

A By-Law of the Corporation of the City of Mississauga delegating
authority for the approval and execution of real estate agreements
and to repeal By-law 0136-2022.

WHEREAS the City of Mississauga enters into various real estate agreements and wishes to delegate the authority to approve and execute such agreements, including documents ancillary to such agreements;

AND WHEREAS section 8 of the *Municipal Act, 2001*, S.O. 2001, c.25 (hereinafter the "Municipal Act, 2001") provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Municipal Act, 2001;

AND WHEREAS subsection 9(1) of the Municipal Act, 2001 provides that section 8 shall be interpreted broadly so as to confer broad authority on municipalities to (a) enable them to govern their affairs as they consider appropriate, and (b) enhance their ability to respond to municipal issues;

AND WHEREAS subsection 23(1) of the Municipal Act, 2001, authorizes a municipality to delegate its powers and duties, subject to certain restrictions and without limiting sections 9, 10 and 11 of the Municipal Act, 2001;

AND WHEREAS on November 12, 2008 Council of the City of Mississauga enacted By-Law 0375- 2008 to delegate authority to approve and execute real estate agreements;

AND WHEREAS on July 4, 2018 Council of the City of Mississauga repealed By-law 0375-2008 and enacted By-Law 0148-2018 to delegate authority to approve and execute real estate agreements;

AND WHEREAS on May 11, 2022 Council of the City of Mississauga repealed By-law 0148-2018 and enacted By-Law 0136-2022 to delegate authority to approve and execute real estate agreements;

NOW THEREFORE the Council of The Corporation of the City of Mississauga enacts as follows:

SHORT TITLE

- 1.0 That By-law 0136-2022 is hereby repealed;
- 2.0 This by-law shall be known and may be cited as the "Real Estate Delegation of Authority By-Law".

DEFINITIONS

- 2.1 In this by-law,
 - (a) "Acquisition Agreement(s)" means any agreement whereby the City receives an interest in Real Property, including but not limited to acquisitions in fee simple or by way of easement, consent to enter, right-of-way, lease, license, joint use, reciprocal agreements, approvals, consents, notices and assignments under leases/licenses, releases/discharges, surrenders, approval to encroach over lands or easements owned by others, abandonments, enforcements/terminations, extension agreements, renewal agreements, amending agreements and land exchanges (where Council has declared the lands surplus to municipal requirements) or any offer, notice, application, form or agreement requiring execution by the City under the *Expropriations Act*, R.S.O. 1990, Chapter E.26, following approval by City Council to proceed with expropriation proceedings;
 - (b) "Bookings" means all requests to book any part of a City Facility;
 - (c) "Charity" means an incorporated or unincorporated not-for-profit organization operating for charitable purposes and registered as such with the Canada

Revenue Agency for the purposes of the *Income Tax Act*, R.S.C., 1985, c. 1 (5th Supp.);

- (d) "College" means a college of applied arts and technology listed under Ontario Regulation 34/03 of the *Ontario Colleges of Applied Arts and Technology Act*, 2002, S.O. 2002, Chapter 8.
- (e) "Commissioner" means the Commissioner appointed by City Council with administrative responsibility for the City's Realty Services Section and shall include any person he or she authorizes to temporarily act in that position;
- (f) "Community Group" means a community group currently registered with the City of Mississauga Registered groups pursuant to the City of Mississauga's Community Group Registry Program policy (policy number 08-01-01);
- (g) "Development Agreement(s)" means any one of the following types of agreements: development agreements, site development plan agreements, site plan undertakings, servicing agreements, common elements condominium servicing agreements, vacant land condominium servicing agreements, limiting distance agreements, park development agreements, off-site parking agreements, payment-in-lieu of off-street parking agreements;
- (h) "General Agreement(s)" means any agreement pertaining to real property whereby the City receives or provides the use in Real Property other than an Acquisition Agreement or Sale Agreement and shall include, but not be limited to, consents to enter, estoppel certificates, assignments, release of easement agreements, non-disclosure/confidentiality agreements, Broker Listing agreements, correcting/quit claim/transfer/deeds, applications for temporary rezoning, building and demolition permit applications, applications to the Committee of Adjustment for minor variances, documentation relating to *Land Titles* applications, Consent to Regulatory applications by the City, as owner and or any offer, notice, application, form or agreement requiring execution by the City under the *Expropriations Act*, R.S.O. 1990, Chapter E.26, where a City interest is being expropriated;
- (i) "Lease" means the granting of a leasehold interest in Real Property or a portion of a building by a landlord to a tenant providing the tenant with exclusive occupancy of the leased premises;
- (j) "Limited Interest Agreement" means any agreement signed in order to convey or accept the limited interest rights including but not limited to the following: license agreement, encroachment agreement, easement agreement, management and operating agreement, a consent to enter, a joint use agreement, etc.;
- (k) "Market Value" means the highest price a willing buyer or tenant would pay and a willing seller or landlord would accept, both parties being fully informed and the property being marketed for a reasonable period of time;
- (l) "Not-for-Profit Organization" means an incorporated entity under the Ontario *Not-for-Profit Corporations Act*, 2010, S.O. 2010, c.15 or the *Canada Not-for-profit Corporations Act* (S.C. 2009, c. 23);
- (m) "Permits" means park permits or park access permits;
- (n) "Real Property" includes:
 - (i) Interests in land including, but not limited to, fee simple, temporary or permanent easement, leasehold, license, consent to enter, management and operations agreement and encroachment; and
 - (ii) All buildings and structures constructed thereon.
- (o) "Religious Organization" means a not-for-profit entity incorporated under the Ontario *Not-for-Profit Corporations Act*, 2010, S.O. 2010, c.15 or the *Canada Not-for-profit Corporations Act* (S.C. 2009, c. 23) whose purpose is the advancement of religion and the conduct of religious worship, or an unincorporated organization as defined in section 1(1) of the *Religious*

Organizations' Lands Act, R.S.O. 1990, Chapter R.23;

- (p) "Sale Agreement(s)" means any agreement whereby the City conveys an interest in Real Property, including but not limited to sales in fee simple or by way of easement, right-of-way, lease, license, joint use, reciprocal agreements, management and operations agreements, consents to enter, extension agreements, renewal agreements, encroachment agreement, amending agreements and land exchange agreements (where Council has declared the property surplus to municipal requirements);

DELEGATION OF AUTHORITY ON ACQUISITION AGREEMENTS AND GENERAL AGREEMENTS

- 3.1 The Manager of Realty Services or any person he or she authorizes to temporarily act in that position is delegated the authority to approve and execute Acquisition Agreements and General Agreements provided that:
 - (a) the consideration is \$ 100,000.00 or less;
 - (b) the funds are within budgets existing or approved by City Council;
 - (c) all applicable Council-approved policies have been met; and
 - (d) where the negotiations were conducted by staff of Realty Services.
- 3.2 The Director of Corporate Business Services or any person he or she authorizes to temporarily act in that position, is delegated the authority to approve and execute Acquisition Agreements and General Agreements provided that:
 - (a) the consideration is \$250,000.00 or less;
 - (b) the funds are within budgets existing or approved by City Council;
 - (c) all applicable Council approved policies have been met; and
 - (d) where the negotiations were conducted by staff of Realty Services.
- 3.3 The Commissioner or any person he or she authorizes to temporarily act in that position, is delegated the authority to approve and execute Acquisition Agreements and General Agreements provided that:
 - (a) the consideration is \$500,000.00 or less;
 - (b) the funds are within budgets existing or approved by City Council;
 - (c) all applicable Council approved policies have been met; and
 - (d) where the negotiations were conducted by staff of Realty Services.
- 3.4 The City Manager or any person he or she authorizes to temporarily act in that position is delegated the authority to approve and execute Acquisition Agreements and General Agreements provided that:
 - (a) the consideration is \$1,000,000.00 or less;
 - (b) the funds are within budgets existing or approved by City Council;
 - (c) all applicable Council approved policies have been met; and
 - (d) where the negotiations were conducted by staff of Realty Services.
- 3.5 The exercise of delegated authority pursuant to subsections 3.1 to 3.4 inclusive shall be reported to General Committee on a semi-annual basis.
- 3.6 Notwithstanding sections 3.1 to 3.4, Council shall continue to approve all Acquisition Agreements where any of the following are involved:

- (a) City staff or an elected City official;
- (b) A family member of City staff or an elected City official. Family member includes a parent, spouse, child, sibling, grandparent, grandchild, step and common-law relationships and in-law relationships;
- (c) A corporation or any type of partnership where City staff or an elected City official is a shareholder or partner and has a controlling interest; or
- (d) where, in the opinion of the Manager of Realty Services the Acquisition Agreement should be directed to Council for approval.

DELEGATION OF AUTHORITY ON SALE AGREEMENTS AND GENERAL AGREEMENTS

- 4.1 The Manager of Realty Services or any person he or she authorizes to temporarily act in that position is delegated the authority to approve and execute Sale Agreements and General Agreements provided that:
 - (a) the consideration is \$ 100,000.00 or less;
 - (b) the consideration is at least 90% of the Market Value of the land or property, unless the purchaser is another level of government, a governmental agency or public utility, in which case the consideration may be any amount below Market Value;
 - (c) all requirements of By-Law 215-2008, being the City's public notice by-law, have been met;
 - (d) all applicable Council approved policies have been met; and
 - (e) where the negotiations were conducted by staff of Realty Services.
- 4.2 The Director of Corporate Business Services or any person he or she authorizes to temporarily act in that position, is delegated the authority to approve and execute Sale Agreements and General Agreements provided that:
 - (a) the consideration is \$ 250,000.00 or less;
 - (b) the consideration is at least 90% of the Market Value of the land or property, unless the purchaser is another level of government, a governmental agency or public utility, in which case the consideration may be any amount below Market Value;
 - (c) all requirements of City Notice By-Law 215-2008, being the City's public notice by-law, have been met;
 - (d) all applicable Council-approved policies have been met; and
 - (e) where the negotiations were conducted by staff of Realty Services.
- 4.3 The Commissioner or any person he or she authorizes to temporarily act in that position, is delegated the authority to approve and execute Sale Agreements and General Agreements provided that:
 - (a) the consideration is \$ 500,000.00 or less;
 - (b) the consideration is at least 90% of the Market Value of the land or property, unless the purchaser is another level of government, a governmental agency or public utility, in which case the consideration may be any amount below Market Value;
 - (c) all requirements of By-Law 215-2008, being the City's public notice by-law, have been met;
 - (d) all applicable Council approved policies have been met; and

- (e) where the negotiations were conducted by staff of Realty Services.
- 4.4 The City Manager or any person he or she authorizes to temporarily act in that position is delegated the authority to approve and execute Sale Agreements and General Agreements provided that:
 - (a) the consideration is \$1,000,000.00 or less, and where the Sale Agreement is a lease, provided the cumulative payments under the lease are \$2,000,000.00 or less;
 - (b) the consideration is at least 90% of the Market Value of the land or property, unless the purchaser is another level of government, a governmental agency or public utility, in which case the consideration may be any amount below Market Value;
 - (c) all requirements of By-Law 215-2008, being the City's public notice by-law, have been met;
 - (d) all applicable Council approved policies have been met; and
 - (e) where the negotiations were conducted by staff of Realty Services.
- 4.5 Notwithstanding sections 4.1 to 4.4, Council shall continue to approve all Sale Agreements where any of the following are involved:
 - (a) City staff or an elected City official;
 - (b) a family member of City staff or an elected City official. Family member includes a parent, spouse, child, sibling, grandparent, grandchild, step and common-law relationships and in-law relationships;
 - (c) a corporation or any type of partnership where City staff or an elected City official is a shareholder or partner and has a controlling interest; or
 - (d) where, in the opinion of the Manager of Realty Services the Sale Agreement should be directed to Council for approval.
- 4.6 The exercise of delegated authority pursuant to subsections 4.1 to 4.4 inclusive shall be reported to General Committee on a semi-annual basis.

DELEGATION OF AUTHORITY ON LEASES AND LIMITED INTEREST AGREEMENTS

- 5.1 The Commissioner is delegated the authority to approve and execute Leases and Limited Interest Agreements for City owned Real Property at nominal consideration or below Market Value rent or monthly/annual fees when:
 - (a) The Lease or Limited Interest Agreement is connected to a reciprocal or shared use agreement;
 - (b) The Lease or Limited Interest Agreement is with a Not-for-Profit Organization, Charity, College or Community Group that actively provides services which supplement City services or are aligned with the City's strategic goals, as determined by the Commissioner, in consultation with the applicable commissioner; or
 - (c) The Lease or Limited Interest Agreement is with a Religious Organization for use of City owned Real Property for parking purposes, provided that such Religious Organization occupies property adjoining the City owned Real Property.
- 5.2 Notwithstanding section 5.1, Council shall continue to approve all Leases and Limited Interest Agreements where any of the following are involved:
 - (a) City staff or an elected City official;
 - (b) a family member of City staff or an elected City official. Family member includes

a parent, spouse, child, sibling, grandparent, grandchild, step and common-law relationships and in-law relationships;

- (c) a corporation or any type of partnership where City staff or an elected City official is a shareholder or partner and has a controlling interest; or
- (d) where, in the opinion of the Manager of Realty Services the Sale Agreement should be directed to Council for approval.

5.3 The exercise of delegated authority pursuant to subsection 5.1 herein shall be reported to General Committee on a semi-annual basis.

AMOUNT OF CONSIDERATION

- 6.1 Save and except for section 5.1, in determining the amount of consideration for the purposes of selecting the proper level of approval authority, the consideration figure shall not include third party costs and expenses, including but not limited to taxes, land registry office fees, legal fees, appraisal fees, real estate commissions and survey costs.
- 6.2 Where the City intends to enter into a lease agreement and the City is the tenant, the determination of consideration for the purposes of selecting the proper level of approval authority shall include an estimate of all operating costs for the initial term of the lease, together with the cumulative payments under the lease. Where tenant extension options are included in the lease, if the extension is to be determined at a date later than the original approval date, total value is to be calculated as though all options are exercised, estimating the extension based on the highest rent payable in the first term of the lease.
- 6.3 Where the City intends to enter into a lease agreement and the City is the landlord, the determination of consideration for the purposes of selecting the proper level of approval authority, where tenant extension options are included in leases, if the extension is to be determined at a later date than the original approval date, total value is to be calculated as though all options are exercised, estimating the extension based on the highest rent payable in the first term of the lease.
- 6.4 Where the City intends to enter into a lease agreement and the City is the landlord, the determination of consideration for the purposes of selecting the proper level of approval authority shall also include the value of tenant improvements if factored into the tenant's rental payments.

CLOSING DATES AND CONDITIONS

- 7.0 The City Solicitor or any person he or she authorizes to temporarily act in that position, is hereby granted the authority to extend the closing date and/or extend the time frame on any conditions previously approved in any Acquisition Agreement or Sale Agreement, provided that exercising such authority does not change the original intent of the Acquisition Agreement or Sale Agreement.

DEVELOPMENT AGREEMENTS

- 8.0 This by-law shall not apply to any Development Agreements entered into by the City.

PERMITS AND BOOKINGS

- 9.0 This by-law shall not apply to any Permits or Bookings entered into by the City.

GENERAL

- 10.0 In this by-law, unless the context otherwise requires, words imparting the singular number shall include the plural, and words imparting the masculine gender shall include the feminine, and further, the converse of the foregoing also applies where the context so requires.

SEVERABILITY

- 11.0 Where a court of competent jurisdiction declares any section or part of a section of this by-law to be invalid, or to be of no force and effect, it is the intention of Council in enacting this by-law that the remainder of this by-law shall continue in force and be applied and enforced in accordance with its terms to the fullest extent possible according to law.

