is issued with respect to the affordable housing units;
 - II. The Purchaser may determine, at the Purchaser's sole discretion, the attributes of the affordable housing units including unit mix, sizes, location within the Property, and criteria of the affordable housing units;
 - III. Increases in rents for the affordable housing units may be determined (on a per-unit basis):
 - A. by the annual percentage increase in the consumer price index in the province of Nova Scotia, as published by Statistics Canada for any one month in the previous 12 months; and,
 - B. at the Purchaser's sole option and discretion, every five years, by re-setting the rent to 40% below the market rent as determined by a new appraisal by an AACI Appraiser;
 - IV. During the first fifty (50) years from issuance of an occupancy permit for the affordable housing units, the Municipality may, up to one time per year, request, on 30 days' written notice, that the Purchaser provide a certified rent roll of the affordable housing units showing the unit numbers and rent for the current year.
- j) Provided the Municipality has not commenced construction on parcels AR and CR, as shown on Attachment 1 prior to the Purchaser commencing construction on the Property, the Purchaser will have the right, as part of the consideration of the Agreement of Purchase and Sale to use parcels AR and CR for laydown and excavation areas during construction at the Property. The Purchaser shall be permitted to remove any trees, fixtures, structures, or asphalt located on parcels AR and CR at the Purchaser's sole cost and expense. The Purchaser shall provide confirmation of insurance listing the Municipality as an additional insured in the event that the said parcels are registered in the name of the Municipality at such time. Upon completion of the development, parcels AR and CR shall be reinstated to a minimum of six inches from finished grade and coordinated with the Municipality. Notwithstanding the above, if at any time, the Municipality is prepared to commence its construction upon parcels AR and CR, which for greater certainty shall require as a precondition, that construction be underway by the Municipality on the planned Robie Street transportation corridor, the temporary rights shall be withdrawn with 90 days notice.
- k) The Municipality agrees that from the date of the execution of the Agreement of Purchase and Sale until a demolition permit is granted, the Municipality shall not, on its own behalf, initiate application to designate the Property as a heritage property, unless such designation is consented to by the Purchaser. The Purchaser agrees that under the Heritage Property Act, the Heritage Advisory Committee can recommend registration. If this is done, the Municipality is required to provide notice, consider the application, and there is 120-day freeze from date the notice is served.
- l) If, at any time following one hundred eighty (180) days from Closing Date of the Agreement of Purchase and Sale, the Property and any development thereof are subject to the ramparts or view plane requirements from Citadel Hill as found in the Regional Centre Secondary Plan (Centre Plan Package A) By-law, then the Municipality agrees that upon receiving 60 days' notice from the Purchaser, which the Purchaser may provide at its sole discretion, the Municipality shall repurchase the Property on an unencumbered basis, for the original Purchase Price paid by the Purchaser for the Property (subject to adjustments for interest, municipal taxes, betterments, fuel, rentals, and other matters normally adjusted for in purchases and sale of real property in Nova Scotia). The purchase

shall be on an “as is, where is” basis. The initial one hundred eighty (180) days shall be automatically extended for further periods of sixty (60) days each unless the Purchaser provides notice to the contrary at least thirty (30) days prior to the expiry of the then current period.

- m) The CAO, or designate, shall have the delegated authority to approve amendments to the Agreement of Purchase and Sale, provided they are consistent with the intent of the Key Terms and Conditions herein.

FINANCIAL IMPLICATIONS

Net proceeds of the property’s sale will be credited to Strategic Capital Reserve Q606 and are included as a contribution in the 2021/22 proposed Reserve Budget.

Budget Summary, Opportunity Reserve-Strategic Capital Reserve, Q606

Balance in Reserve, June 30, 2020	\$ 33,129,981
Proceed of Sale as per report	\$ 23,778,500 ²
Projected net available balance, March 31, 2021	\$ 56,908,481

Q606, Strategic Capital Reserve

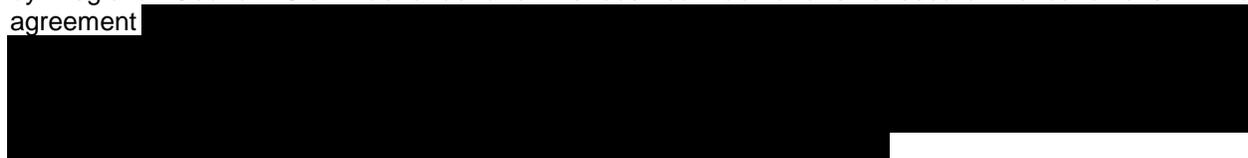
To provide funding for large capital projects that are strategic in nature. Projects should be consistent with long term policies, and capital planning initiatives outlined in the Strategic Capital Planning and Infrastructure and Arena Consolidation Strategy reports/presentations of July 2014. Funding to the reserve are the net proceeds of the sale of specific properties as approved by Council and includes the sale of Bloomfield. Withdrawals from the reserve, are for large capital projects that are strategic in nature and include initiatives outlined in the Strategic Capital Planning and Infrastructure and Arena Consolidation Long Term Arena Strategy reports/presentations of July 2014. Funds from Q606 have also been committed to the 2020/21 capital plan.

Applicable adjustments to the Purchase Price, may include, but are not limited to survey, easements, environmental deficiencies, brokerage, administrative costs. Vendor adjustments or due diligence allowances, if required, shall be to a maximum of ten (10) percent of the purchase price.

HRM’s operational costs, funded through W169 – Transitional Property, will cease on the date of closing. There will be future operating costs to pay the annual maintenance for the Open Space.

RISK CONSIDERATION

The Agreement of Purchase and Sale will contain the conditions outlined in Table 1 which were requested by Regional Council. Staff has undertaken its best contract efforts to secure the conditions in the agreement



Any related risks to the transaction will be managed and mitigated, to the extent possible, through the Agreement of Purchase and Sale and the Buy-Back Agreement to ensure timely development of the property.

² Subject to closing costs and adjustments.

COMMUNITY ENGAGEMENT

The property's development rights were delivered under the Centre Plan initiative. Centre Plan was itself founded on a robust public engagement process, employing open houses, community walk discussions and workshops, pop-ups, the Shape Your City (Halifax) public engagement portal, a deep public approval process including a public hearing, and Regional Council debate and approval.

ENVIRONMENTAL IMPLICATIONS

The property will be sold in an 'as-is, where-is' condition. The prospective purchaser has a 60-day due diligence period within which to investigate the condition of the property. No warranty will be offered to the Purchaser about the property's condition.

ALTERNATIVES

Regional Council may elect to amend the terms of sale, however given the strong offer, with limited conditions, staff recommend acceptance of the offer as presented.

ATTACHMENTS

1. Attachment 1 - Property Survey Plan

If the report is released to the public, a copy can be obtained by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

Report Prepared by: Rudy Vodicka, Project Manager, Corporate Real Estate, Finance, Asset Management and ICT

ATTACHMENT 1 – Property Survey Plan Property Matter RE-8 Property Sale - 2748, 2786, and 2788 Agricola Street Regional Council In Camera (In Private) Report

