

CITY COMMISSION POLICY

 <p>GRAND RAPIDS MICHIGAN</p>	NUMBER: 900-63*	HISTORY
	DATE: 06/21/2022	
	FILE NUMBER: 91815	
	DEPARTMENT: Economic Dev	

*Rescinds and replaces 900-22; 900-27 and 900-41

SUBJECT: DISPOSITION OF CITY OWNED REAL PROPERTY

PURPOSE: To define the classification and inventory of City-owned real property; whether, how and under what circumstances such property may be made available for sale; defining the process to prepare a property for disposition; defining the permissible methods for disposition and requirements for sale; defining the use of proceeds and other matters relevant thereto.

1) **RESPONSIBILITY**

This Policy shall be administered by the Economic Development Department with assistance from other departments and staff as determined necessary, reasonable, and prudent.

2) **DEFINITIONS**

As used in this Policy, the following words or phrases are given the meanings below:

- a) **Affordable Housing** – housing that is priced at a rate that is affordable to a household earning at or below 80% of the Area Median Income for Kent County (AMI) if for sale, or to households earning at or below 60% of AMI if for rent, made available to households whose incomes meet those respective thresholds with provisions satisfactory to the City that will ensure the housing remains affordable as described in this paragraph for a minimum of five (5) years.
- b) **Buildable Property.** Vacant land that has the size, access, topography and infrastructure to accommodate development as provided in the City's Zoning Ordinance.¹

¹ Certain lots, which are close in size to required dimensions, may in fact be buildable by obtaining a zoning variance. Therefore, some lots observed to be close in size to code requirements or conform with other properties in the surrounding area that are developed will be reviewed with planning staff. If staff feels there is a reasonable likelihood of receiving a zoning variance the property will be classified as buildable.

- c) **Emerging Developer.** A person or entity with limited experience in the development or redevelopment of real estate. Emerging developers are often supported by a network of more experienced development professionals, real estate professionals, or an organized program designed to support first-time and less experienced developers.
- d) **Excess Property.** Any property not needed or required to be used for a governmental purpose.
- e) **Improved Property.** Property which has either an economically viable structure or a structure needing significant improvement.
- f) **Non-buildable Property.** Property that does not have the size, access or topography to accommodate development. Property that requires an extraordinary cost for infrastructure, such that any improvements are not economically feasible may also be determined to be non-buildable property.
- g) **Non-residential Property.** Property that is zoned primarily for uses other than solely residential use.
- h) **Residential Property.** Property zoned primarily for residential use, as defined for the purposes of property classification, described as property containing four or fewer residential units in a single building.
- i) **Significant Property.** Property reasonably expected to be of high value, or property known to be critical to the needs of a governmental partner.
- j) **Vacant Property.** Any property not meeting the definition of Improved Property.

3) **CLASSIFICATION AND INVENTORY OF PROPERTY**

- a) **Classification.** City owned real property shall be classified by the Economic Development Department, with input from the Planning Department and others as necessary, as follows:
 - i) Residential OR Non-residential
 - ii) Improved OR Vacant
 - iii) Buildable OR Non-buildable
 - iv) Significant OR Not significant
 - b) **Inventory.** The Economic Development Department shall maintain an inventory of City-owned real property and classify each property as defined in 3(a) above. Additional information pertaining to City-owned property shall likewise be maintained, including information pertaining to the acquisition of the property, the department responsible for maintenance of the property and the use of the property. The inventory shall be kept up to date as reasonably practicable. Not less than once every five years, Economic Development will provide a list of properties for which a specific department is responsible to each department, and each department shall review the list of properties under its control and determine whether any properties are no longer needed for the departmental operations.
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4) **GUIDING PRINCIPLES AND KEY OBJECTIVES FOR DISPOSITION OF CITY PROPERTY**

The guiding principles for disposition of City-owned property shall be determined primarily by its classification, as defined below. In all cases, disposition of City-owned property shall (a) be to responsible parties, (b) maximize land use, (c) recoup costs incurred in the ownership of the property, and (d) be used to implement the Community Master Plan, City Strategic Plan, and any other plans that may be relevant to the City's overall goals and objectives. Specific goals for each class of property, in no particular order, are as follows:

a) Residential Property.

- i) Creation of affordable homeownership and rental housing opportunities
- ii) Reducing the disparity in home-ownership rates of white households and households of color
- iii) Improve the general condition of neighborhoods while preserving neighborhood character
- iv) Increase the value of real property
- v) Assist in implementation of Community Development programs and goals
- vi) Maximize receipt of revenue unless determined otherwise

b) Non-residential Property.

- i) Creation of affordable or mixed-income housing
- ii) Improve the general condition of neighborhoods while preserving neighborhood character
- iii) Increase the value of real property
- iv) Assist in implementation of Economic Development goals and strategies
- v) Maximize receipt of revenue unless determined otherwise

c) Non-buildable Property.

- i) Convey ownership to responsible parties with priority given to adjacent owners²
- ii) Preservation and proper maintenance of sensitive natural features such as steep slopes, wetlands, creeks and streams, etc.
- iii) Increasing the development potential of adjacent properties
- iv) Maximizing receipt of revenues unless determined otherwise

d) Significant Property.

- i) Partnership with governmental agencies
- ii) Creation of affordable or mixed-income housing
- iii) Assist in implementation of Economic and/or Community Development goals and strategies

² In this case, "priority" means that adjacent owners that are (a) in compliance with all City property maintenance codes and (b) not in default on any financial obligation to the City shall have the right of first refusal to purchase non-buildable property prior to that property being made available to any other party.

- iv) Improve the general condition of neighborhoods while preserving neighborhood character
- v) Increase the value of real property unless determined otherwise

5) PREPARATION FOR DISPOSAL OF PROPERTY

The Economic Development Department will take the following steps to prepare a property for disposition. All actions will be done in coordination with other relevant departments and/or stakeholders and incorporate a review of applicable plans and strategies.

- a) Establish and clearly define the goals to be achieved through disposition of the property under consideration.
- b) Determine fair market value (FMV), taking into consideration the goals to be accomplished. FMV will be determined by one of the following methodologies:
 - i) An independent fee appraisal, if the FMV is reasonably expected to exceed \$50,000
 - ii) A written determination of FMV provided by the City Assessor if the FMV is reasonably expected to be less than \$50,000
 - iii) For Residential Property, FMV is not required to be established
- c) Establish criteria for sale, if any, which may include but not be limited to:
 - i) Amount of required private investment
 - ii) Type of use
 - iii) Compatibility with neighboring properties
 - iv) Quality of workmanship
 - v) Extent of development experience required
 - vi) Design or architectural standards
 - vii) Timing and schedule
- d) Initiate steps through the City Attorney's Office as necessary to "clear" title to property³.

6) DISPOSAL OF EXCESS CITY PROPERTY

When a City-owned property is determined to be Excess Property, it will be made available for sale according to this section as determined appropriate based on the property's classification and determination by the Economic Development Department.

a) NON-RESIDENTIAL AND SIGNIFICANT PROPERTY⁴

³ It is the intent of the City policy to provide the purchaser or grantee with marketable title; however, the City is not required to ensure the quality of its title to the property and a buyer must purchase at its own risk or secure its own title insurance.

⁴ Upon recommendation by staff and approval by the City Commission, groups of Residential Properties may be made available as a portfolio to a single purchaser and may be listed for sale by one of the methods described in Section 6(a)(ii)(1)-(4), normally reserved for Non-residential or Significant Property.

- i) **General Requirements and Timelines.** Prior to making any property available for sale, it shall be prepared for sale as defined in Section 5 above. A recommendation shall be made to the City Commission regarding which of the methods of disposal listed below shall be utilized for a particular property.
- ii) **Permitted Methods of Disposal.**
 - (1) **Listing and Sale.** Notice of sale shall be posted on the City's website and may be published on the Multiple Listing Service (MLS) and/or advertised via other media or other targeted solicitations as determined by the Economic Development Department. Subject to compliance with other provisions of this Policy, upon approval by the City Commission, the property may be sold to the first person/entity offering to purchase the property at a price which is acceptable and whose proposal meets the established goals and criteria given market forces.
 - (2) **Highest Price Sale.** Notice of sale shall be published on the City's website and may be published on the MLS and/or other media or targeted solicitations as determined by the Economic Development Department. The listing will establish a date by which sealed bids will be due, which shall not be less than 30 days from the date of listing or solicitation. Proposals that are timely received shall be opened simultaneously. Subject to compliance with other provisions of this Policy, upon approval by the City Commission, the property may be sold to the bidder submitting the highest price whose proposal meets established goals and criteria given market forces.
 - (3) **Negotiated Sale.** Notice of sale shall be published on the City's website and may be published on the MLS and/or other media or targeted solicitations as determined by the Economic Development Department. Notices of sale shall include the asking price, criteria for disposal and any other conditions of sale and a time period during which the City will receive proposals. If one or more proposals which generally meet the criteria for disposal and conditions for sale are received during the established time period, the Economic Development Department shall review the proposals and may negotiate with the prospective purchasers. The Economic Development Department shall recommend the negotiated proposal which it believes is in the best interest of the City to the City Manager, who shall review all relevant information and determine their recommendation to the City Commission.
 - (4) **Request for Proposals.** A detailed Request for Proposals (RFP) shall be prepared by the Economic Development Department in collaboration with all necessary stakeholders. The RFP shall be posted on the City's website and may be published on the MLS and/or advertised via other media or other targeted solicitations as determined by the Economic Development Department. The RFP shall contain the asking price (if determined appropriate), criteria for disposal and other conditions of sale. Proposals timely received shall

be reviewed by the Economic Development Department with input from other stakeholders as determined necessary. After its review, the Economic Development Department shall make its recommendation to the City Manager, who shall review all relevant information and determine their recommendation to the City Commission.

b) RESIDENTIAL PROPERTY

- i) **General Requirements.** Prior to making any property available for sale, it shall be prepared for sale as defined in Section 5 above. Once prepared for sale, except for properties requested to be reserved for other City programs or funding sources (*i.e.* HOME Investment Partnerships Program, Affordable Housing Fund investments, etc.) the Residential property shall be added to the City's website used for that purpose. All else being equal, qualifying proposals will be prioritized based on the following criteria, in order:

- (1) Affordable Housing
- (2) Homeownership
- (3) Local ownership (defined first as an owner residing within the neighborhood, then the City, then the County)
- (4) Emerging Developers

If at any time, more than one proposal is being evaluated, the Economic Development Department shall prepare clear findings of fact based on the criteria listed above as well as any other relevant information contained in the proposals to demonstrate its rationale for recommendation to the City Commission.

- ii) **Selling Price.** A price for an individual residential property will be established annually by the Economic Development Department in consultation with the City Assessor and/or a certified general real estate appraiser as determined necessary. This "annually established price" will be used as defined in subsection (1) and (2) below. Under subsection (3) below, the Economic Development Department will seek to maximize revenues while also working to achieve the priorities listed.

- iii) **Timeline for Listing and Property Availability.** Residential property shall be made available for specific purposes according to the following timeline.

- (1) **First Six Months.** During the first six months that an individual property is made available for sale, it will be available exclusively to non-profit organizations approved to purchase properties during this initial time period, which will include Community Housing Development Organizations, non-profit housing developers that have experience developing affordable housing in partnership with the City of Grand Rapids, or that can demonstrate to the satisfaction of the City that they have effectively implemented affordable housing

development and have established processes and procedures to ensure affordability is maintained in compliance with governmental or funding requirements. At minimum, this will include providing the City with (i) evidence of nonprofit tax exempt status (501(c)3 or 501(c)4), (ii) statements contained in official organizational documents that the organization has been organized to provide affordable housing for low- and moderate-income persons, (iii) at least three (3) years of experience developing affordable housing, and (iv) demonstrated capacity including paid employees with housing development experience that will be directly responsible for the proposed project. During this time period, only projects that will result in the creation of Affordable Housing will be considered. A property will be sold for the *greater* of the annually established price, or the amount the City has invested in the property during its period of ownership, unless specifically waived by the City Commission.

(2) **Second Six Months.** During the next six months that an individual property is made available for sale, it shall, in addition to non-profits as described above, be available to individuals or organizations that propose a project that will meet at least one of the following priorities:

(a) At least 50% of the residential units on the property will be developed as rental housing affordable to households earning at or below 80% of area median income (AMI), and for a period of affordability not less than 10 years.

(b) At least 50% of the residential units will be available for sale for owner-occupancy to households earning at or below 80% of AMI.

A property will be sold for the *greater* of the annually established price, or the amount the City has invested in the property during its period of ownership, unless specifically waived by the City Commission.

(3) **After 12 months.** If no offers or proposals have been received and accepted after one year of being available as described in subsections (1) and (2) above, the Economic Development Department will accept any proposal and evaluate which, if any, prioritizes the maximization of land and receipt of revenues while remaining compliant with the Community Master Plan and zoning requirements.

iv) **Timeline and Requirements for Closing.** Upon the City Commission's approval for the sale of any Residential Property, the prospective purchaser shall have the exclusive option to purchase the property during a period determined by the Economic Development Department, that shall not exceed twelve (12) months (the "Initial Option Period"). If determined necessary or prudent, a written option agreement may be prepared for the property evidencing the prospective purchaser's exclusive right. A fee may be charged as determined appropriate by staff. Closing on the sale of the property shall not occur until an application for a building permit is submitted for the proposed project, or other reasonable assurances are provided that the proposed project will occur as determined by the Economic Development Department. Upon

expiration of the Initial Option Period, an additional option period of not more than six (6) months may be granted (the “Additional Option Period”) upon documented progress toward commencement of a project. If the Initial Option Period and Additional Option Period expire, the property will become available pursuant to Section 6(b)(iii) above.

c) GENERALLY APPLICABLE REQUIREMENTS

- i) In all cases, the following are the minimum criteria required to be described or established in a proposal for eligibility to acquire any Excess property.
 - (1) Description of the proposed project, including timeline and current cost estimates.
 - (2) Evidence of financial capability to complete the proposed project.
 - (3) Document a level of experience or capability indicating the ability to successfully complete the proposed project, or support from an organization that will assist in the completion of the proposed project.
 - (4) Not have a documented adverse history of building, housing, rental certification or code violations.
 - (5) Not be in financial arrears to the City, including through any affiliated entity.

- ii) Any entity proposing to purchase property from the City shall demonstrate that it does not:
 - (1) Have other property located within the City of Grand Rapids that could reasonably be used for the purpose of the proposed project. To determine whether a property may “reasonably be used”, factors such as location, size, condition, availability of funding, comparable home values, and duration of ownership will be considered.
 - (2) Have any property previously purchased from the City for which a proposed project has not yet commenced or that would be considered substantially behind the schedule provided to the City for the project.
 - (3) Be in default or delinquent on any obligations, whether financial, programmatic, or performative, related to any contract it has with the City of Grand Rapids.
 - (4) Have any existing agreements with which it is out of compliance with the Community Development Department

- iii) In the event a property is available for sale via any methodology described above for an established period and no offer or proposal is received and accepted during that time, the Economic Development Department may proceed to re-offer the property for sale via the same or any other methodology described above as determined to be in the City’s best interest.

7) **AGREEMENTS, AND REQUIREMENTS AND METHOD OF CONVEYANCE**

- a) The Economic Development Department, in collaboration with others as necessary, shall prepare agreements required to implement this Policy (*i.e.* Option Agreements, Development Agreements, etc.).
- b) Residential Property shall be conveyed via quitclaim deed except where specific financing sources require either a warranty or covenant deed in which case the buyer must bear any costs associated with delivering the instrument.
- c) Non-residential and Significant Property may be conveyed via quitclaim, covenant or warranty deed as determined appropriate by staff and as approved by City Commission.

8) **DISPOSITION OF FUNDS**

Except as determined otherwise by resolution of the City Commission, or required pursuant to law or prior agreement, proceeds of the sale of any Excess City property shall be used, in order, as follows:

- a) A 3.5% commission (*i.e.* 3.5% of selling price) will be deposited in the Property Management Fund, except where a contracted cooperating broker is entitled to the City's share of the commission.
- b) Pay for costs associated with displaced City facilities.
- c) Retire debt associated with the property.
- d) Repay, to the appropriate fund, the cost of acquisition and, as necessary, the cost of maintenance during the period of City ownership.
- e) Deposited into the City's Affordable Housing Fund to be used for the purposes for which that fund was established.
- f) Any other lawful purpose as may be recommended by the City Manager and approved by the City Commission.

9) **MISCELLANEOUS**

- a) **City Commission Approval.** In all cases, the City Commission is the final authority as to the disposition of City property.
- b) **Attorney Review.** The City Attorney or special counsel shall review and approve written agreements and instruments of conveyance in connection with the disposal of property pursuant to this Policy prior to execution by the Mayor or other authorized representative of the City.
- c) **Return of Offers to Purchase.** The City will not receive any offers to purchase property covered by this Policy unless it has been made available for disposal in accordance herewith. Such offers received including any earnest money deposit, shall be promptly returned to the offeror.
- d) **Notification to City Commission of Rejected Proposals.** The City Commission will be advised if a bid or proposal is rejected under all methods. If after two weeks of such notice, there is not a request by three or more Commissioners to present the proposal to the entire City Commission, the bid or proposal shall be dismissed and no longer considered.

10) WAIVER

The City Commission may, in its sole discretion, waive application of this policy in whole or in part, with respect to any particular property if it determines such waiver to be in the public interest.

11) DELEGATION OF RESPONSIBILITIES

If it is determined to be in its best interest, the City may develop one or more partnerships with third-party entities for the implementation of some or all of the responsibilities described herein. In the event such a relationship is developed, the specific roles and responsibilities to be delegated to an individual party shall be clearly described in an agreement between the parties. Nothing in this Section 11 shall be construed to circumvent Section 9(a) hereof unless explicitly stated in an agreement.