



CITY OF CAMBRIDGE

Office of the City Solicitor
795 Massachusetts Avenue
Cambridge, Massachusetts 02139
Tel. (617) 349-4121
Fax. (617) 349-4134

Russell B. Higley
City Solicitor

Donald A. Drisdell
Deputy City Solicitor

Michael C. Costello
Assistant City Solicitor

Legal Counsel

Birge Albright
Gail S. Gabriel
Arthur J. Goldberg
Linda A. Stamper
Deborah R. Cautela
Nancy E. Glowa

June 10, 1994

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: *Response to City Council Order # 6, March 7, 1994, Regarding Procedures to be followed by Municipal Departments in the Procurement of Real Property*

Dear Mr. Healy:

City Council Order # 6 from the March 7, 1994 meeting requested a report on the procedure to be followed by municipal departments in the procurement of real property. An earlier response to the order was prepared by the Purchasing Agent on March 22, 1994 outlining the applications of M.G.L. c. 30B, the Uniform Procurement Act, as it applies to the acquisition by the City of real property. A copy of that memo is attached.

In addition to the requirements of the Uniform Procurement Act, there are several statutory provisions affecting the procedures that must be followed in order for the City to acquire real property. M.G.L. c. 40, § 14 provides that the city may purchase or take by eminent domain any land, easement or right therein within the city not already appropriated to public use, for any municipal purpose. This statute provides further that no such interest may be purchased or taken under this section unless the taking or purchase has previously been authorized by the City Council, nor until an appropriation of money, to be raised by loan or otherwise, has been made for the purpose by a two-thirds vote of the City Council.

M.G.L. c. 79 is the statute governing eminent domain takings of real property. This statute is quite comprehensive and detailed and creates particular requirements dependent upon the specifics of the acquisition. In general, the procedure required is that the City must obtain at least one appraisal of the property. The City Council must, by a two-thirds

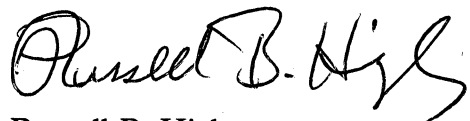
vote, appropriate the money necessary to compensate the owner of the property for the fair market value of the interest taken. The City Council must then vote an Order of Taking that properly identifies the land and interest taken and the purpose for which such property is taken.

Within thirty (30) days of the vote on the Order of Taking the order must be recorded at the registry of deeds. Within sixty (60) days of recording the order the City must offer the pro tanto award. The owners may accept this award without giving up their right to appeal the amount as inadequate to compensate for the fair market value of the property.

Since the adoption by the legislature of the Uniform Procurement Act, there are additional disclosure and proposal requirements that must be followed as outlined in the attached memorandum from the Purchasing Agent.

In general, then, the procedure to be followed by municipal departments in the procurement of real property must involve the referral to your office of any proposal for such an acquisition. At least one appraisal of the fair market value of the property must be obtained. Whether the property is to be acquired by purchase or eminent domain the matter must be referred to the City Council as the body authorized and required to approve the acquisition and appropriate the money for the purpose. In addition to these requirements, the Uniform Procurement Act requires that the City Council vote to solicit proposals prior to acquiring by purchase or rental any interest in real property at a cost exceeding five hundred dollars (\$500). Acquisitions by eminent domain are not subject to this requirement to solicit proposals.

Very truly yours,

A handwritten signature in black ink, appearing to read "Russell B. Higley". The signature is fluid and cursive, with the first name "Russell" being more legible than the last name "Higley".

Russell B. Higley
City Solicitor



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139

TEL 349-4300

FAX 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

March 28, 1994

To The Honorable, The City Council:

Please find attached a response to Awaiting Report Item No. 12, regarding the procedure to be followed by municipal departments in the procurement of real property, received from Diane Wynshaw-Boris, Purchasing Agent.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Robert W. Healy", is written over a horizontal line.

Robert W. Healy
City Manager

RWH/mev
attachment



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 TEL 349-4310

PURCHASING DEPARTMENT

DIANE WYNshaw-BORIS
PURCHASING AGENT

MEMORANDUM

TO: ROBERT W. HEALY, City Manager

FROM: DIANE WYNshaw-BORIS, Purchasing Agent

RE: COUNCIL ORDER #06, DATED 3/7/94
PROCEDURE TO BE FOLLOWED BY MUNICIPAL DEPARTMENTS IN THE
PROCUREMENT OF REAL PROPERTY

DATE: March 22, 1994

=====

The Purchasing Department follows the appropriate and relevant procedures set forth in M.G.L. c. 30B, §16, with respect to advertisements and requests for proposals. The application of the statute is dependent upon several factors including, but not limited to, the size of property, the value and the location. For illustration purposes only, I offer the following possible scenarios and the appropriate application of M.G.L. c. 30B:

1. **Property desired:** 20,000 sq. ft. of office space located within a one-tenth of a mile radius of City Hall, the purpose of which is to house additional municipal departments. **Action required:** an ad be placed in the Central Register (at least 30 days before the date set for receipt of proposals) and the Cambridge Chronicle for two consecutive weeks, the last ad of which is to appear at least two weeks prior to the date set for the bid opening, describing the property and the qualities of the property desired. Proposals are received and evaluated.

2. **Property desired:** a lot adjacent to City Hall with the capacity to park 50 cars. **Action required:** the City makes a determination that such property is unique because of its location. The City advertises in the Central Register no less than 30 days prior to entering into a binding lease agreement its intent to enter into a lease agreement with the owner, with the lease terms, the names of the parties having a beneficial interest in the property, location and size of the property and the basis for the determination of the uniqueness of the property. On the 31st day, the City may enter into a lease agreement with the property owner.

Please let me know if I can provide you with additional information.



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139

TEL 349-4300

FAX 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

June 13, 1994

To The Honorable, The City Council:

Please find attached a response to Awaiting Report Item No. 12, regarding procedures to be followed by municipal departments in the procurement of real property, received from City Solicitor Russell B. Higley.

Very truly yours,

Robert W. Healy
City Manager

RWH/mev
attachment

Consent Agenda # 10

S-299

Response to Awaiting Report Item
Number Twelve regarding procedures to
be following by municipal department in
the procurement of real property.

for original order see
1994 City Manager Request
69.

1st. rep. rec. April 4, 1994
See, 1994 - Sundeen # 139

In City Council,

June 13, 1994

Placed on file