

LEGISLATIVE #

191223A

1
2
3 **RESOLUTION NO. 191223**

4 **A resolution of the City Commission of the City of Gainesville, Florida, adopting**
5 **revised real property policies which govern the acquisition and disposition of**
6 **property by the general government of the City; providing directions to the**
7 **Clerk of the Commission; and providing an immediate effective date.**

8
9 **WHEREAS**, Article I of the Charter of the City of Gainesville vests the City with broad
10 general governmental, corporate and proprietary powers to be used for municipal purposes,
11 except as otherwise provided by law. In addition to its general powers, Section 1.04(1) of the
12 City’s Charter vests the city with special powers to acquire by purchase, gift, devise, lease,
13 lease-purchase, condemnation, or otherwise, real or personal property, or any estate or
14 interest in property, within and without the city limits, and for any of the purposes of the city,
15 and to improve, sell, lease, mortgage, pledge, or otherwise dispose of its property or any part of
16 its property.

17 **WHEREAS**, the purpose of the Real Estate Policies is to establish guidelines to govern
18 the acquisition and disposition of real property by the city. These policies shall also govern the
19 acquisition or disposition of personal property affixed to or located on real property that is
20 being acquired by or disposed of by the city.

21 **WHEREAS**, to more fully and effectively carry out the city’s general and special powers,
22 the City Commission, by resolution, wishes to adopt these “Real Property Policies”.

23 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF**
24 **GAINESVILLE, FLORIDA:**

**Exhibit A to City Commission Resolution No. 191223
Adopted on May 21, 2020**

CITY OF GAINESVILLE REAL PROPERTY POLICIES

I. AUTHORITY; AMENDMENT; EFFECTIVE DATE

Article I of the Charter of the City of Gainesville (the “City”) vests the City with broad general governmental, corporate, and proprietary powers to be used for municipal purposes, except as otherwise provided by law. In addition to its general powers, Section 1.04(1) of the City’s Charter vests the City with special powers to acquire by purchase, gift, devise, lease, lease- purchase, condemnation, or otherwise, real or personal property, or any estate or interest in property, within and without the city limits, and for any of the purposes of the City, and to improve, sell, lease, mortgage, pledge, or otherwise dispose of its property or any part of its property.

To more fully and effectively carry out these general and special powers, the City Commission has adopted, and may amend, these policies by resolution.

These policies, and any amendment(s), shall become effective on the date the resolution approving same is adopted by the City Commission.

II. PURPOSE; SCOPE

The purpose of these policies is to establish the regulations which shall govern the acquisition and disposition of real property by the City. These policies shall also govern the acquisition or disposition of personal property affixed to or located on real property that is being acquired by or disposed of by the City.

These policies shall also support the City’s goals of ensuring that there is a sufficient supply of adequate, decent, safe, sanitary, healthy, and affordable rental and owner-occupied housing for all income groups and to assist the private and non-profit housing sector in providing permanently affordable housing for low-income, very low-income, and extremely low-income households.

These policies do not apply to the City’s business enterprise d/b/a Gainesville Regional Utilities, which may have adopted real property policies, procedures, or guidelines to govern its transactions. Further, these policies do not apply to any acquisition or disposition of property between or among the City and its business enterprise d/b/a Gainesville Regional Utilities.

These policies are not intended, nor shall they be interpreted, to replace, supersede, amend, or create a conflict with any other local, state, or federal legal requirements that are applicable to any particular transaction.

III. ADMINISTRATION

These policies shall be administered by the City Manager or a designee. The City Manager, or designee, shall have the power to issue procedures pursuant to and consistent with these policies and shall have final authority within the City to interpret these policies and procedures.

The City Manager, or designee, shall:

- A. Supervise and provide technical support to all City departments in making acquisitions and dispositions of interests in real property on behalf of the City to ensure that transactions are conducted in accordance with these policies;
- B. Maintain the City's permanent records of real property acquisitions and dispositions in order to document transactions in accordance with these policies;
- C. Obtain review and approval, as to form and legality, of the City Attorney's Office on transaction documents;
- D. Maintain a working relationship, based on integrity and trust, with all parties to a real property transaction while ensuring that the City's interests are satisfactorily pursued;
- E. Conduct negotiations and attend all closings or arrange for execution of documents for the acquisition or disposition of real property; and
- F. Make reports to the City Commission of all acquisitions or dispositions of property on a regular basis.

IV. DEFINITIONS

Acquisition: A general term describing when the City obtains or is granted an interest in real property, such as by deed, lease, license, usage, or presumption (pursuant to Florida law), eminent domain or by any other manner allowed by law.

Affordable Housing: Means housing with monthly rents or monthly mortgage payments including taxes, insurance, and utilities that do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for the following households as defined by Section 420.0004, Florida Statutes, as amended: 1) "extremely-low-income persons"; 2) "very-low-income persons"; 3) "low-income persons"; or 4) "moderate-income persons".

Agreement: A general term usually describing a common view of two or more parties regarding the rights and obligation of each with regard to a given subject. All agreements for the acquisition or disposition of real property by the City shall be in writing.

Appraisal: A written report that establishes the market value of property and includes, without limitation, the legal description of the property, a location map and site description, photos of the subject property, a statement of assumptions and limiting conditions and analysis and conclusions as to highest and best use, value, comparable sales data and market conditions. Appraisals shall be prepared in accordance with the Uniform Standards of Professional Appraisal Practice by an appraiser holding a current license in good standing through the Florida Department of Business and Professional Regulation. In addition, if issuing an appraisal for residential real property of one to four units, the appraiser must hold a current certification as a Certified Residential Appraiser or Certified General Appraiser; or must hold a current MAI, SRA, or SRPA designation. If issuing an appraisal report for property other than residential property of one to four units, the appraiser shall hold a current MAI designation.

Closing: The time and place for the exchange of documents and tender of payment to finalize the acquisition or disposition of real property.

Competitive manner: Utilizing a process that is open and fosters competition, such a process may include but is not limited to, posting signs for sale or lease on the property, posting information concerning the availability of the property on the City's website, listing the property with a multiple listing service by a licensed real estate broker or issuing a written solicitation (such as an invitation to bid or request for proposals).

Dedication: The setting aside of land for a public use by its owner, together with acceptance by or on behalf of the public, by the making, signing, acknowledging and recording of a map or plat of land in accordance with general law upon which areas appear as devoted to public use for such purposes as streets and utility and drainage easements.

Deed: An instrument of conveyance intended to pass title, in one of the following three forms:

1. Quitclaim deed: An instrument of conveyance intended to pass such title, interest, or claim as the grantor may have in the property and which contains neither warranties nor covenants of title.
2. Special Warranty Deed: An instrument of conveyance which covenants from the grantor an estate in property free from encumbrances and with defense of title as to claims of superior title arising by, through or under the grantor only.
3. Warranty deed: An instrument of conveyance which covenants from the grantor an estate in property free from encumbrances and with defense of title as to all claims of superior title.

Disposition: A general term describing when the City relinquishes or grants its interest in real property, such as by lease, license, or deed.

Easement: A right to use the land of another for a specific purpose that is not inconsistent with the use by the owner of the land. Easements are generally non-exclusive and run with the land, unless otherwise specified in the Easement document. Easements may be permanent or temporary in duration.

Environmental assessment: An "all appropriate inquiries" investigation of the property conducted by an environmental professional in accordance with the standards and practices set forth in 40 CFR 312 as published in the Federal Register on Nov. 1, 2005 and as amended from time to time. This may include a Phase I and/or a Phase II, or other specialized assessment of the property for environmental concerns.

Fee title or fee simple title: An estate in real property belonging to the owner and alienable or transferable by owner absolutely and simply. An absolute estate in perpetuity and the largest possible real property right an owner can have.

License: A revocable, unassignable personal right to go on the property of another for a limited purpose which does not operate to confer or vest in the licensee any title, interest or estate.

Lease: An agreement by which the owner of real property grants the right of possession to another, for a specified period of time and for a specified consideration.

Marketable title: A legally defensible title which is free from material defects, acceptable to a reasonable purchaser, and capable of being insured by a reputable title underwriter licensed in the state of Florida.

Option: An agreement that grants one party a specified period of time during which it may, but is not required to, purchase the property of another.

Permit: A written, revocable, unassignable authorization to use the property of the permit grantor to do some act not allowable without such authority; generally for a very temporary period of time.

Property or real property: Land, including that which is erected upon, growing upon or affixed to land, such as structures, fixtures and crops.

Public purpose: A purpose which has as its objective the promotion of the general public health, safety, and welfare of the residents of the City of Gainesville and not the sole welfare of, or inuring to the sole benefit of, an individual or specific class of persons.

Public right-of-way: Public highways, roads, streets or alleys, whether presently owned by or dedicated to the City or hereafter acquired or dedicated, or for which the City exercises right of management or control; and includes the surface, the air space over the surface and the area below the surface.

Public utilities: Utilities owned and maintained by the City, including, but not limited to storm drainage, water, wastewater, natural gas, electric, and telecommunications.

Surplus: Property which no longer serves a public purpose, or is in excess of the City's needs, or the sale of which would serve a greater public purpose than the retention of the property.

Tax Escheated Property: Property that escheated to the County for failure to pay delinquent taxes and was then conveyed by the County to the City pursuant to Section 197.592, Florida Statutes.

Vacation: Release or abandonment of public rights in property.

V. PROCEDURES/REQUIREMENTS FOR ACQUISITION OR DISPOSITION

- A. Manner of Disposition. Prior to fee title disposition by the City, the City Commission must find and declare that the property is surplus in accordance with Section X of this policy. This finding and declaration shall be embodied in the form of a Resolution adopted by the City Commission after 5pm during a regular or special meeting of the City Commission. All surplus property may then be disposed of in accordance with Section X of this policy.
- B. Manner of Acquisition. Prior to fee title acquisition by purchase or eminent domain by the City, the approving official (as specified in C. below) must find that the acquisition of the property will serve a public purpose.
- C. Negotiation/Contract. The City Manager or designee may enter into non-binding negotiations for the acquisition or disposition of property. When approval of the citizen electorate or the City Commission is not required, the City Manager is authorized to execute binding agreements for the acquisition or disposition of property. When approval of the citizen electorate or the City Commission is required, the City Manager is authorized to execute agreements for the acquisition and disposition of real property, provided such agreements are made expressly contingent upon obtaining an appraisal and upon obtaining approval of the citizen electorate and/or the City Commission. No agreement for acquisition or disposition shall be binding on the City until approved as follows:

Approval of the **citizen electorate** is required for disposition or conversion of use of property listed on the "City of Gainesville Registry of Protected Public Places" in accordance

with the requirements of Section 5.09 of Article V of the Charter of the City of Gainesville, Florida.

The City Commission shall not approve a contract for the purchase or sale of fee title to real property at a cost of \$100,000 or more until the City has first obtained an appraisal of the property.

Approval of the **City Commission** is required for:

- sale or purchase of real property rights for purchase amounts more than \$100,000
- leases or licenses that exceed five years in term or \$50,000 in annual rent or other payment
- permanent easements, or other forms of documents, which grant access to City property for more than two years
- all transactions involving real property which are either not contemplated by this policy, or for which approval by the City Manager or Department Director is not provided by this policy

Approval of the **City Manager** is required for:

- Sale or purchase of real property rights for purchase amounts of \$25,000 to \$100,000
- leases or license agreements that exceed one year in term but do not exceed four years in term, or that exceed \$25,000 in annual rent or other payment
- temporary easements, or other forms of documents, which grant access to City property for a period of two years or less
- settlement of any action in eminent domain for an amount of \$100,000 or less, or for an amount that is no more than 20% of the appraised value of the property being taken, provided the City Attorney has approved or recommended approval of the settlement.

Approval of the **Department Director** (as listed in Sec. 2-196, of the City Code of Ordinances) is required for:

- Sale or purchase of real property rights for purchase amounts \$24,999 or less, and
- Leases or license agreements that are for one (1) year in term or less, or \$24,999 or less in annual rent or other payment.

D. Due Diligence. The City Manager, or designee, shall conduct such due diligence as it deems appropriate for each acquisition; however, at a minimum, will generally obtain:

1. An environmental assessment for property with known or suspected environmental contamination;

2. A survey (certified to the City) for unplatted lands; and
 3. An owners policy of title insurance for all fee simple purchases by the City. In all other acquisitions, the City Manager, or designee, shall obtain a title policy, a title search, or an ownership and encumbrance report, as they deem appropriate, in order to confirm ownership and to ascertain any encumbrances on the property.
- E. Closing/Conveyance. The City Manager or designee is authorized to execute all necessary closing documents on behalf of the City, except that the Mayor, or Mayor Pro-tem in the absence of the Mayor, shall execute and the Clerk of the Commission shall attest any permanent easement or deed. A special warranty deed shall be used in all conveyances of fee title from the City.
- F. Disposition of Proceeds. Any proceeds from the disposition of park property (or property dedicated to the City for park purposes) shall be used exclusively for park purposes, pursuant to Section 95.36, Florida Statutes and the City Comprehensive Plan.

VI. VACATION

Upon request of an abutting property owner or upon the City's initiative, public rights-of-way or public places may be vacated by the City in accordance with the City Land Development Code. The vacation shall be accomplished by City ordinance and the City may require a vacation agreement. The ordinance shall identify any rights retained by the City, or waive same, and shall be recorded in the public records of Alachua County. In vacating rights, the City does not grant title, it merely releases the public interest in and to the property, with title passing by operation of law.

VII. PERMITS

Except as otherwise provided by City Code, the City Manager or designee shall have the power and authority to grant permits for the temporary utilization of City property, in accordance with uniform procedures or guidelines promulgated by the City Manager or designee for the issuance of such permits.

VIII. ACQUISITION/DISPOSITION OF PROPERTY WITH STATE OR FEDERAL FUNDS

In the event the City uses state, federal, or other grant funds for the acquisition, improvement, or disposition of property, the City shall follow the applicable local, state, or federal laws or program guidelines governing the use of such funds. In the event of conflict between such laws or guidelines and these policies, the laws and program guidelines governing the use of such funds shall control.

IX. RESERVATION AND RELEASE OF SUB-SURFACE RIGHTS

Section 270.11, Florida Statutes, automatically acts to reserve unto the City a three-fourths

interest in all the phosphate, minerals, and metals and an undivided one-half interest in the petroleum on land that is conveyed by the City. The statute allows the City to expressly choose not to reserve such interests and also permits the City to sell or release the interests upon petition by the purchaser/property owner with a statement of reasons for such release.

For the fee simple disposition of property that has a residential zoning designation (regardless of the size) or that is one acre or less in size (regardless of the zoning designation), the City hereby expressly chooses not to reserve the interests that would otherwise be automatically reserved by Section 270.11, Florida Statutes. The contracts and deeds for all such dispositions should contain a statement to that effect.

With respect to all interests automatically reserved prior to the effective date of these policies or that are zoned other than residential or are larger than one acre in size, the City will consider release of such interests in accordance with the requirements of the Florida Statutes and such other procedures as the City may implement.

X. DESIGNATION AND DISPOSITION OF SURPLUS REAL PROPERTY

In furtherance of the City's goal to place surplus property back into beneficial use and on the tax roll, the following provisions will govern the designation and disposition of surplus real property.

A. Surplus Property Determination.

1. The City Manager or designee shall maintain a list of all real property acquired by the City, either by donation, escheatment or otherwise.
2. The City Manager or designee shall routinely share the property list and associated information, including location, size, zoning designation, any known defects or issues, and estimated value, to all City departments and GRU to determine whether there is any potential current or future use for the property. If any City department or GRU expresses an interest in the property, the property shall be retained by the City. Final decision regarding the retention of property shall be subject to review and approval by the City Manager or designee.
3. If no City department or GRU expresses an interest in the property, the property shall be placed on a proposed surplus property list. The proposed surplus property list must identify all properties suitable for development as single-family or multi-family/mixed-use Affordable Housing, as determined by the Director of Sustainable Development or designee based on such factors as a lot's zoning designation, size, shape and configuration, and known environmental issues.
4. The City Manager or designee shall submit the proposed surplus property list to the City

Commission, with background information on each property and a recommendation regarding the surplus designation. The City Commission shall consider the recommendation and background information and adopt a resolution determining which of the properties, if any, are surplus and which of the surplus properties are specifically designated for Affordable Housing, and setting any minimum reserve bid for properties as it deems appropriate.

5. The City Manager may at any time take an item to the City Commission seeking a resolution to remove a certain property(ies) from the Surplus Property Designated for Affordable Housing list in order to dispose of the property(ies) in accordance with Section C below.

B. Disposition of Surplus Property Designated for Affordable Housing.

1. Single-Family Properties

- a. Disposition of single-family properties shall support the City's housing goals, including the provision of permanent Affordable Housing, neighborhood enhancement and stabilization, infill development, and mitigation of the impacts on vulnerable communities from gentrification and displacement.
- b. The City Manager or designee shall maintain a list of nonprofit entities that are engaged in the business of constructing Affordable Housing within the City of Gainesville ("NHO"). Any such NHO may contact the City Manager or designee to be placed on the list.
- c. The City Manager or designee shall provide the City Commission's approved list of single-family Affordable Housing properties to the NHOs. Each interested NHO shall communicate its request for the property in writing to the City Manager or designee. The requests will be placed in numerical order based on date and time received. The City Manager's designee will then offer a real estate contract (on the terms detailed below) to the entity that submitted the first request. If that entity does not execute the contract and return it to the City Manager or designee by 5 PM on the 7th calendar day after the contract was offered to the entity, the offer shall be deemed withdrawn by the City and the offer will be extended to the entity that submitted the second request, and so on, until a contract is executed, or the list of requestors is exhausted.
- d. Terms for real estate contract:
 1. Sales price – Below fair market price and other valuable consideration (namely the use and transfer restrictions below).
 2. Buyer pays all closing costs.

3. The property is sold “as-is”, whether vacant or occupied.
 4. Buyer commits to, within the time specified by the City (which may vary depending on the condition of the property), put the property to use for Affordable Housing. All dispositions shall be conditioned upon a legal mechanism(s), as approved by the City Attorney’s Office, which ensures the property will be permanently used as Affordable Housing.
- e. If no contract is executed with a NHO, the City may dispose of the property in accordance with the provisions for disposing of Multi-Family/Mixed-Use Properties for Affordable Housing, as applicable.

2. Multi-Family/Mixed-Use Properties

- a. Disposition of multi-family/mixed-use properties shall support the City’s housing goals, including the provision of permanent Affordable Housing at sufficient densities to address the community’s Affordable Housing needs and to facilitate the dispersal of low-income, very low-income and extremely low-income housing units throughout the City on larger sites suitable for multi-family/mixed-use development.
- b. Multi-family/mixed-use properties must be disposed of in a competitive manner. However, the City Commission may determine that a non-competitive disposition of multi-family/mixed-use property is the best option to achieve the greatest public benefit in the provision of permanent Affordable Housing, and therefore it may consider offers received for Affordable Housing developments on multi-family/mixed-use property for approval. The terms of any real estate contract must include the following:
 1. Sales price – must be negotiated by the City Manager or designee with the goal of achieving the greatest provision of permanent Affordable Housing, with such negotiation taking into consideration factors including but not limited to any minimum bid set by the City Commission, any applicable appraisals, and the “Just Value” as determined by the Alachua County Property Appraiser.
 2. Buyer pays all closing costs.
 3. The property is sold “as-is”, whether vacant or occupied.
 4. The property is sold with a restriction that a certain amount or percentage of housing development on the property, as determined and negotiated by the City Manager or designee, shall be managed and maintained by the buyer (and subsequent owners) as permanent Affordable Housing. All dispositions shall be conditioned upon a legal mechanism(s), as approved by the City Attorney’s Office, which ensures the property will be permanently used as Affordable Housing.

C. Disposition of Surplus Property Not Designated for Affordable Housing.

With the assistance of the Budget and Finance Department, the City Manager or designee shall dispose of property in a competitive manner, with the following exceptions: 1) property that is sold to abutting property owners because the property is otherwise undevelopable or unusable; and 2) property that the City uses as consideration in a contract that is otherwise in the public interest. In addition, nothing contained in this policy is intended or shall be interpreted as limiting the right of the City to achieve specific objectives in its disposition of surplus property. The terms of the real estate contract shall include the following:

1. Sales price – Minimum bid shall be any reserve set by the City Commission, the “Just Value” as determined by the Alachua County Property Appraiser, or any applicable appraisals received, whichever is greater.
2. Buyer pays all closing costs.
3. The property is sold “as-is”, whether vacant or occupied.

XI. TAX ESCHEATED PROPERTIES

If property is occupied at the time of its conveyance from the County to the City, the City Manager or designee is authorized to take action to eject the unlawful occupant. Prior to doing so, the City Manager shall allow a period of 90 calendar days for the occupant to find other housing and remove their personal belongings from the property. Upon request of the City Manager, the City Attorney is authorized to take all necessary legal action to effect the ejection. Tax escheated properties shall be disposed of in accordance with Section X above.