

# POLICY FOR THE SALE OF SURPLUS REAL PROPERTY

Adopted November 24, 2008

Amended April 11, 2011

Amended January 24, 2022

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## Governing Law

The Code of Iowa prescribes rules and regulations for the disposal of real property by cities. The following code section is applicable to all sales of surplus real property by the City of Marshalltown.

### **364.7 Disposal of property.**

A city may not dispose of an interest in real property by sale, lease for a term of more than three years, or gift, except in accordance with the following procedure:

1. The council shall set forth its proposal in a resolution and shall publish notice as provided in section 362.3, of the resolution and of a date, time, and place of a public hearing on the proposal.
2. After the public hearing, the council may make a final determination on the proposal by resolution.
3. A city may not dispose of real property by gift except to a governmental body for a public purpose.

## Policy

The City of Marshalltown seeks to dispose of surplus City-owned real property utilizing a method that best fits the type of real property to be disposed of and which takes the following criteria into consideration:

- Equity
- Fair Market Value
- Highest and Best Use
- Taxable Value

The City shall only offer a Quit Claim Deed unless the history of the property is known and a Warranty Deed is determined to be appropriate under the circumstances and upon the advice of legal counsel.

## Property Disposal Methods

The City of Marshalltown may utilize a number of disposal methods for the sale of surplus real property. Each method seeks to establish fair market value for the property.

- **Sealed Bid**  
A Request for Sealed Bids is typically used when there are multiple known or unknown potential purchasers for a property. A public notice is issued with details on the property and requesting all bids be turned in by a specific date and time. The highest compliant bid received is the bid that is recommended to the City Council for the sale of the property, provided the Council has the right to waive irregularities and/or to reject any or all bids.
- **Live Auction or Online Auction**  
A live auction or online auction is a format that works best with a higher value asset and in situations where multiple parties are interested in a property. The online option provides for a wider distribution/availability of bidders.
- **Listing with Realtor**  
Listing a property with a realtor and reviewing offers is a method that aligns with real property that includes a structure or when multiple parcels are offered for sale together or individually. This also results in an independent professional with relevant knowledge and experience marketing and bringing attention to the real property.
- **Direct Sale**  
A direct sale involves the City contracting directly with an individual or entity for the sale of surplus real property. This method is often utilized where the fair market value of property is known or easily ascertainable; or where the property due to its nature, size, or location is only marketable to a limited number of potential purchasers.
- **Request for Proposal**  
This process can only be used for real property in an urban renewal area where slum and blight exist. It allows the Council to seek proposals for how the property would be used to determine the best proposal considering more than just the amount to be paid. The specific procedure set forth in Iowa Code Chapter 403.8.

## **Procedure**

The appropriate procedure for the sale of real property will be determined on a case-by-case basis taking into consideration the totality of facts and circumstances. In most cases, the sales method will be subject to City Council approval upon a staff recommendation. This policy shall not be construed to limit the City's ability to utilize any lawful method of disposal with respect to any particular parcel or parcels of real property.

## **Determining Fair Market Value**

Except for gifts of real property to another governmental body for a public purpose, or when future taxable value is part of a transaction, the City may not make gifts of public property; meaning the City may not dispose of real property for less than its fair market value. Fair market value is generally defined to mean the price for which real property will sell between a willing buyer and seller when exposed to market conditions. The City may utilize multiple

methods for determining fair market value to avoid a conveyance of real property constituting a gift, such as:

- Determining land value by reference to adjacent land values;
- Hiring an appraiser to determine the value;
- Listing the property with a realtor who determines the value;
- Requesting bids on the property; or
- Reviewing at most six months of similar property sales as provided on Beacon to determine an average

### **Rights-of-Way**

The City of Marshalltown frequently receives requests for the vacation and sale of rights-of-way (portions of streets or alleys) from adjacent property owners. These types of requests tend to be unique to the extent the property involved is of interest only to a limited number of adjacent property owners. The direct sale method most common.

After receiving a request in writing from an adjacent property owner or determining the right-of-way has been previously vacated but not sold, the following process will be utilized.

1. Contact all utilities to determine whether there are utilities in the area and if easements must be maintained. If a utility (including the City) requests the right-of-way not be vacated, the requesting party is notified and the transaction stops.
2. Determine a price for the right-of-way. If the right-of-way is a remnant from a prior vacation or has been previously vacated but not conveyed, the adjacent owner will be offered the right-of-way at \$250 if less than 0.25 acres. If the right-of-way is larger than 0.25 acres or is not adjacent to a prior vacation, the adjacent land values shall be used to determine an average price. A reduction factor of 80% may be applied if the parcel is required to maintain easements for utilities, is unsuitable for building a structure, or other circumstances which reduce the value and use of the land.
3. Place the item as a discussion item on a Council agenda. The packet should include the original request including the amount the owner is offering to pay for the property and a staff memo with information on the square foot value and adjacent owner objections, if any.

Since the Council may not dispose of a vacated alley or right-of-way to the individual requesting the vacation by way of gift, the City must receive fair market value for the property.

If Council moves to proceed with the vacation of an alley or right-of-way, staff will facilitate proceedings compliant with Iowa Code 364.7 and bring the matter back to the Council for action.

## **Vacant Lots**

The City regularly acquires or through demolition of dilapidated structures creates vacant lots which are owned and maintained by the City, typically as part of the City's Dangerous & Dilapidated Building program. The City Administrator maintains a list of these properties, which is updated as demolition projects are closed out. There are a number of sales methods that can be used to dispose of a vacant lot, and the location and characteristics of the vacant lot will be the best determinant of the most appropriate sales method. Regardless of the sales method utilized, nothing shall preclude the City from obtaining an appraisal to help determine fair market value and/or to set a floor for pricing a property.

When the sale of a vacant lot is requested or is deemed suitable by staff, the City Administrator will place a discussion item on the agenda for the property or properties to be disposed of with a recommendation for an appropriate disposal method. The Council will then determine the best method for disposal and direct staff to proceed accordingly.

## **Facilities with Land**

While less common, the City does have excess facilities to dispose of at times. The disposal method shall be at the election of the Council based upon the type of asset and relevant facts and circumstances.

When a facility is ready to sell, the City Administrator will place a discussion item on the agenda with the property or properties to be disposed of with a recommendation for the disposal method. The Council will then determine the best method for disposal and direct staff to proceed accordingly.