

	Disposition of City Owned Surplus Real Property Policy
	Commission Adopted 03/15/04, Amendments 09/12/05; 01/22/06; 4/6/15

On a regular basis, the City of Bay City reviews its inventory of real property to determine what land is in excess of its foreseeable needs. Land that is no longer needed for public purposes is declared surplus and then made available for sale in accordance with the following *Policy for the Disposition of City Owned Surplus Real Property* as approved by City Commission on March 15, 2004 and amended September 12, 2005, January 22, 2006, and April 6, 2015.

Questions regarding Surplus Real Property can be directed to Patti Stowell, Economic Development Marketing Manager (pstowell@baycitymi.org) or by calling 989-894-8227.

Scope, Purpose & Responsibility

1. Scope:

Section 13.1.1 of the City Charter provides that the City may own, develop, maintain and operate its property, including all buildings and improvements, for any purpose within the scope of the powers of the City, and upon the discontinuance of public use may lease, sell or otherwise dispose of its property subject to any restrictions imposed by law or the City Charter.

2. Purpose:

To provide a comprehensive policy, process and guidelines for disposing of City owned real estate. This policy is intended to create a process that is transparent to the community, maximizes return on investment, and provides a vehicle for collaboration. It is the City’s intent to reuse or redevelop property that reflects the City’s economic sustainability goals and desired community assets.

3. Responsibility:

The City shall maintain a listing and data files of all City owned real property, which shall include all information in the City’s possession concerning the real property, including, but not limited to, size, zoning, assessed value, available appraisals, legal description, liens, encumbrances, method of acquisition, grants, and any other available data. Prior to considering any sale or other disposition of City owned real property, the City Manager or his designee shall review the history of each parcel of

City owned real property to determine whether the parcel is subject to grant or deed restrictions, laws (such as tax foreclosure proceedings), or other circumstances or conditions which may prohibit, restrict or affect the sale or transfer of the parcel. The City Manager will notify the City Commission of all City-owned tax reverted properties where excess sale proceeds will be returned to the state pursuant to the state law.

At least once annually, the City Manager or his designee shall determine, in accordance with this Policy, whether specific parcels of City owned real property are no longer used for public purposes or will enhance economic or residential development within the City and therefore can be sold or disposed of in another manner [hereinafter referred to as "Surplus Real Property"]. The City Manager or his designee shall then coordinate and manage the sale or other disposition of Surplus Real Property in accordance with this Policy.

- 3.1 The City shall retain an easement on all properties where public utilities exist or where future development may conceivably require public utilities. The City may retain an easement for ingress/egress over properties to access and/or maintain other City properties, facilities or services.

4. Policy:

4.1 Definitions

- 4.1.1 "*Notice of Intent to Sell – Request for Proposals*" means the notice prepared by the City announcing that the City will receive offers for the sale of a particular parcel or parcels of Surplus Real Property. The notice shall include information then available to the City concerning the parcel or parcels of Surplus Real Property. The notice shall also provide prospective purchasers with directions on where or how they may obtain specific information concerning the Surplus Real Property identified in the notice.
- 4.1.2 "*Surplus Real Property*" includes the lands, buildings, structures and fixtures on the real property.
- 4.1.3 "*City Commission*" is the elected legislative body of the City of Bay City.

4.2 Notice of Intent to Sell

In February of each year the City shall publish a Notice of Intent to Sell in a newspaper of general circulation.

The City may also sell parcels of Surplus Real Property through the following methods:

- (A) A public request for proposals by publishing a Notice of Intent to Sell – Request for Proposals. At a minimum the notice shall include the parcel's mailing address, parcel tax identification number, zoning classification, size, and minimum bid price. A copy of the notice shall be mailed or delivered to all adjacent real property owners as identified in the City's assessment records. The notice shall allow a minimum of thirty (30) days for the submission of responses, proposals, offers and/or bids.
- (B) A classified advertisement containing the information in (A) which is published for three consecutive days in a newspaper of general circulation in the City.
- (C) A listing containing the information in (A) on the City's website and/or Bay 3 TV for a minimum of five days.

The City may consider and accept unsolicited offers on any parcel of Surplus Real Property or any other parcel of City owned real property through a licensed real estate broker, including its real estate salespersons, or from individuals or other legal entities.

All advertisements, notices, listings, requests for proposals or bids, and any other method of marketing Surplus Real Property shall contain the Reserves of the City in Section 4.10 of this Policy. Copies of this Policy and the Disclaimer Regarding City Owned Surplus Real Property (Attachment A) ["Disclaimer"] shall be posted on the City's website, be made available at the City Clerk's office, and mailed to any person or entity upon their request.

4.3 Transaction Requirements

Except as may be authorized by the City Commission, all Surplus Real Property shall be sold "AS IS", with conveyance by a quit claim deed or a land contract (which provides for the subsequent conveyance by quit claim deed) prepared by the City. All conveyances shall be subject to any existing easements, reservations, rights of use and restrictions of record, building and use restrictions, zoning ordinances, municipal regulations, prior conveyances or leases of oil, gas and mineral rights, and all liens, encumbrances, defects and other conditions on, concerning or relating to the Surplus Real Property. In no event will the City consider conveying marketable title to Surplus Real Property unless a standard policy of title insurance can be obtained and issued for the Surplus Real Property.

The Disclaimer shall be provided to every prospective purchaser; attached to all listing, sale and other documents related to the prospective sale or transfer of the Surplus Real Property; and executed by all purchasers, transferees or recipients of Surplus Real Property and attached to any purchase agreement.

The City shall not sell, transfer or convey Surplus Real Property or any other parcel of City owned real property to any individual or entity who is in default of any contract or obligation with the City, including but not limited to a prospective purchaser who is shown in the City records to have delinquent City real or personal property taxes or special assessments, past due utility bills, outstanding invoices for City services, or has received a notice or citation for violation of any City ordinance, rule or regulation, unless the default, delinquency or violation is corrected prior to City Commission's consideration of the sale or other disposition of the Surplus Real Property.

The purchaser shall agree to pay and be responsible to pay for any mortgage title insurance policy, all costs in applying for and securing financing or assuming existing financing, all costs of preparation of documents relating to new or existing financing, recording financing statements, inspections, environmental assessments, recording fees for mortgage and deed, costs in connection with matters relating to purchaser's use or intended use of the Surplus Real Property, including but not limited to, re-zoning, special use permits, variances, soil borings, surveying, rights of way, site plan preparation, sanitary sewer lines, water lines and other matters related to development of the Surplus Real Property, and purchaser's broker and attorney fees.

4.4 Contents of Response to Notice of Intent to Sell or unsolicited offers

All offers to purchase Surplus Real Property shall be in writing and signed by the prospective purchasers, and contain the following information:

- a) parcel number,
- b) parcel address,
- c) total purchase price,
- d) proposed use and development of the property,
- e) guarantees for completing any proposed project,
- f) anticipated method(s) of financing,
- g) contingencies required by purchaser,
- h) formal name, address, telephone number and legal organization (if applicable) of purchaser(s),
- i) name of principal for purchaser who is authorized to execute all documents on behalf of purchaser,
- j) timeline for implementation and completion of any proposed project
- k) any specific contingencies to be performed by the City,
- l) dollars to be invested (if constructing a building/home),
- m) number of jobs to be created/retained (if commercial or industrial),
- n) average job wage (if commercial or industrial),
- o) name, address and telephone number of developer,
- p) terms of sale (e.g. cash, land contract or option), and
- q) an acknowledgment of a copy of this Policy and Attachment A.

All brokers or agents acting on behalf of the proposed purchaser shall be disclosed.

4.5 Deadline for Proposals, Responses, Offers or Bids

The City may refuse to consider any response, proposal, offer or bid concerning Surplus Real Property which is received after the expiration of the published deadline. The City, if determined to be in the City's best interest, may consider offers on any parcel of City owned real property which is not included in any announcement of Surplus Real Property.

4.6 Approval

Vacant Surplus Real Property with 50' Frontage or Less. Disposition of vacant surplus real property with frontage of 50' or less may be approved by the City Manager.

ALL REMAINING SALES AND TRANSACTIONS COVERED BY THIS POLICY MUST BE APPROVED BY THE CITY COMMISSION. Prior to the City Commission's consideration of any transaction, City staff shall provide the City Commission with a summary of all responses, proposals, offers and bids received for each parcel of Surplus Real Property.

4.7 Purchaser's Use of Real Estate Broker (i.e. "Buyer's Agent")

Purchaser shall be responsible for payment of its real estate brokerage fee. The City may agree to pay all or a part of purchaser's real estate brokerage fee from the sale's proceeds. Purchaser must have a written contract with the real estate broker and the broker's fee must be acceptable to the City. Purchaser and its real estate broker shall certify:

- 4.7.1 That the real estate broker is a "Buyer's Agent", as defined in the Michigan Real Estate Brokers Act, in the transaction and that the Buyer's Agent has performed a service and procured the sale for purchaser; and
- 4.7.2 That the Buyer's Agent shall not be considered to be an agent or representative of the City.

4.8 Real Estate Broker

When the City requires the services of a real estate broker, the City and a licensed real estate broker shall enter into the listing agreement in the form attached to and incorporated in this Policy by reference. The broker's fee charged to the City shall be negotiated by the broker and the City. The City will pay the broker's fee preferably out of the proceeds of the sale at closing,

but in no event more than forty-five (45) days from the date of the successful closing of the transaction.

4.8.1 Subject to negotiation and acceptance by the City and Broker, the City may consider real estate brokerage fees in the following ranges:

A. Residential

up to \$100,000: up to 7%

\$100,001 – 200,000: up to 6%

\$200,001+: up to 5%

B. Commercial

up to 10%

C. Industrial

up to \$100,000: up to 10%

\$100,001 – 200,000: up to 9%

\$200,001+: up to 8%

4.8.2 No exclusive brokerage agreements will be granted.

4.8.3 The broker shall use all available marketing methods to advertise and promote the sale of the Surplus Real Property.

4.9 Awards, Preferences and Conditions

4.9.1 Residential: Preference will be given to purchasers that will construct a home on a vacant parcel. Adjoining property owners will be given preference if the Surplus Real Property is unbuildable because of zoning, other codes or laws, or economic factors or conditions.

4.9.2 Commercial and Industrial: Preference will be given according to the number of jobs to be created and the dollar amount of the purchaser's total investment.

4.9.3 Prior to any listing; Notice of Intent to Sell; other marketing or solicitation method; or any acceptance of any response, proposal, offer or bid concerning commercial and industrial Surplus Real Property, parcels designated in subsection 4.9.4 shall be appraised by an appraiser who is licensed or certified by the State of Michigan to conduct the appraisal deemed necessary for the particular parcel of Surplus Real Property. The appraisal and any agreement related thereto shall be distinct and separate from any listing agreement, proposal, offer, bid, or market analysis which may be requested or entered into by the City.

4.9.4 Appraisals: All commercial and industrial Surplus Real Property having an assessed value for the land, buildings and improvements, in excess of \$50,000 on the City's AS 400 System must be appraised.

4.10 Reserves of the City

The City absolutely reserves to itself the right and prerogative: to reject any and all proposals, responses, offers and/or bids to purchase any Surplus Real Property; to reject any proposals, responses, offers and/or bids not accompanied by the documents or data required by this Policy, or the advertisement and/or any request for proposals, offers or bids; or to reject any offer which is in any way incomplete, irregular, not responsive or not responsible; or to withdraw any parcel of Surplus Real Property prior to the acceptance of or entry into any purchase agreement. The City may enter into a purchase agreement with a purchaser which the City Commission, in its sole and absolute discretion and judgment, determines will be in the best interests of the City. The City reserves the right to waive informalities or irregularities in any of the processes, procedures, terms or conditions set forth in this Policy. The City shall not enter into any purchase agreement until the City has concluded all investigations it deems necessary to establish the responsibility, qualifications and financial ability of the proposed purchaser to purchase the Surplus Real Property and/or to complete any project identified by a prospective purchaser as set forth in section 4.4.

4.10.1 This “reservation” shall be included in any publication, listing agreement, notice or other request concerning Surplus Real Property or any other City owned real property.

Inventory

Please contact Patti Stowell at 894-8227 to obtain a map and inventory listing of available residential, commercial, and industrial property for sale by the City of Bay City.

Forms

Offer to Purchase Form (complete and return)

Disclaimer Form (complete and return with Offer to Purchase Form)

Real Estate Brokers Only Non-Exclusive Right to Sell Real Estate Agreement
(complete and return)