



**ADMINISTRATIVE DIRECTIVE**

<b>REAL PROPERTY: MANAGEMENT, ACQUISITION, SALE AND LEASE</b>	NUMBER	PAGE
	<b>4.02-1</b>	<b>1 of 14</b>
	EFFECTIVE DATE <b>December 15, 2015</b>	

**I. PURPOSE**

This directive summarizes procedures for acquisition, lease, management and disposition of all real property by the City of Tucson ("City"). All purchase and sale agreements, offers to sell or purchase, deeds, easement agreements, leases, utility service agreements, rights of entry, licenses, access agreements, intergovernmental agreements, development agreements, exclusive negotiation rights agreements and any other agreement or authorization concerning the use or occupancy of City-owned, possessed or controlled real property shall originate with a request to the Real Estate Program Director ("Director") of the City Manager's office ("Real Estate Program").

**II. POLICY**

- A.** The Real Estate Program is responsible for coordinating the closing of all real property transactions for the City.
- B.** The Real Estate Program shall initiate acquisition procedures in accordance with all applicable local, state and federal regulations and in accordance with Section V below.
- C.** The Real Estate Program shall make every effort to complete real property acquisitions through negotiated agreements and minimize hardship or inconvenience to owners and tenants who may be affected by the City's acquisition of real property.
- D.** If a negotiated settlement cannot be reached, Real Estate Program staff shall work with the City Attorney's Office to initiate and support condemnation proceedings.
- E.** All dispositions of City-owned real property shall be processed and/or coordinated through the Real Estate Program in accordance with all applicable local, state and federal regulations and in accordance with Section VI below.
- F.** Surplus real property shall be sold or exchanged at market value in accordance with Section VI below, unless otherwise directed by the Director with the concurrence of the City Manager or Mayor and Council.
- G.** Surplus real property shall be sold through a public bid process unless the Director determines that such property is usable only by the adjacent property owner(s), thus permitting a direct sale to the adjacent owner(s). The sale process may be revised as directed by Mayor and Council on a case by case basis.
- H.** When property is sold, adequate legal provision shall be made so that no property owner having legal access to the general system of streets before the sale is denied such access as a result of the sale.
- I.** To the extent there is a conflict between these directives and Planning and Community Development (PCD) Programs, PCD mandated operating procedures shall be followed. In these instances, PCD staff shall collaborate with the Real Estate Program



## ADMINISTRATIVE DIRECTIVE

<b>REAL PROPERTY: MANAGEMENT, ACQUISITION, SALE AND LEASE</b>	NUMBER	PAGE
	<b>4.02-1</b>	<b>2 of 14</b>
	EFFECTIVE DATE <b>December 15, 2015</b>	

at the start of the program to outline and establish mutual operating procedures for the program's real estate transactions. Although some PCD programs/transactions may be performed under different operating procedures, the Real Estate Program shall be kept fully informed of all real estate activities in order to ensure, whenever possible, material conformance with the purposes and intent of this Directive.

### III. DEFINITIONS

- A. **Administrative Sales Process:** The sale of City-owned real property or rights of way with an estimated value of less than \$50,000 according to the terms and conditions of the Administrative Sales Process, as defined herein and adopted by Mayor and Council on April 26, 2011, Ordinance #10892.
- B. **Application Fee:** A minimum nonrefundable fee charged by the Real Estate Program for real estate service requests as defined herein and adopted by Mayor and Council on September 13, 2011, Ordinance 10928.
- C. **Appraisal:** A statement prepared by a licensed or certified real estate appraiser setting forth an opinion as to the market value of real property or an interest in real property in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) and Arizona law.
- D. **Appraisal Standards:** All appraisals completed by either a staff or an independent fee appraiser must adhere to all applicable provisions of the USPAP and the Arizona Revised Statutes (ARS).
- E. **City-owned Real Property:** City-owned real property is divided into three classes:
1. Property currently in public use;
  2. Property not in use, which is held in reserve for future public needs; and
  3. Property not in use, which is surplus to the current and future needs of the City of Tucson.
- F. **Condemnation:** A means of acquiring real property interests for public purposes through legal proceedings under the government's power of eminent domain.
- G. **Lease or Extended Occupancy Agreement:** An agreement by which a possessory interest in City-owned land or improvements are transferred by the City to another person or entity (or conversely, the City receives a possessory interest from another person or entity for non-City-owned property) for a specified period of time in return for a specified rental amount or service.



ADMINISTRATIVE DIRECTIVE

<b>REAL PROPERTY: MANAGEMENT, ACQUISITION, SALE AND LEASE</b>	NUMBER	PAGE
	<b>4.02-1</b>	<b>3 of 14</b>
	EFFECTIVE DATE <b>December 15, 2015</b>	

- H. **License Agreement:** An agreement by which specific use rights on a temporary basis are granted by or to the City for limited events and activities.
- I. **Market Value:** The most probable price estimated in terms of cash in United States dollars or comparable financial arrangements that the property would bring if exposed for sale in the open market, with reasonable time allowed in which to find a purchaser, buying with knowledge of all the uses and purposes to which it was adapted and for which it was capable.
- J. **Negotiation:** Conference or discussion to arrange for purchase, sale or lease of real property.
- K. **Property Interests Noted Herein:**
1. **Fee Ownership:** Ownership of the entirety of a property, without limitation. This is the highest form of property ownership.
  2. **Leasehold Ownership:** A possessory right created by virtue of a contract to occupy a property under certain terms and conditions, for a specified period of time.
  3. **Easement:** A right to use the property of another for a particular purpose, often permanent in nature, even though another party retains ownership
- L. **Public Improvement Project Team:** A committee formed for the purpose of designing and/or constructing public improvements, including, but not limited to, transportation, water, environmental services, and parks and recreation projects, reasonably anticipated to require the acquisition of interests in real property not owned by the City, comprised of at least the Department Director responsible for implementing the project and his or her designees.
- M. **Public Location Right of Entry for Peddlers:** A three (3) month permit with a minimum fee of \$50 allowing peddlers to use City property or rights of way in accordance with the terms and conditions of the Peddlers Ordinance No. 8129, adopted by Mayor and Council on September 27, 1993. The Real Estate Program issues these permits only on surplus City-owned property. Traffic Engineering issues these Rights of Entry for requests within the public right of way, with the signature of the Transportation Director.
- N. **Real Property Acquisition:** Securing an interest in real property for the City by gift, purchase, exchange, plat dedication, exaction as a condition of rezoning, annexation, or condemnation.



ADMINISTRATIVE DIRECTIVE

<b>REAL PROPERTY: MANAGEMENT, ACQUISITION, SALE AND LEASE</b>	NUMBER	PAGE
	<b>4.02-1</b>	<b>4 of 14</b>
	EFFECTIVE DATE <b>December 15, 2015</b>	

- O. **Review Appraisal:** A review appraisal as defined by USPAP performed by the Staff Appraiser or contract appraiser, or a desk review of an appraisal conducted by the Staff Appraiser or contract appraiser.
- P. **Right of Entry:** An agreement, signed by the Director, allowing a limited specific use of City-owned property for a term not to exceed 12 months or conversely, a license granted to the City for entry on another's property, for a specific purpose, transferring less than a possessory interest in real estate in return for payment or services. The minimum Right of Entry fee for City-owned property is \$500.
- Q. **Staff Appraisal:** An appraisal prepared by an appraiser employed by the City.
- R. **Staff Estimate:** Estimate of sales price of an interest in City-owned real property prepared by staff through accepted processes and procedures.
- S. **Surplus Real Property:** All real property interests not currently in use or planned for use by any City department.
- T. **Temporary Construction Easement (TCE):** An agreement authorizing the City to use another's property temporarily for purposes of constructing a public improvement or project
- U. **Temporary Revocable Easement (TRE):** An agreement to allow the revocable use of City-owned property or rights of way that are not presently required for public purposes. The Director may sign TREs of less than \$12,000 annual rent with the concurrence of the Director of the controlling Department. TREs in excess of \$12,000 annual rent must be signed by the City Manager.
- V. **Utility Service Agreement:** An agreement that authorizes utility companies to enter and use City-owned land for the purpose of providing utility services to City-owned facilities and/or buildings. The Utility Service Agreement is signed by the Director (as successor to the Real Estate Administrator) pursuant to Resolution No. 16431 adopted October 4, 1993.
- W. **Value:** Value shall be determined pursuant to applicable law, depending upon the circumstances of the transaction.

IV. **GENERAL**

A. **General Guidelines:**

- 1. City Departments planning to acquire or dispose of real property or an interest in real property shall inform the Director, in writing, of the Department's objective, the name of the project manager, a funding source, and whether



**ADMINISTRATIVE DIRECTIVE**

<b>REAL PROPERTY: MANAGEMENT, ACQUISITION, SALE AND LEASE</b>	NUMBER	PAGE
	<b>4.02-1</b>	<b>5 of 14</b>
	EFFECTIVE DATE <b>December 15, 2015</b>	

Mayor and Council has authorized said transaction(s) by adopting the appropriate resolution or ordinance, if necessary.

2. When Mayor and Council approval of a real estate transaction is sought, the requesting department shall solicit the input of the Director prior to obtaining said approval. For certain projects requiring less than five separate acquisitions, Mayor and Council approval may be sought upon acceptance of all agreements or upon realization that condemnation efforts are required. The Director will advise the City Manager, on a case-by-case basis, which projects fall under this category.
3. The Real Estate Program shall maintain appropriate databases to manage the real property assets of the City.

**B. Real Estate Inventory – Property Management:**

1. The Real Estate Program shall maintain a current inventory of City-owned real estate interests and maintain files that provide relevant information on each property. Rights-of-way and drainage ways are not a part of this inventory.
2. The Real Estate Program shall:
  - Maintain a Geographic Information System (GIS) and an Asset Management Data Base for all City-owned real property and all interim uses requiring Leases, TREs, Rights of Entry, Utility Service Agreements and Peddler’s Rights of Entry processed through the Real Estate Program.
  - Inspect and/or secure City-owned real property within a reasonable time after the City obtains possessory rights to property.
  - Develop lease analyses of City-owned property that is leased or to be leased, as well as for lease or potential lease of property by the City. Lease analyses of a particularly complex or sensitive nature may require staff or fee appraiser consultation or appraisal, as determined by the Director on a case by case basis.
  - Coordinate the collection of rents and management of the Fixed Assets Inventory with the Finance Department.

**C. Environmental Review:**

The requesting department is responsible for requesting the Environmental Services Department (ESD) to complete the required environmental reviews. The Real Estate Program, ESD and the requesting department shall achieve consensus regarding the recommended environmental action(s) associated with the proposed transaction(s).



ADMINISTRATIVE DIRECTIVE

<b>REAL PROPERTY: MANAGEMENT, ACQUISITION, SALE AND LEASE</b>	NUMBER	PAGE
	<b>4.02-1</b>	<b>6 of 14</b>
	EFFECTIVE DATE <b>December 15, 2015</b>	

**D. Cultural Resources:**

When property is to be acquired, a Cultural Resource Clearance (CRC) is required. When property is to be sold, Real Estate Program Staff may, through the on call consultant, obtain further information for Mayor and Council consideration. All City sponsored construction projects require a CRC prior to commencement. The requesting department is responsible for ordering and performing the CRC.

**V. ACQUISITION PROCEDURE**

**A. Pre-Acquisition Planning - Real Estate Program Participation:**

At the inception of the design and/or construction of public improvement projects reasonably anticipated to require the acquisition of interests in real property not owned by the City, a Public Improvement Project Team shall be formed by the Department Head responsible for implementing the project, for the purpose of soliciting the recommendations and advice of the Real Estate Program.

**B. Review of Title Status:**

A title report shall be obtained for all property to be purchased. Purchases shall be by Warranty Deed unless otherwise approved by the City Attorney's Office.

**C. Environmental and Cultural Review:**

1. Property to be purchased shall be reviewed through an environmental analysis sufficient to gain the approval of the ESD and entitle the City to an innocent purchaser status under Federal Environmental Law.
2. Property to be purchased is required to have CRC as outlined above in Section IV, D.

**D. Real Estate Program Director Initial Review:**

The Director or, in the Director's discretion, his or her designee, shall determine the propriety of each acquisition contemplated prior to the valuation process.

**E. Appraisal of Property:**

Property proposed to be acquired by the City with an initially-estimated value in excess of \$10,000 shall be appraised by an independent fee appraiser or by a staff appraiser to determine market value. When acquiring property from another governmental agency, this appraisal requirement may be waived at the discretion of the Director.



ADMINISTRATIVE DIRECTIVE

<b>REAL PROPERTY: MANAGEMENT, ACQUISITION, SALE AND LEASE</b>	NUMBER	PAGE
	<b>4.02-1</b>	<b>7 of 14</b>
	EFFECTIVE DATE	
<b>December 15, 2015</b>		

**F. Establishment of Maximum Purchase Price:**

1. **By Administrative Estimate:** The Director shall have the option of selecting a nominal value of up to \$10,000 for parcels initially estimated to be worth from \$1 to \$10,000 (and in some cases up to \$25,000 in accordance with 49 CFR 24.7 and 24.102), substantiated by an estimate performed by a staff appraiser or contract appraiser based upon appropriate data to be retained in the file (Valuation Waiver).
2. **By Appraisal:** An appraisal, as defined in Section II, of scope sufficient to satisfy applicable law must be completed for parcels valued in excess of \$10,000, unless the Director causes a Valuation Waiver to be prepared, as provided above.

**G. Negotiations for Acquisition:**

1. When negotiations have culminated in an agreement, Real Estate Program staff shall present and obtain a written contract. A Summary Statement of Just Compensation shall be presented to the property owner if the acquisition is precedent to or in lieu of condemnation. Offers made under the threat of condemnation shall be at no less than the approved appraised value.
2. Property offered to the City voluntarily such as through the Advanced Acquisition Program, and other Mayor and Council directed actions, may be acquired at a negotiated price to be approved by Mayor and Council or through Administrative Settlement as provided herein.

Nothing in this Administrative Directive shall be interpreted as waiving any regulation including and not limited to provisions of the Uniform Relocation Act which require the acquiring agency to appraise and establish a just compensation value for property being acquired by the agency. Conversely, nothing in this Administrative Directive shall prevent a person or entity, after being informed of their right to just compensation, from waiving all or a part of the established just compensation and making a gift or donation of real property.

**H. Administrative Settlement:**

In certain instances, when a property owner or authorized representative has rejected the City's offer and has made a counteroffer, a determination may be made by the Director, in conjunction with City management and with the City Attorney's advice and consent where appropriate, to acquire the property through an administrative settlement rather than condemnation. The general criteria for such determination will be that the administrative settlement acquisition will cost the City less than the anticipated result of condemnation litigation, and that the determination is in the best interests of the City. This determination should be deemed appropriate upon advice of



**ADMINISTRATIVE DIRECTIVE**

<b>REAL PROPERTY: MANAGEMENT, ACQUISITION, SALE AND LEASE</b>	NUMBER	PAGE
	<b>4.02-1</b>	<b>8 of 14</b>
	EFFECTIVE DATE	
<b>December 15, 2015</b>		

the City Attorney's office, take into account legal requirements of just compensation beyond that measured by appraised market value. All relevant factors concerning the acquisition should be considered in making the determination of Administrative Settlement.

**I. Administrative Settlement Authority:**

Administrative Settlement Authority is provided to the Director, in conjunction with City management on the advice of the City Attorney's office, in accordance with the Legal Advisory Standards for Administrative Settlements in Anticipation of Litigation, which standards shall be uniformly applied.

**J. Escrow Process:**

Once a settlement to acquire property has been reached, the City may open an escrow with a title company selected from a list of acceptable escrow companies. The City shall pay all escrow fees directly related to the acquisition, unless otherwise agreed upon by all parties.

**VI. SALE PROCEDURE**

**A. Circularization of Proposed Surplus Property Sales and Exchanges:**

The Real Estate Program shall circulate for comments to all appropriate City Departments, utility companies, and any other interested entities, all proposed property sales, leases or exchanges. All comments shall be considered and evaluated prior to final action. If the comments provide no substantial reason to retain the property, the Real Estate Program will declare the property surplus to the City's needs and will notify all involved or affected departments of the declaration.

**B. Review of the Title Status:**

Real Estate Program staff shall perform a review to establish the status of title for all property to be sold, unless otherwise noted herein. A preliminary title report may be obtained for this purpose.

1. Where title to City-owned real estate is not clear, the City Attorney's Office may begin legal proceedings to clear title, or the property may be sold with questionable title. If the property is sold with questionable title, a written acknowledgment from the purchaser, specifying the title question and the purchaser's awareness and acceptance of said title question shall be obtained and kept as a permanent record of the City.
2. A Special Warranty Deed may be used to convey title to City property. However, no stated warranties shall be given in the cases of questionable title, in sales of vacated right of way, or in sales of property valued at or below



ADMINISTRATIVE DIRECTIVE

<b>REAL PROPERTY: MANAGEMENT, ACQUISITION, SALE AND LEASE</b>	NUMBER	PAGE
	<b>4.02-1</b>	<b>9 of 14</b>
	EFFECTIVE DATE	
<b>December 15, 2015</b>		

\$50,000 pursuant to the Administrative Sales Process. In these cases a form of deed other than a Warranty Deed shall be issued, unless authorized by the Director and approved by the City Attorney's office.

**C. Real Estate Program Director Initial Review:**

The Director will determine the propriety of each disposition contemplated prior to the valuation process and seek the guidance of the Staff Appraiser and/or an independent fee consultant when the disposition is deemed to be sensitive or complex in nature.

**D. Valuation Process - Appraisal of Property:**

City-owned Property proposed to be sold that has an estimated sales price of between \$1 and \$50,000, established by a Staff Estimate does not require an appraisal report. A licensed or certified staff or independent fee appraiser shall appraise City-owned property with an estimated value of \$50,000 or more. At the discretion of the Director, two appraisals may be performed on property when the proposed sale is particularly sensitive or complex in nature.

**E. Establishment of Minimum Sales Price:**

1. **By Administrative Process:** The Director shall have the option of selecting a minimum/nominal sales price between \$500 and \$5,000 for parcels determined by Staff to be worth less than \$5,000, substantiated by appropriate data to be retained in the file. The Staff estimate, unless an appraisal is elected, shall set the minimum sales price of property between \$5,000 and \$50,000.
2. **By Appraisal:** An appraisal and a review appraisal, as defined in Section II, of scope sufficient to satisfy applicable law must be completed for parcels estimated to exceed a value of \$50,000.
3. **Credits and Advances:** On all sales that require appraisal or survey services (boundary, ALTA, environmental, and archeological), the applicant may be required to front the cost of such services in the form of an advance and may, at the Director's discretion, recover all or part of the cost thereof as a credit against the purchase price at the time of closing. If no sale is consummated, no refund of the advance will be made to the applicant. In order to receive a credit, the sale must not be the result of an encroachment and the applicant must close the transaction within one year from the date the City established the value of the parcel. No reimbursement or credit shall be given for the non-refundable application fee and in no event shall the City reimburse or credit advances that exceed the purchase price of the parcel.



ADMINISTRATIVE DIRECTIVE

<b>REAL PROPERTY: MANAGEMENT, ACQUISITION, SALE AND LEASE</b>	NUMBER	PAGE
	<b>4.02-1</b>	<b>10 of 14</b>
	EFFECTIVE DATE	
<b>December 15, 2015</b>		

**F. General Sale Procedures:**

1. **Properties determined not to be independently developable or marketable:** Arrangements for the sale of these properties shall be made by the Real Estate Program staff to adjacent property owner(s) at the established minimum sales price in accordance with Section VI, E above.
2. **Properties determined to be independently developable or marketable:** These properties will be advertised at least twice in local newspapers, with requests for offers on a given date no less than thirty (30) days or more than three hundred sixty-five (365) days after first publication. Bids will be submitted per the advertised instructions.

**G. Acceptance or Rejection of Offers:**

Staff shall recommend to the City Manager's Office acceptance of the offer that is most advantageous to the City. If the City Manager's Office elects to forward an offer to Mayor and Council for consideration, the Mayor and Council shall be given a reasonable time to accept or reject the offer.

In the event that no acceptable offers are received, the Real Estate Program shall re-advertise the property at the same or at a reduced minimum sale price, subject to prior approval of the Real Estate Director.

**H. Apportionment of Sales Costs:**

The City may offer to pay a brokerage fee up to 7%, under certain limiting conditions, and may pay title insurance costs, half the escrow fees, and other applicable seller's costs on real estate sales, at the discretion of the Director.

**I. Mayor and Council Authorization:**

The sale of surplus real property shall be authorized by an Ordinance passed by the Mayor and Council provided, however, that sales of City-owned property estimated by Staff to have a value of \$50,000 or less may be processed by the Director and completed administratively as authorized by Ordinance #10892, adopted by Mayor and Council on April 26, 2011. The abandonment of certain easements and restrictions by the City has been pre-authorized by Ordinance #8537 adopted by the Mayor and Council on July 10, 1995.

**J. Exceptions:**

The Study Session items adopted by Mayor and Council November 7, 1994 and June 19, 1995 provide the Real Estate Program with direction relating to undeveloped right of way requested to be vacated and redeveloped. These items are commonly referred



**ADMINISTRATIVE DIRECTIVE**

<b>REAL PROPERTY: MANAGEMENT, ACQUISITION, SALE AND LEASE</b>	NUMBER	PAGE
	<b>4.02-1</b>	<b>11 of 14</b>
	EFFECTIVE DATE	
<b>December 15, 2015</b>		

to as the "Paper Plat Process" and are not required to be valued and conveyed as outlined by this Administrative Directive.

Notwithstanding these rules and regulations, the Mayor and Council may elect to transfer, sell, dispose of, and convey title to real property by other legal methods.

**VII. LEASE OF CITY-OWNED PROPERTY**

**A. General Provisions:**

Charter amendments approved by the Mayor and Council September 5, 1989 allow for the direct lease of City-owned property without competitive bids if Mayor and Council determine that such a lease is in the best interest of the public. In the absence of such a determination, the lease of City-owned property shall be performed by a competitive bid in response to a public solicitation.

The Real Estate Program will coordinate all lease activities in accordance with the Leasing Policy adopted in Study Session by Mayor and Council February 14, 1994 with certain provisions being updated and restated in Ordinance #10892, adopted by Mayor and Council on April 26, 2011. The Real Estate Program shall perform lease analyses for lease of City-owned property as well as for lease of privately-owned property by the City. Lease analysis may require staff or independent fee appraiser consultation or appraisal, to be determined on a case-by-case basis by the Director.

**B. Leases to Existing Occupants of Purchased Property:**

1. Commercial entities occupying property at the time of City purchase under threat of condemnation or in lieu of condemnation are permitted to lease the property on a month-to-month basis. The lease rate for such extended occupancies shall be 50% of the fair market lease rate for six (6) months and at the prevailing market rate thereafter.
2. Residential occupants at the time of City purchase under threat of condemnation or in lieu of condemnation may lease the property at no cost for the first 90 days, reserving to the discretion of the City Manager a lease at a percentage of the prevailing market rate or a nominal rate thereafter. The City Manager or designee may execute an Extended Occupancy Agreement in these instances.
3. When property purchased by the City under threat of condemnation is vacant and not immediately needed for a public improvement, the property may be leased as described in the following sections.



**ADMINISTRATIVE DIRECTIVE**

<b>REAL PROPERTY: MANAGEMENT, ACQUISITION, SALE AND LEASE</b>	NUMBER	PAGE
	<b>4.02-1</b>	<b>12 of 14</b>
	EFFECTIVE DATE	
<b>December 15, 2015</b>		

**C. Lease of Improved Residential Properties:**

1. Unless otherwise directed by the City Manager, the Housing and Community Development Department (HCD) shall have the first opportunity to use unoccupied City- owned residential property for its family rental programs.
2. Property that is found to be unsuitable for use in the HCD family rental programs will be made available by the HCD for lease at market rates to a private or governmental entity in the best interest of the City.
3. Property that is not leased at market rate will be advertised by HCD as available to legally established non-profit human services agencies. Agencies interested in using the property will be asked to submit a proposal describing their intended use of the property and proposed rental rate. Only proposals for lease at a rate greater than or equal to 10% of the market lease rate and no less than \$250/year shall be considered. The lease term including options to renew will be no longer than five (5) years. HCD will recommend a lease based upon review of the submitted proposal(s), zoning compliance, viability of the proposal(s) and return/benefit to the City. Only the Mayor and Council can approve a lease under this section.

**D. Lease of Improved Commercial and Unimproved Residential Properties:**

1. Vacant or improved commercial property and unimproved residential property may be listed as available for lease, or offered for lease through a publicly noticed competitive bid process, at market rates. Based upon review of submitted proposal(s), including but not limited to a review of such matters as zoning compliance, viability of the proposal(s) and return/benefit to the City, the Real Estate Program will make a recommendation through the City Manager's Office to Mayor and Council for its direction.
2. Vacant or improved commercial property and unimproved residential property may also be offered for lease at market rates through a publicly noticed competitive bid process. Based on review of submitted proposal(s), including but not limited to such matters as zoning compliance, viability of the proposal(s) and return/benefit to the City, the Real Estate Program will make a recommendation, through the City Manager's Office to Mayor and Council for its direction.
3. If after listing or a publicly noticed competitive bid process, the City is not able to lease properties at market value, the Real Estate Program may lease them to a legally- established non-profit entity at a rate greater than or equal to 25% of the market lease rate (no less than \$1,200/year) and for a term up to five years, including options to renew. In the event a prospective lessee under this section is required to construct or perform such substantial improvements to the leased property so as to require lender or donor approval to secure



**ADMINISTRATIVE DIRECTIVE**

<b>REAL PROPERTY: MANAGEMENT, ACQUISITION, SALE AND LEASE</b>	NUMBER	PAGE
	<b>4.02-1</b>	<b>13 of 14</b>
	EFFECTIVE DATE <b>December 15, 2015</b>	

funding or to recapture the lessee's investment, upon the lessee's request, the term may be extended beyond that set forth herein, upon the approval of Mayor and Council. All such leases shall include rent escalator clauses using industry-recognized practices.

4. If properties are determined to be surplus to the City's needs, they may be offered for sale to the general public pursuant to approved City policies.

**E. Standard Lease Terms:**

1. The Real Estate Program shall ensure that each lease with a below market rent includes a provision that allows the City to audit the lessee's books, records, and financial statements. Audit provisions will be included in any new non-profit lease, and lease renewal.
2. All leases of City-owned property shall include a form of no-cause termination appropriate to the context of the lease which may be exercised by the City in its sole discretion. The Real Estate Program in consultation with the City Manager shall determine what form of no-cause termination is appropriate to the circumstances.
3. All leases to any non-profit entity for less than market lease rate shall be limited to a term not to exceed five (5) years, unless otherwise expressly agreed by Mayor and Council. Renewal options may be considered by the Director on a case by case basis.

**F. Clearances:**

Lessees of City property shall obtain any required investigations, surveys, clearances, approvals and permits prior to performing any excavation, remodeling, demolition or tenant improvements to the leased premises.

**VIII. LEASE OF PROPERTY FOR PUBLIC USE**

- A. All departments which require the public use of property owned by other persons or entities through a lease shall submit, in writing, a request to the Real Estate Program outlining all requirements of the lease, i.e. location, size, parking, hours of operation, etc.



ADMINISTRATIVE DIRECTIVE

<b>REAL PROPERTY: MANAGEMENT, ACQUISITION, SALE AND LEASE</b>	NUMBER <b>4.02-1</b>	PAGE <b>14 of 14</b>
	EFFECTIVE DATE <b>September 15, 2015</b>	

- B. A public solicitation process shall be employed which may include letters to brokers and advertisements in local newspapers. The Director shall determine the level of solicitation on a case by case basis.
- C. All property listings and offers for lease shall be routed to the Real Estate Program, who will perform a review of the proposals to determine if the lease rate offered is reasonable and if the particular property meets any departmental needs. Qualifying proposals shall be forwarded to the requesting Department for review. If the requesting department accepts a lease proposal and if the lease rate is less than \$25,000 per year, the lease may be reviewed and approved by the Director, in consultation with a staff appraiser or independent fee appraiser. All other lease proposals accepted shall be submitted with the recommendation of the Manager to the Mayor and Council for its approval and execution the lease.
- D. If a specific property is determined to be unique in location and amenities, the Director may determine a sole source is acceptable, thereby eliminating the need for a competitive selection process.

**IX. TRESPASSERS ON CITY OWNED OR CONTROLLED PROPERTY**

When trespassers on City owned or controlled real property are discovered, the trespassers will be notified to vacate the premises and given an opportunity to promptly remove any encroachments or personal property. The Director shall determine the eventual disposition of the property. The Study Session item of November 7, 1994 provides the Real Estate Program with further direction relating to the placement of private improvements within public right of way in residential areas.

**Appendices**                      Appendix 1, Mayor and Council Direction and Legislative Policy Documents

**References**                        None

**Review Responsibility and Frequency**      The City Manager or his/her designee shall review this directive in May of each year and, in consultation with the Director, is authorized and directed to amend and revise this Administrative Directive as deemed necessary. Last review date: 9/15/15.

**Authorized**  
  
  
City Manager

  
Date



## Mayor and Council Direction and Legislative Policy Documents

Category	Affect	Date	Direction
Administrative Sales	Legislative Policy and approval for the sale of remnant properties.	12/11/95	Ord. #8614 Repealed by: Ord. #10892
Administrative Sales	Legislative Policy and approval for an alternate property sales policy.	11/1/04	Ord. #10077 Repealed by: Ord. #10892
Administrative Sales	Legislative Policy and approval for the sale of properties Administratively.	4/26/11	Ord. #10892
Abandonments	Legislative Policy and approval for the abandonment of Easements and/or Restrictions.	7/10/95	Ord. # 8537
Application Fees	Legislative policy establishing a real estate application fee structure.	6/7/82	Ord. #5584
Application Fees	Legislative policy establishing a real estate application fee structure.	9/13/11	Ord. #10928
Leases	Charter Amendment allowing non-competitive direct leases.	9/5/89	Charter Amendment
Leases	Policy regarding Leasing.	2/14/94	M&C Study Session
Leases	Updated and restated leasing policies.	4/26/11	Ord. #10892
Paper Plat	Policy regarding Paper Plat (undeveloped) right of way for redevelopment.	11/7/94	M&C Study Session
Paper Plat	Clarification of Policy regarding Paper Plat (undeveloped) right of way.	6/19/95	M&C Study Session



<b>Peddler's License</b>	<b>Consider a Policy regulating Peddlers.</b>	<b>6/7/93</b>	
<b>Peddler's License</b>	<b>Legislative Policy and approval to issue Peddler's Right of Entry.</b>	<b>9/27/93</b>	<b>Ord. #8129</b>
<b>Private Use of right of way</b>	<b>Policy regarding landscape and encroachments that preclude the uses of the R/W by the public.</b>	<b>11/7/94</b>	<b>M&amp;C Study Session</b>
<b>Temporary Revocable Easements</b>	<b>Policy regarding payment of market rental for use of right of way.</b>	<b>6/7/82</b>	<b>Ord. #5584 M&amp;C Policy #230-04</b>
<b>Temporary Revocable Easements</b>	<b>Policy regarding payment of market rental for use of right of way.</b>	<b>5/27/86</b>	<b>M&amp;C Policy #221-2.9</b>
<b>Temporary Revocable Easements</b>	<b>Policy of calculating rental rates and discounts for constructed improvements.</b>	<b>10/28/91</b>	<b>M&amp;C Study Session</b>
<b>Utility Service Agreements</b>	<b>Legislative Authority for City Manager to sign USA's.</b>	<b>10/4/93</b>	<b>Res. #16431</b>