

## **Procurement Code**

### **DIVISION 12. PURCHASE, SALE OR LEASE OF PUBLIC PROPERTY**

Sec. 2-2011. Purchase, sale or lease of public lands.

Whenever the city proposes to purchase, sell or lease public lands or buildings, the provisions of this section shall apply, unless the city commission upon a four-fifths vote finds that the public interest would be served by waiving any or all provisions of this article.

(Ord. No. 2004-30, § 2, 8-24-2004; Ord. No. 2008-27, § 2, 10-28-2008)

Sec. 2-2012. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*City property* includes but is not limited to any land, water or air rights.

*Lease of city property* means any right to lease city property by way of agreement, irrespective of consideration being paid to the city, and irrespective of the city's also utilizing or being allowed to utilize the property for any purpose during the term of the lease. For purposes of this article, the term "lease" shall not include special event permits, revocable permits, concession agreements, management agreements, use agreements or leases for a term of not more than three years, including option periods.

*Sale of city property* means any conveyance, transfer, gift, exchange or other transaction in which legal title passes from the city to any person or entity, whether or not the city retains any partial title, interest, reservation, easement, right-of-way, restriction or license in regard to the property. This definition shall include any sale of development rights as defined in this **Code**, and transfer development rights. This definition shall not include a vacation or abandonment of a city public right-of-way, including streets or alleys, or the encroachment thereupon.

(Ord. No. 2004-30, § 2, 8-24-2004; Ord. No. 2008-27, § 2, 10-28-2008)

Sec. 2-2013. City-owned property sale or lease--Generally; advertised public bidding process.

Notwithstanding any provision to the contrary contained in this **Code**, and except as provided below, the city commission is prohibited from favorably considering any sale or lease of city-owned property unless (a) there shall have been, prior to the date of the city commission's consideration of such sale or lease, an advertisement soliciting proposals for said sale or lease published in a daily newspaper of general paid circulation in the city, allowing not less than 60 days for the city's receipt of proposals from prospective purchasers or lessees, said advertisement to be no less than one-fourth page and the headline in the advertisement to be in a type no smaller than 18-point and, (b) except as provided below, there shall have been at least three written proposals received from prospective purchasers or lessees; except, if there are less than three such proposals received, the guaranteed return under the proposal whose acceptance is being considered is at least equal to market value, and the city commission determines that the contemplated sale or lease at that time will be in the city's best interest.

(Ord. No. 2004-30, § 2, 8-24-2004; Ord. No. 2008-27, § 2, 10-28-2008)

Sec. 2-2014. Appraisals required for purchases, sales and leases.

(a) Whenever the city purchases, sells or is involved in a lease of real estate and the fee simple value of the property being bought or sold, or the annual value of the property being leased is in excess of \$250,000.00, the city shall, prior to consummating the purchase, sale or lease, have the property appraised by two real estate appraisers holding the M.A.I. designation in order to determine the estimated market value.

(b) Should the purchaser or lessee be willing to pay the cost of such appraisal, then any such cost may be deducted from a bid bond or similar deposit made in a bid process.

(c) In all lease or sales of property, the conditions of this section may be waived upon a four-fifths vote of the city commission upon a finding by the city commission that the public interest would be served by waiving such conditions of bidding and/or appraisal for the disposition of the property.

(d) The city commission shall be informed of each of the appraisals prior to city commission approval or disapproval of the transaction.

(Ord. No. 2004-30, § 2, 8-24-2004; Ord. No. 2008-27, § 2, 10-28-2008)

Sec. 2-2015. Payment of costs.

All costs associated with the sale or lease procedures addressed in this article shall be, at the option of the city, paid by the purchaser or lessee.

(Ord. No. 2004-30, § 2, 8-24-2004; Ord. No. 2008-27, § 2, 10-28-2008)

Sec. 2-2016. Analysis for the purchase, sale or lease of city property.

In order for the city commission and the public to be fully apprised of all conditions relating to the proposed purchase, sale and/or lease of city property, the city manager through a report by the finance, economic development, parking, public works, planning and historic preservation departments, with an analysis from the parking advisory board and historic preservation board, when applicable, shall prepare an analysis with recommendations of the proposed purchase, sale and/or lease of city property, including answers to the appropriate questions below. The budget and audit advisory board, the property advisory board and the economic development board, by whatever name as the boards shall ever be known, shall prepare an analysis using the following criteria:

(1) *Budget and audit advisory board.*

a. Is the purchase, sale and/or lease consistent with the property appraisal as required under section 2-2014?

b. What is the immediate impact on the current fiscal budget and the long term effect on future budgets, i.e. the long-term overall effect on the city?

c. Considering the city's mission statement, are there other alternatives to entering into the proposed transaction?

(2) *Property advisory board.*

a. Does the proposed use conform to the city's comprehensive plan and is it compatible with the surrounding neighborhood?

b. Analyze the positive or negative impacts on adjacent property including, but not limited to, open space, traffic, access considerations, noise level, property values, improved development patterns and provision for necessary services including municipal

utilities and other infrastructure systems and the needs and costs associated with the needed improvements. To the extent needed, traffic studies and other professional studies required shall be the responsibility of the proposed purchaser, developer, or lessee.

c. Are the terms and conditions of the proposed purchase, sale, or lease of city property; or the proposed purchase or lease by the city of non-city property based on market terms and value?

(3) *Economic development board.*

a. Is the proposed use in keeping with city goals and objectives?

b. What is the economic impact to the city including, i.e. is the proposed use in keeping with a public purpose and community needs, such as expanding the city's revenue base, reducing city costs, creating jobs, creating a significant revenue stream, and improving the community's overall quality of life?

c. Are there alternatives available for the proposed disposition, including assembly of adjacent properties and can the project be accomplished under a private ownership assembly?

The finance, economic development, parking, public works, planning and historic preservation departments, with an analysis from the parking advisory board and historic preservation board, when applicable, along with the budget and audit advisory board, the property advisory board and the economic development board's analysis may address such other issues as these boards may deem appropriate in analysis of the proposed disposition.

(Ord. No. 2004-30, § 2, 8-24-2004; Ord. No. 2008-27, § 2, 10-28-2008)

Sec. 2-2017. Purchase, sale, lease of real property.

(a) Prior to the city's entering into any contract, agreement or lease relating to the purchase, sale or leasing of real property by, to or from the city, all individuals, corporations, partnerships, joint ventures or other legal entities having any interest of any kind in the property to be purchased, sold or leased, shall file with the city a document identifying the extent of its ownership interest in the subject real property.

(b) Failure by any party to comply with the requirements of subsection (a) hereof shall render the entire agreement to purchase, sale or lease voidable.

(Ord. No. 2004-30, § 2, 8-24-2004; Ord. No. 2008-27, § 2, 10-28-2008)

Sec. 2-2018. Hearing.

Prior to the purchase, sale and/or lease of city property, the city commission shall hold two public hearings, advertised not less than 15 days prior to the hearing, in order to obtain citizen input into any proposed purchase, sale and/or lease.

(Ord. No. 2004-30, § 2, 8-24-2004; Ord. No. 2008-27, § 2, 10-28-2008)

Sec. 2-2019. Authority of city commission to purchase, sell or lease public property.

(a) *Ordinance requirement/super majority vote for property for sale above \$1,000,000.00 or lease for a term in excess of ten years.*

(1) *Sale of property with an estimated market value under \$1,000,000.00.* Except as otherwise provided herein, sale of city land or buildings with an estimated market value under \$1,000,000.00 are exempt from this section.

(2) *Leases for terms exceeding ten years.* Except as otherwise provided herein, no lease of city lands or buildings exceeding ten years shall be approved except by authority of an ordinance passed by a recorded affirmative vote of four-fifths of all the members of the city commission.

(3) *Purchase of property with an estimated market value in excess of \$1,000,000.00.* Except as otherwise provided herein, no purchase of property shall be approved except by authority of an ordinance passed by a recorded affirmative vote of four-fifths of all the members of the city commission.

(4) *Leases for terms under ten years.* Except as otherwise provided herein, leases of city lands or buildings for terms under ten years are exempt from this section.

(b) *Resolution requirement.*

(1) *Sale of city-owned lands or buildings.* Notwithstanding any provision to the contrary contained herein, the city commission is authorized to approve by resolution, the sale of any city-owned land with an estimated market value below \$1,000,000.00 by simple majority.

(2) *Lease of city-owned lands or buildings.* Notwithstanding any provisions to the contrary contained herein, the city commission is authorized to approve by resolution the lease of city-owned land or buildings for a term not to exceed ten years, including all options. All other leases or use agreements must comply with the requirements of subsection (a)(2) above.

(3) *Purchase of property with an estimated market value below \$1,000,000.00.* Notwithstanding any provisions to the contrary contained herein, the city commission is authorized to approve by resolution the purchase of any land or building.

(Ord. No. 2004-30, § 2, 8-24-2004; Ord. No. 2008-27, § 2, 10-28-2008)