

Minnehaha Creek Watershed District

REQUEST FOR BOARD ACTION

MEETING DATE: March 8, 2018

TITLE: Authorization to execute an agreement with NTH for real estate brokerage services for 325 Blake Road

RES. NUMBER: 18-015

PREPARED BY: Michael Hayman

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REVIEWED BY: Administrator Counsel Program Mgr.
 Board Committee Engineer Other

WORKSHOP ACTION:

<input type="checkbox"/> Advance to Board mtg. Consent Agenda.	<input type="checkbox"/> Advance to Board meeting for discussion prior to action.
<input type="checkbox"/> Refer to a future workshop (date):_____	<input type="checkbox"/> Refer to taskforce or committee (date):_____
<input type="checkbox"/> Return to staff for additional work.	<input type="checkbox"/> No further action requested.
<input checked="" type="checkbox"/> Other: Requesting approval at March 8, 2018 Board Meeting	

PURPOSE or ACTION REQUESTED:

Authorization to execute an agreement with NTH for real estate brokerage services for 325 Blake Road to assist the District with selection of a master developer and provide negotiation and transaction services as the District endeavors to close on the sale of the property and integrate its work into that of the future redevelopment.

PROJECT/PROGRAM LOCATION:

325 Blake Road North, Hopkins

PROJECT TIMELINE:

February 14, 2018 – RFQ submittal deadline
February-May 2018 – Master developer selection process
May-June 2018 – Select Master Developer and initiate negotiations
Mid-2018 - early-2019 – Final negotiations, draft agreements, due diligence process, City approvals, etc.
2019 – Finalize sale/close on property

PROJECT/PROGRAM COST:

Fund name and number: Planning (Land Conservation Planning), 2002
Current fund balance: \$100,000 dedicated for land conservation planning
Requested amount of funding: \$45,000 (if successful transaction secured, \$175,000 payable at closing)
Is a budget amendment requested? No
Is additional staff requested? No

SUMMARY:

In 2011, the District made a strategic acquisition of land at 325 Blake Road as part of a regional scale effort to establish the Minnehaha Greenway. This effort identified opportunities for area wide stormwater improvement, ecological restoration of the Minnehaha Creek riparian zone and corridor linkage with upstream/downstream

restoration projects. Portions of the site not utilized for watershed restoration will be sold for redevelopment to capture a return on the initial investment.

As part of the redevelopment planning process, the MCWD, in partnership with the City of Hopkins (City) and the Southwest Community Works Blake Road Station Subcommittee – consisting of Hennepin County, Hopkins, St. Louis Park, Edina, and community representatives – developed a request for qualifications (RFQ) for a master developer on the current 325 Blake Road site. Responses to the RFQ were due on February 14, 2018, at which point the MCWD and City, with assistance from Hennepin county staff, initiated evaluation of submittals to progress the process towards the selection of finalists.

To effectively evaluate RFQ responses and position the site to provide best return and meet the MCWD's full set of goals for the site, the MCWD seeks assistance from a firm with real estate expertise and a strong understanding of the development community in the Twin Cities metro area. NTH is a demonstrated expert in this field and is presently contracted to assist the MCWD as a short-term advisor in preliminary review and evaluation of RFQ responses. As the lead broker on many major Twin Cities real estate transactions – whether working for Hennepin County, the Minneapolis Sports Facility Authority, the Star Tribune or Allina Health – NTH has established itself as a reputable and respected firm with the proven qualifications to complete the most difficult transactions.

Further, NTH has developed a strong understanding of this site, the goals of the MCWD within the Minnehaha Creek Greenway and the vision for the community at large, making the firm a strong asset in assisting with not only the selection of a master development partner, but also the process of working towards negotiation and transaction on the site.

MCWD governance policies (Policy #6: Executive Limitations) state that the Administrator will not enter into a professional services contract exceeding \$25,000 without using a competitive process. For the reasons outlined above, the Administrator recommends that the Board proceed without a competitive selection process.

As discussed at the February 22, 2018 Planning and Policy Committee, staff have been working closely with the team from NTH to develop a process that best positions the MCWD in selecting a successful master developer while transitioning the process from RFQ evaluation through negotiations, agreements and closing. The attached proposal highlights the process that will commence upon selection of master developer finalists.

As described in the scope of work, following completion of the RFQ evaluations and selection of master developer finalists, NTH will represent MCWD in a varied process to select the developer and address draft terms for transaction on the property. This step in the process will further define the phases the master development team will take to see through the shared vision for the site and achieve final approvals and a closed transaction. Beyond the refined RFQ process, NTH will work as the MCWD's financial analyst, lead negotiator and real estate broker to see the process through to closing with the selected master developer. This work will be done in close coordination with MCWD staff and legal counsel to ensure the MCWD concludes with a comprehensive and seamless real estate transaction.

Rather than work on an hourly rate, the NTH team will work on a \$45,000 retainer to be paid over five months, beginning April 1, 2018. As is standard with complicated real estate transactions such as this, the work will most likely not be complete at the conclusion of this five month period. Although payment of the retainer will have been met at this time, NTH will remain fully invested in the process until a successful transaction occurs.

To maintain a strong level of objectivity through the selection of developer/buyer, NTH is proposing a fixed success fee rather than a commission based fee. Real estate brokerage contracts are highly variable depending on the scale and scope of a given project, with commission based contracts generally falling in the range of 2% to 5% of sale price. It can be difficult to maintain objectivity when utilizing a commission based structure, particularly when a site is envisioned to fit a broad community purpose. In these instances, the industry standard is to estimate a reasonable fixed fee, thus providing the real estate services needed to complete a successful transaction without having purchase price overly influence the brokerage firm.

For the purpose of this contract, and based on NTH's experience dealing with highly variable and dynamic redevelopment processes, NTH and staff are proposing a fixed success fee. This ensures the developer/buyer is selected based on its merit and fit with the vision of the MCWD and ability to deliver a successful site as part of the Minnehaha Creek Greenway and Blake Corridor. When a successful purchase transaction is secured, NTH will receive an added \$175,000 fee, which will be payable at closing.

The contract will be structured to allow MCWD to terminate the agreement with NTH at any time, with or without cause. In the event MCWD elects to terminate the agreement – except in the case of termination for cause, such as failure to perform its duty – MCWD would be obligated to pay the full fee if MCWD agrees to the terms of a transaction in the 18 months following NTH's termination and NTH was involved in negotiations on MCWD's behalf prior to termination.

Staff is recommending the MCWD Board of Managers authorize the administrator to enter into an agreement with NTH for real estate brokerage services for 325 Blake Road.

Attachments:

- NTH proposed services

RESOLUTION

RESOLUTION NUMBER: 18-015

TITLE: **Authorization to execute an agreement with NTH for real estate brokerage services for 325 Blake Road**

- WHEREAS, the area between West 34th Street and Meadowbrook Lake has been determined to be one of the most degraded sections of Minnehaha Creek; and
- WHEREAS, the MCWD Board of Managers has designated this area, known as the “urban corridor”, as a high priority strategic geography for capital project implementation and programming; and
- WHEREAS, the MCWD Board of Managers has developed a series of strategic capital project initiatives within the urban corridor to advance goals of improving the ecological integrity of Minnehaha Creek, while reintegrating the stream corridor into the surrounding urban fabric; and
- WHEREAS, in 2011 the MCWD acquired the 325 Blake Road property for water resource purposes including stream restoration, regional stormwater management, and corridor habitat and passive recreation improvements, and for the opportunity to integrate these purposes with the public purposes of other bodies; and
- WHEREAS, the MCWD has moved forward in planning and construction of regional stormwater infrastructure, Minnehaha Creek Greenway expansion planning, site facility decommissioning and demolition, environmental remediation and preliminary redevelopment;
- WHEREAS, the MCWD published a Request for Qualifications (RFQ) for a master developer, in coordination with the City of Hopkins, and utilizes the Southwest Community Works Blake Road Station Subcommittee in a review and advisory role to ensure the process meets the vision and goals of all partners;
- WHEREAS, to effectively evaluate RFQ responses and position the site to meet its greatest potential, the MCWD retained NTH Real Estate and Project Management (NTH), a firm with real estate expertise and a strong understanding of the development community in the Twin Cities metro area, to assist it as a short-term advisor in preliminary review and evaluation of RFQ responses; and
- WHEREAS; NTH is a demonstrated expert in this field, working as lead broker on major Twin Cities real estate transactions – for both public and private sector clients – and has established itself as a reputable and respected firm with the proven qualifications to complete the most difficult transactions; and
- WHEREAS; to maintain a strong level of objectivity through the selection of developer/buyer, NTH is proposing a fixed success fee rather than a commission based fee, thus ensuring the developer/buyer is selected based on its merit and fit with the vision of the MCWD and ability to deliver a successful site as part of the Minnehaha Creek Greenway and Blake Corridor;
- WHEREAS, MCWD governance policies specify a competitive process for selection of professional services for a scope exceeding \$25,000, however NTH has developed a strong understanding of this unique site, the goals of the MCWD within the Minnehaha Creek Greenway and the vision for the community at large, making the firm uniquely qualified to assist with selection of a master developer, act as MCWD’s real estate broker, and provide financial analysis, negotiation expertise and related advice and support;

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers hereby authorizes the District Administrator, on advice of counsel, to execute a contract with NTH for real estate brokerage and associated services for the sale of the 325 Blake Road property for the amount of \$220,000, with \$175,000 of that amount payable at the time of closing on the 325 Blake Road property.

Resolution Number 18-015 was moved by Manager _____, seconded by Manager _____.
Motion to adopt the resolution ___ ayes, ___ nays, ___ abstentions. Date: _____.

_____ Date: _____

Secretary

MINNEHAHA CREEK WATERSHED DISTRICT

March 5, 2018

NTH Proposed Services

The following is an outline of NTH's proposed services to represent Minnehaha Creek Watershed District (MCWD) in the negotiations and sale of property at 325 Blake Road, Hopkins.

It is NTH's understanding that, as one component of the MCWD's real estate team, they will be working in close coordination with MCWD's legal counsel and appraiser to accomplish the successful transaction of this site.

RFQ Evaluation

MCWD has engaged NTH under a separate agreement (Short Form Work Order) to review and evaluate responses to MCWD's Request for Qualifications for master developer for 325 Blake Road, Hopkins.

Proposed Scope: RFP Negotiations, Documentation, and Implementation

Following completion of the RFQ evaluations, NTH will represent MCWD in negotiations with the selected developer(s) including but not limited to: sale price, feasibility, sustainability, suitability of the proposed development, schedule, financial risk, etc. NTH, in coordination with MCWD's legal team, will participate in the documentation and implementation of the transaction(s). NTH's scope of services will include, but not be limited to, the following:

1. Negotiations with Developers

NTH will negotiate on MCWD's behalf for the sale of the 325 Blake Road property. Incorporating feedback from MCWD and MCWD's partners, NTH will develop a varied process to address outstanding issues with the finalists. This work is expected to initiate with a solicitation of information to further clarify RFQ responses and proceed through the interview process and draft letter of intent. Negotiations may include, but not be limited to, the following terms:

- Price and Earnest Money
- Timing
- Contingencies
- Plans to obtain grants, TIF, etc.
- Site restoration and incorporation of regional stormwater management facility
- Redevelopment components (retail, housing, etc.)

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- Public access to Minnehaha Creek
- Coordination with public and community partners

2. Updated Analysis and Recommendation

NTH will prepare an updated financial analysis and proposal summary in a report suitable for executive review. If desired, NTH shall support MCWD in presenting the findings and recommendation to Hopkins City Council, Hennepin County Commissioners, Southwest Community Works Blake Road Corridor Subcommittee and other project partners.

As advisor, NTH will provide insights on the proposed development(s) including, but not limited to, feasibility, risks, alignment with MCWD's vision, and financial considerations as relevant to the amount the developer will pay and the nature and timing of contingencies in order to reach an agreement.

3. Final Negotiations

Based on input from MCWD and its partners, NTH will conduct final negotiations with the selected developer to achieve the best possible package of terms, financial and nonfinancial, for MCWD's approval. The structure of the negotiations will reflect input from MCWD on preferred process and are anticipated to result in a term sheet outlining the key components of a Purchase Agreement and considerations for a Master Development Agreement. The negotiations are anticipated to involve, but not be limited to, requests for additional details, discussions of key objectives, counter proposals to achieve a workable framework for both parties and documented in a term sheet.

NTH understands this multi-faceted transaction is about more than a residential development. This is an opportunity to create a dynamic community resource along Minnehaha Creek. The negotiations will necessarily address financial considerations, but not in isolation. NTH understands that the vision for the site, community involvement, a partnership with the City of Hopkins, and the ultimate deliverability of the proposed development are all critical considerations when selecting a developer partner.

4. Implementation and Documentation

Based on direction from MCWD and in conjunction with MCWD's staff and legal counsel, NTH will assist in the implementation and documentation of the sale including, but not limited to:

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- Advise MCWD legal counsel with documentation of negotiated business terms for inclusion in a Purchase Agreement
- Review the agreements to ensure they reflect the intent as agreed upon through negotiations
- Advise MCWD on the development review process, including MCWD's partnership with the City, to optimize the redevelopment process (Master Developer Agreement, Planned Unit Development, etc.)
- Monitor the due diligence process as the selected developer proceeds with site investigation and other associated work
- Assist MCWD staff and legal counsel with the closing process, as needed

NTH Compensation

NTH shall receive from MCWD a consulting fee for professional services of \$9,000 per month for five months, \$45,000. Fee shall be paid monthly, in equal installments, commencing April 1, 2018 ending on August 1, 2018. NTH will provide services through completion of a transaction on the property independent of the timing of the final retainer payment.

To maintain a strong level of objectivity through the selection of developer/buyer, NTH is proposing a fixed success fee rather than a commission based fee. This ensures the developer/buyer is selected based on its merit and fit with the vision of the MCWD and ability to deliver a successful site as part of the Minnehaha Creek Greenway and Blake Corridor.

If a successful purchase transaction is secured, NTH will receive an added \$175,000 fee payable at closing.

Termination

Minnehaha Creek Watershed District may terminate the agreement with NTH at any time, with or without cause. In the event MCWD elects to terminate the agreement (except in the case of termination for cause, i.e., failure of NTH to perform its obligations) MCWD shall be obligated to pay the full fee if MCWD agrees to the terms of a transaction in the 18 months following NTH's termination and NTH was involved in negotiations on MCWD's behalf prior to termination.