



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: <http://legis.wisconsin.gov/lfb>

April 18, 2018

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Administration: Asset Sale Transactions -- Agenda Items II and III

On December 15, 2017, the Department of Administration (DOA) requested approval under s. 16.848(1)(b), to sell 0.25 acres of vacant land at the Appleton Lock #3 to Eagle Flats, LLC for \$14,250. The property is located in the City of Appleton in Outagamie County. Also on December 15, 2017, DOA requested approval under s. 16.848(1)(b), to sell 0.081 acres at the Wisconsin Rapids State Office Building to the City of Wisconsin Rapids for \$18,012, including reimbursement of state costs associated with the property transfer. The property is located in the City of Wisconsin Rapids in Wood County. The State Building Commission previously approved these two transactions at its December 13, 2017, meeting.

ANALYSIS

Background

As required under s. 16.848(1)(a) and (b), if DOA proposes to sell any state-owned real property, it must first receive approval by the Building Commission. DOA is required to then notify the Joint Committee on Finance (JFC) in writing of the proposed sale. Committee approval of the proposed sale is required before DOA can proceed with the sale. In addition to a written notice, DOA is required to provide JFC the following information: (a) the estimated value of the property as determined by DOA and by at least one qualified privately owned assessor; (b) the full cost of retiring any remaining public debt incurred to finance the acquisition, construction, or improvement of the property; (c) a cost-benefit analysis that considers the short-term and long-term costs and benefits to the state from selling or leasing the property; (d) the length and conditions of any proposed sale between the state and a proposed purchaser or lessee; (e) the estimated budgetary impact of the proposed sale upon affected state agencies for at least the current and following fiscal biennium; (f) the methodology to ensure the competitive and transparent sale of the property; and (g) any other information requested by JFC.

Under s. 16.848(4)(a), if there is any outstanding public debt used to finance the acquisition, construction, or improvement of property sold by the state, DOA must deposit the net proceeds from the sale into the bond security and redemption fund to repay the principal and pay the interest on the debt and to pay any premium due upon refunding any of that debt. DOA must also allocate an amount from the net proceeds to pay for the costs of maintaining federal tax law compliance applicable to the debt. If the property was acquired, constructed, or improved with federal financial assistance, DOA must pay to the federal government any of the proceeds required by federal law. If the property was acquired by gift or grant or with gift or grant funds, DOA must adhere to any restriction governing use of the proceeds. If there is no debt outstanding on the property, there are no moneys payable to the federal government, and there is no restriction governing use of the proceeds, and if the net proceeds exceed the amount required to be deposited, paid, or used for another purpose, DOA must use the net proceeds (or remaining net proceeds) to pay principal and interest costs on outstanding public debt issued to finance the acquisition, construction, or improvement of other state property. If any net proceeds remain thereafter, DOA must use the net proceeds to pay principal and interest costs on other outstanding public debt.

There is no outstanding debt incurred for the financing, acquisition, construction, or improvement of the portions of the properties proposed for sale. The net sale proceeds of both transactions will be used to pay principal and interest costs on outstanding public debt issued to finance the acquisition, construction, or improvement of other state property.

Fox River Navigational System Authority Asset Sale

In September, 2000, Governor Thompson signed an agreement with the United States Army Corps of Engineers to transfer ownership of the Fox River Locks from the federal government to the state, with the state assuming responsibility to manage and rehabilitate the 17 locks. 2001 Act 16 created the Fox River Navigational System Authority (FRNSA) for the purpose of assuming responsibility for management, operations, and rehabilitation of the locks upon transfer from the federal government to the state. On September 17, 2004, the locks were officially transferred from the federal government to the state, and the Authority entered into a 30-year lease agreement with DOA to assume management and operational responsibility for the locks. In addition, 2015 Act 357 modified s. 237.04 of the statutes to allow the FRNSA to acquire, lease, or dispose of property for the construction, operation, and maintenance of a navigational system visitor center. Act 357 specifies that a lease agreement for such a visitor center is not subject to Building Commission approval, notwithstanding any contrary provision of law.

Under the terms of the transaction, the state will convey a 0.25-acre parcel of land located at 851 S. Lawe Street, Appleton, to Eagle Flats, LLC in exchange for \$14,250. DOA reports this amount is equal to the appraised value of the 0.25-acre property, found in an appraisal obtained by DOA in August, 2017, which DOA reviewed and concurred with. In addition, Eagle Flats, LLC would grant a permanent easement to DOA to allow continued unencumbered access to DOA's property operated by the FRNSA at Appleton Lock #3. According to DOA, the buyer plans to create a mixed-use development on the property, including a visitor center for the FRNSA on the first floor and residential housing units on the remaining three upper floors. Pursuant to the authority granted to the FRNSA under Chapter 237 of the statutes, the FRNSA will be responsible for all costs associated with the construction, operation, and maintenance of the visitor center, with no state funds utilized. Closing on the property is anticipated within 30 days of formal approval by the Committee. As there is no outstanding debt associated with the property, the proceeds of the

sale will be used to pay principal and interest costs on outstanding public debt issued to finance the acquisition, construction, or improvement of other property in accordance with s. 16.848(1)(b)(3) of the statutes.

DOA notes that Eagle Flats, LLC submitted an unsolicited offer to purchase the parcel. DOA then listed the parcel on the DOA website to ensure a competitive and transparent transaction. Further, notices were published in a local Appleton newspaper and on the Wisconsin Economic Development Corporation website, and additional notifications were provided to local developers. While the original offer to purchase included a proposed trade of an additional parcel, DOA found this was not in the best interest of the state due to certain business use restrictions on future use of the property. Eagle Flats, LLC, submitted a revised bid in response to DOA's notice and was selected by DOA as the buyer and the terms of the sale were negotiated. As noted, the sale was approved by the Building Commission at its meeting on December 13, 2017.

If the request were denied, plans to develop a mixed-used building to house a visitor center would likely be halted or abandoned. FRNSA would retain statutory authority to construct a visitor center on property remaining under state ownership, but it is not clear such activities would be pursued. The Authority reports it considered constructing a stand-alone visitor center several years ago in earlier stages of planning. However, the Authority found its costs to construct a 2,400-square-foot stand-alone building would be similar to or greater than the costs associated with purchasing a 7,500-square-foot unit in the proposed development.

Wisconsin Rapids State Office Building Asset Sale

The Wisconsin Rapids State Office Building, located at 1681 2nd Avenue South, Wisconsin Rapids, houses offices of the north central district office of the state Department of Transportation and Department of Children and Families. Under the proposal, the City of Wisconsin Rapids would pay the state \$5,972.65 to acquire 0.081 acre of land on which the state office building is located and to provide for a 0.074 acre temporary limited easement for road construction. The remainder of the land upon which the building is located, and the building itself, would continue to be owned by the state. The Department indicates that the asset sale would have no budgetary impact upon affected state agencies for the current or following fiscal biennium. Additionally, DOA would be reimbursed up to \$12,039.40 for costs associated with the asset sale, such as costs for purchasing a new building sign, sign relocation, and restorative landscaping. An appraisal obtained by the City in March, 2017, determined that the value of the property was \$12,200 and an appraisal obtained by DOA determined that the value was \$18,850. A final negotiated price of \$18,012 was agreed upon by the two parties to include compensation for the purchase, temporary easement, and cost reimbursement. The Department determined that the sale would be in the best interest of the state.

The City intends to use the land purchase to address roadway design deficiencies and improve roadway safety. Specifically, the City plans a reconstruction of 2nd Avenue South, from Gaynor Avenue to West River Expressway, which would involve the removal of an electric sign and mature ornamental deciduous trees for the purpose of widening the road and moving sidewalks back from the roadway. The City anticipates that work on the road project could begin in June, 2018. The sale was approved by the Building Commission at its meeting on December 13, 2017. Closing on the property is anticipated as soon as practicable following approval by the Joint Committee on Finance.

If the request is denied, the administration indicates that the State Building Commission would likely be petitioned to grant an easement. If the City of Wisconsin Rapids is granted a permanent easement, it is possible the state would not be compensated. Because the easement would require Common Council and Building Commission approval, the effect on timing of road construction if this alternative is pursued is not known.

ALTERNATIVES

A. Fox River Navigational System Authority [Agenda Item V]

1. Approve the request to sell 0.25 acres of vacant land at the Appleton Lock #3 to Eagle Flats, LLC for \$14,250.
2. Deny the request.

B. Wisconsin Rapids State Office Building [Agenda Item VI]

1. Approve the request to sell 0.081 acres at the Wisconsin Rapids State Office Building to the City of Wisconsin Rapids for \$18,012, including reimbursement of state costs associated with the property transfer.
2. Deny the request.

Prepared by: Emma Drilias, Rachel Janke, and Erin Probst