

**CITY OF ECORSE
REAL PROPERTY SALE AND ACQUISITION GUIDELINES**

I. Statement of Purpose

The purpose of these Guidelines is to establish procedures for the City administration with respect to: (a) the City's sale of Surplus Property in a manner consistent with the City's redevelopment goals and public purposes, including, without limitation, the elimination of blight; and (b) the City's acquisition of Real Property Interests that support City-approved projects, programs, policies, and strategic plans.

II. Definitions

- A. **"Appraisal"** means a formal, written, impartial estimate or opinion of value of an adequately-described property, as of a specific date, supported by the presentation and analysis of relevant data.
- B. **"City"** means the City of Ecorse.
- C. **"City Attorney"** means the attorney or firm authorized to advise and represent the City in legal matters.
- D. **"City Council"** means the City Council for the City of Ecorse.
- E. **"City Administrator"** means the individual retained by the City to oversee the day-to-day management of City business.
- F. **"Guidelines"** means these City of Ecorse Real Property Sale and Acquisition Guidelines.
- G. **"Michigan Open Meetings Act"** means Public Act 267 of 1976, MCL 15.261 through MCL 15.275.
- H. **"Needs Assessment"** means a written assessment that contains the following information:
 - (i) justification and rationale for the proposed acquisition; (ii) the municipal need or issue the proposed acquisition will satisfy; (iii) an evaluation of the total cost of ownership, including the impact of estimated ongoing operating and capital expenditures over the life cycle of the asset; (iv) the benefits and risks of the proposed acquisition; and (v) a description of any unique factors that are applicable to the proposed acquisition, including, but not limited to, any relevant policies, plans, or strategies of the City.
- I. **"Notice of Intent to Sell"** means the City's written notice of its intention to sell Surplus Property which was authorized for sale by the City Council in accordance with these Guidelines
- J. **"Purchaser's Response to Notice of Intent to Sell"** means the purchaser's written reply to the City's Notice of Intent to Sell, which contains the information set forth in these Guidelines and is signed by the actual purchaser.
- K. **"Real Property"** means land and any buildings, structures, and equipment permanently attached or affixed to the land.

- L. **“Real Property Interests”** means rights, interests, or benefits in Real Property, including, but not limited to, fee simple ownership, leasehold interests, easements, and rights-of-way.
- M. **“Real Property Inventory”** means a written inventory of all Real Property Interests owned by the City, containing the information set forth in Guidelines below.
- N. **“Report of Proposed Acquisition”** means a written report containing the following items: (i) a Needs Assessment; (ii) a proposed budget for any acquisition costs, including, but not limited to, the costs of due diligence; (iii) the proposed source of funding, if applicable; and (iv) any such additional information that the City Council may require.
- O. **“Report of Proposed Sale”** means a written report containing the following items: (i) Purchaser’s Response to the Notice of Intent to Sell; (ii) any appraisal of the Surplus Property; (iii) any alternative uses for the Surplus Property that could have a greater financial return to the public; (iv) a recommendation from the City Administrator and/or his or her designees with respect to the proposed sale; (v) if multiple offers are received, an explanation as to why the particular offer being recommended has been chosen; and (vi) such other information as the City Council may require.
- P. **“Surplus Property”** means a Real Property Interest owned by the City that no longer serves a governmental purpose and is not reasonably anticipated to have or be needed to serve a governmental purpose in the future.
- Q. **“Surplus Property List”** means a list of Real Property Interest that the City Council determines to be Surplus Property

III. Sale of Surplus Property

A. **Real Property Inventory**

The Office of the City Assessor or other appropriate City department will maintain a Real Property Inventory and shall contain, to the extent available, the following information:

- (a) property address, tax identification number, and legal description;
- (b) size;
- (c) current zoning classification and whether such classification is subject to rezoning;
- (d) current assessed value;
- (e) easements (including, but not limited to, easements for public utilities), liens, deed restrictions, and other restrictions or encumbrances affecting the property and/or the Real Property Interest;
- (f) whether the property is improved or unimproved and a description of any buildings, structures, or other physical features that may be of interest to a purchaser;

The Real Property Inventory shall be made available for in-person review by the general public during normal business hours and, to the extent practicable, made available for review online. For a nominal fee, a copy of the Real Property Inventory may be obtained. The Office of the City Assessor shall update the Real Property Inventory on, at least, a quarterly basis.

B. Determination of Surplus Property

The City Administrator, Community Development Manager and Assessor shall review the Real Property Inventory, at least, on a quarterly basis make a determination whether it constitutes Surplus Property. Surplus Property will be divided into two categories 1) Property that has material economic development value or interest to the city or 2) Property that is excess with minimal economic development value or interest. After completing such review, the City Administrator shall then submit the Surplus Property List to the City Council for its review and approval. The Surplus Property List shall include a recommended reserve price. All Real Property Interests approved by the City Council as Surplus Property shall be denoted as such on the Real Property Inventory by the Office of the City Assessor. The City Council at a regular or special meeting thereof held in accordance with the Michigan Open Meetings Act shall authorize any sale of Surplus Property.

C. Process for Selling Surplus Property

Offering Surplus Property with minimal economic development value for Sale

Prior to offering for sale a Real Property Interest that has been approved as Surplus Property by the City Council, the City Administrator shall obtain the authorization of such sale from the City Council at a regular or special meeting thereof held in accordance with the Michigan Open Meetings Act. Upon the City Council's approval of the sale of Surplus Property it shall be the responsibility of the City Administrator and/or his or her respective designee(s) to offer said Surplus Property for sale by public bid in accordance with the terms and conditions of these Guidelines. However, if it is determined by the City Council to be in the City's best interests, the City may consider unsolicited offers for the sale of Surplus Property that is not included in a Notice of Intent to Sell.

City's Notice of Intent to Sell

Following the City Council's approval of the sale of Surplus Property by public bid, the City Administrator and/or his or her designee(s) shall prepare a Notice of Intent to Sell with respect to such Surplus Property. Once prepared, the Notice of Intent to Sell shall be published online on the City's website and shall be available in the Office of the City Assessor. Notwithstanding anything contained in these Guidelines and to the contrary, if determined by the City Council to be in the City's best interests, the City may consider unsolicited offers for the sale of Surplus Property that is not included in a Notice of Intent to Sell.

Offering Surplus Property with material economic development value for Sale

(i) Purchaser's Response to City's Notice of Intent to Sell

A prospective purchaser seeking to acquire the Surplus Property from the City not listed as public bid shall submit to the City a Purchaser's Response to Notice of Intent to Sell, which shall include all of the following information:

- (a) the property's street address and tax parcel identification number;
- (b) the total offered purchase price;
Note: The City will require a cash deposit in an amount equal to ten percent (10%) of the total offered purchase price but in no event less than Two Hundred Fifty and 00/100 Dollars (\$250.00), which shall be made upon the purchaser's execution of the purchase and sale agreement.
- (c) the proposed use and development of the property;
- (d) guarantees for completing any proposed project;
- (e) dollars to be invested (if constructing a building or home);
- (f) capacity to fund any proposed project, including all anticipated methods of financing;
- (g) any contingencies required by the purchaser;
- (h) any specific contingencies that will need to be completed by the City;
- (i) formal name, address, telephone, and legal organization (if applicable) of the purchaser;
- (j) if the purchaser is an entity, the formal name of the person who is authorized to execute documents on the purchaser's behalf;
- (k) the timeline for implementation and completion of any proposed project;
- (l) if the property is commercial or industrial, the number of jobs to be created or retained and the average wage of the laborers furnishing work to the project;
- (m) the name, address, and telephone number of the general contractor of any proposed project; and
- (n) the names of and contact information for any and all brokers and agents acting on behalf of the purchaser.

The City Administrator, Community Development Manager and Assessor shall review all of the Purchaser's Responses from the to Notice of Intent to Sell received by the City and may make a recommendation to the City Council.

(ii) City Council Action

- (a) For all sales of Surplus Property recommended to the City Council for consideration, the City Administrator, Community Development Manager and Assessor shall prepare and submit to the City Council a Report of Proposed Sale with respect thereto.
- (b) All sales of Surplus Property, shall be approved by the City Council at a regular or special meeting held in accordance with the Michigan Open Meetings Act.
- (c) All sales of Surplus Property with an appraised value of One Million and 00/100 Dollars (\$1,000,000.00) or more shall be subject to a public hearing conducted by the City Council. Documentation setting forth the details of the sale of such Surplus Property shall be filed in the Office of the City Clerk at least thirty (30) days prior to the public hearing and made available for review by the general public during normal business hours. In addition, a notice of the proposed sale, containing the date, time, and place of the public hearing, shall be printed in a newspaper of general local circulation at least ten (10) days prior to the public hearing date. The City Council shall not act upon the proposed sale of such Surplus Property for a period of, at least, seven (7) days after the date of the public hearing.
- (d) All sales of Surplus Property shall be subject to a written purchase and sale agreement, which shall be fully executed and submitted to the City Council for approval. No purchase and sale agreement or amendment thereof shall be valid or binding against the City without City Council approval.

d. Property Restrictions

All sales of Surplus Property shall be subject to the following restrictions except as otherwise determined by the City Council:

- (a) All sales of Surplus Property sold pursuant to these Guidelines shall be sold "AS IS," and the City's conveyance thereof shall be by quit claim deed.
- (b) The City shall retain an easement on all properties upon which public utilities exist or upon which future developments may conceivably require public utilities. The City may reserve an easement for ingress and egress over properties for the purpose of maintaining other properties and facilities owned by the City or for the purpose of providing services to the public.
- (c) 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, and all liens, encumbrances, defects, and other conditions on, concerning, or relating to the Surplus Property.
- (d) The City shall not sell, assign, transfer, convey, or otherwise dispose of Surplus Property or any other parcel of real property owned by the City to any individual or entity who is in default of any contract with the City or any other obligation to 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. Any default, delinquency, or violation shall be corrected prior to the consideration of the sale or other disposition of the Surplus Property.
- (e) The purchaser shall agree to pay, and be responsible to pay, for: any mortgage title insurance policy; all costs incurred by the purchaser in connection with applying for and securing financing or assuming existing financing; all costs of preparation of documents relating to new or existing financing; inspections (including City inspections); environmental assessments; any and all recording fees; costs in connection with matters relating to the purchaser's use or intended use of the Surplus Property, including, but not limited to, any costs related to or arising from rezoning, special use permits, variances, soil borings, surveying, rights of way, site plan preparation, sanitary sewer lines, water lines and water meters, the administrative functions performed by the City; the purchaser's broker and attorney fees; and any other costs related to the development of the Surplus Property.
- (f) The City Council, may decide that in view of the size of the transaction, the size and complexity of the proposed development, and the degree of control that the City desires to retain over the development process, that it would be in the City's best interests to require that the purchaser enter into a written development agreement with the City, which will be approved in form and substance by the City Attorney. When deemed appropriate by the City Council, the development agreement may require that the property will revert to the City if construction is not complete in a specified period of time. The development agreement may also require compliance with applicable federal, state, and local laws pertaining to minimum wages and fair housing.

e. Real Estate Brokers

- (a) The City may, at the discretion of the City Council, employ the services of a real estate broker in connection with the sale of Surplus Property by the City hereunder. The City's employment of a real estate broker shall be deemed to be an engagement of a professional service and shall be accomplished by adherence to the City's policy on the engagement of professional service providers. The selection of a real estate broker by the City for a specific parcel or parcels of Surplus Property shall not be construed as an exclusive agreement to list any other parcel of property, the City reserving the right to select other brokers' services on an individual, case-by-case basis.
- (b) The broker's fee shall be negotiated between the City and the broker. The negotiated fee must be no more than is customary and usual in the City and the surrounding area. Any negotiated fee schedule must be formally approved by the City Council.
- (c) The broker's fee shall be paid from the proceeds of the sale of the Surplus Property at closing. The broker's fee may, in the discretion of the City Administrator and/or his or her designees be charged to the purchaser.
- (d) The broker shall be obligated to use all available commercially reasonable methods to advertise and promote the sale of any Surplus Property covered by the listing agreement.
- (e) Any listing agreement negotiated between the broker and the City shall be signed by both parties following approval of the agreement by the City Council.

f. Preferential Considerations

- (a) Preference may be given to purchasers of Surplus Property who propose under contract to construct a residential home on a vacant parcel, to be completed within two (2) years from the date of purchase. For parcels that cannot be built upon because of size, shape, zoning, other applicable codes or law, or economic factors or conditions, preference may be given to adjacent property owners.
- (b) Preference may be given to a prospective purchaser providing the most economic benefits to the City through the number of jobs created or other economic factors, such as the total dollar amount of the purchaser's investment.

IV. Acquisition of Real Property Interests

A. City Council Action

The City Council must approve the City's acquisition of all Real Property Interests, including any Real Property Interests made by gift or donation.

For each acquisition, the City Administrator and/or his or her designees shall prepare a Report of Proposed Acquisition and present it to the City Council at a regular or special meeting, which shall be held in accordance with the Michigan Open Meetings Act. For any acquisition to be made via gift or donation, the City Administrator and/or his or her designees shall also provide the City Council with an analysis of any special conditions to which the gift or donation will be subject, any potential adverse implications of the City's acceptance of the Real Property Interest by such means, and the City Assessor's proposed valuation of such gift or donation.

The City Council's approval of a proposed acquisition shall include authority for the City Administrator and/or his or her designees to initiate and undertake, on the City's behalf, applicable due diligence, negotiations, and other such activities as may be reasonably required, including, without limitation, the execution and delivery of a purchase and sale agreement as well as all documents deemed necessary, in the City Administrator's reasonable discretion, to close the applicable transaction.

B. Due Diligence

With respect to any acquisition of a Real Property Interest by the City, the following due diligence may be required at the request of the City Council:

(i) Appraisal

The Appraisal shall be no more than three (3) months old or some shorter period of time as may be reasonably determined by the City Council. The Appraisal shall be performed by a reputable appraiser licensed in the State of Michigan.

(ii) Environmental Site Assessments

A Phase I environmental site assessment and such other environmental studies, including soil tests, as may be deemed necessary may be obtained. If the Phase I environmental site assessment recommends a Phase II environmental study and the City decides to proceed with the acquisition of the property interest, a Phase II environmental site assessment may be acquired. If the Phase II environmental study identifies the site as being contaminated and the City chooses to continue with the acquisition, a Baseline Environmental Assessment may be obtained. The foregoing environmental assessments shall be completed by reputable environmental consultants licensed in the State of Michigan.

(iii) Title and Survey

A commitment for an owner's policy of title insurance may be obtained from a reputable title insurance company. The commitment shall be for an amount equal to the purchase price of the interest or, in the case of a gift or donation, the appraised value of the interest. A proforma title insurance policy or marked-up commitment therefor shall be issued to the City at closing, insuring the City as the owner of the interest. The property survey shall conform with the American Land Title Association minimum standards, be prepared by a registered land surveyor licensed in the State of Michigan, and be certified to the City and the applicable title insurance company not more than sixty (60) days prior to the closing date of the acquisition or such other period of time as may be reasonably determined by the City Administrator and/or his or her designees.

(iv) Review

All completed due diligence shall be satisfactory to the City in its sole discretion.

V. City Attorney

The City Attorney shall have the authority to undertake all legal actions required to complete the City's sale of Surplus Property or its acquisition of a Real Property Interest in accordance with these Guidelines and shall advise the City with respect to the legal issues pertaining thereto.

VI. Adherence to Guidelines

Failure to adhere to these Guidelines may result in discipline, up to and including discharge from employment or termination of a professional services contract.