

HISTORIC
EVART

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Disposition of City Owned Real Property
Policy #2020-05
Adopted by City Council June 30, 2020

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Primary Functions

Economic Development

One of the principal functions of the Economic Development Committee is focus on community development and owner occupancy of surplus real property. The Economic Development Committee consists of the city manager, assistant city manager, and the city mayor, and other members of the public.

Here you will find information on the City's policies regarding the disposition of surplus land.

On a regular basis, the City reviews its inventory of real property to determine what land is in excess of its foreseeable needs. Land that is no longer needed for public purposes is declared surplus and then made available for sale in accordance with Ordinance No. 2020-2, an Ordinance to Amend Ewart City Code, Chapter 210-Purchases, Contracts & Sales. The ordinance states, whenever any real property, owned by the City of Ewart, is no longer needed for corporate or public purposes, the same may be offered for sale. The City Manager may obtain certified appraisals, to determine the market value, and solicit Purchase Agreements, based on the appraisal. At the time a proposed offer to purchase is made, the City Manager shall present the offer, to the City Council, for approval.

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|  | <h2 style="margin: 0;">Disposition of City Owned Surplus Real Property Policy #2020-05</h2> |
| | <p style="text-align: center;">Adopted by City Council on June 30, 2020</p> |

On a regular basis, the City of Evart reviews its inventory of real property to determine what land is in excess of its foreseeable needs. Land that is no longer needed for public purposes is declared surplus and then made available for sale in accordance with the following Policy for the Disposition of City Owned Surplus Real Property as approved by City Council.

Questions regarding Surplus Real Property can be directed to the City Manager via email sarah.dvoracek@evart.org or by calling 231-734-2181.

Scope, Purpose & Responsibility

1. Scope:

Section 12.8 of the City Charter provides the council shall Section 12.8 The council shall establish by ordinance the procedures for the purchase or sale of personal property for the city for the direction of the city manager. The ordinance shall provide a dollar limit within which purchases of property may be made without the necessity of securing competitive bids, and the dollar limit within which the purchases may be made without the necessity of prior council approval.

2. Purpose:

To provide a comprehensive policy, process and guidelines for disposing of City owned real estate. This policy is intended to create a process that is transparent to the community, maximizes return on investment, and provides a vehicle for collaboration. It is the City’s intent to reuse or redevelop property that reflects the City’s economic sustainability goals and desired community assets.

3. Responsibility:

The City shall maintain a listing and data files of all City owned real property, which shall include all information in the City’s possession concerning the real property, including, but not limited to, size, zoning, assessed value, available appraisals, legal description, liens, encumbrances, method of acquisition, grants, and any other available data. Prior to considering any sale or other disposition of City owned real property, the City Manager or his/her designee shall review the history of each parcel of City owned real property to determine whether the parcel is subject to grant or deed restrictions, laws (such as tax foreclosure proceedings), or other circumstances or conditions which may prohibit, restrict or affect the sale or transfer of the parcel. The City Manager will notify the City Council of all City-owned tax reverted properties where excess sale proceeds will be returned to the state pursuant to the state law.

At least once annually, the City Manager or his/her designee shall determine, in accordance with this Policy, whether specific parcels of City owned real property are no longer used for public purposes or will enhance economic or residential development within the City and therefore can be sold or disposed of in another manner [hereinafter referred to as "Surplus Real Property"]. The City Manager or his/her designee shall then coordinate and manage the sale or other disposition of Surplus Real Property in accordance with this Policy.

3.1 The City shall retain an easement on all properties where public utilities exist or where future development may conceivably require public utilities. The City may retain an easement for ingress/egress over properties to access and/or maintain other City properties, facilities or services.

4. Policy:

4.1 Definitions

4.1.1 "Notice of Intent to Sell – Request for Proposals" means the notice prepared by the City announcing that the City will receive offers for the sale of a particular parcel or parcels of Surplus Real Property. The notice shall include information then available to the City concerning the parcel or parcels of Surplus Real Property. The notice shall also provide prospective purchasers with directions on where or how they may obtain specific information concerning the Surplus Real Property identified in the notice.

4.1.2 "Surplus Real Property" includes the lands, buildings, structures and fixtures on the real property.

4.1.3 "City Council" is the elected legislative body of the City of Evert.

4.2 Notice of Intent to Sell

In July, of each year the City shall publish a Notice of Intent to Sell in a newspaper of general circulation.

The City may also sell parcels of Surplus Real Property through the following methods:

(A) A public request for proposals by publishing a Notice of Intent to Sell – Request for Proposals. At a minimum the notice shall include the parcel's mailing address, parcel tax identification number, zoning classification, size, and minimum bid price. A copy of the notice shall be mailed or delivered to all adjacent real property owners as identified in the City's assessment records. The notice shall allow a minimum of thirty (30) days for the submission of responses, proposals, offers and/or bids.

(B) A classified advertisement containing the information in (A) which is published for three consecutive days in a newspaper of general circulation in a local newspaper.

(C) A listing containing the information in (A) on the City's website for a minimum of five days.

The City may consider and accept unsolicited offers on any parcel of Surplus Real Property or any other parcel of City owned real property through a licensed real estate broker, including its real estate salespersons, or from individuals or other legal entities.

All advertisements, notices, listings, requests for proposals or bids, and any other method of marketing Surplus Real Property shall contain the Reserves of the City in Section 4.10 of this Policy. Copies of this Policy and the Disclaimer Regarding City Owned Surplus Real Property (Attachment A) ["Disclaimer"] shall be posted on the City's website, be made available at the City Clerk's office, and mailed to any person or entity upon their request.

4.3 Transaction Requirements

Except as may be authorized by the City Council, all Surplus Real Property shall be sold "AS IS", with conveyance by a quit claim deed or a land contract (which provides for the subsequent conveyance by quit claim deed) prepared by the City Attorney. All conveyances shall be subject to any existing easements, reservations, rights of use and restrictions of record, building and use restrictions, zoning ordinances, municipal regulations, prior conveyances or leases of oil, gas and mineral rights, and all liens, encumbrances, defects and other conditions on, concerning or relating to the Surplus Real Property. In no event will the City consider conveying marketable title to Surplus Real Property unless a standard policy of title insurance can be obtained and issued for the Surplus Real Property.

The Disclaimer shall be provided to every prospective purchaser; attached to all listings, sale and other documents related to the prospective sale or transfer of the Surplus Real Property; and executed by all purchasers, transferees or recipients of Surplus Real Property and attached to any purchase agreement. The City shall not sell, transfer or convey Surplus Real Property or any other parcel of City owned real property to any individual or entity who is in default of any contract or obligation with the City, including but not limited to a prospective purchaser who is shown in the City records to have delinquent City real or personal property taxes or special assessments, past due utility bills, outstanding invoices for City services, or has received a notice or citation for violation of any City ordinance, rule or regulation, unless the default, delinquency or violation is corrected prior to City Council's consideration of the sale or other disposition of the Surplus Real Property.

The purchaser shall agree to pay and be responsible to pay for any mortgage title insurance policy, all costs in applying for and securing financing or assuming existing financing, all costs of preparation of documents relating to new or existing financing, recording financing statements, inspections, environmental assessments, recording fees for mortgage and deed, costs in connection with matters relating to purchaser's use or intended use of the Surplus Real Property, including but not limited to, re-zoning, special use permits, variances, soil borings, surveying, rights of way, site plan preparation, sanitary sewer lines, water lines and other matters related to development of the Surplus Real Property, and purchaser's broker and attorney fees.

4.4 Contents of Response to Notice of Intent to Sell or Unsolicited Offers

All offers to purchase Surplus Real Property shall be in writing and signed by the prospective purchasers, and contain the following information:

- a) parcel number,
- b) parcel address,
- c) total purchase price,
- d) proposed use and development of the property,

- e) guarantees for completing any proposed project,
- f) anticipated method(s) of financing,
- g) contingencies required by purchaser,
- h) formal name, address, telephone number and legal organization (if applicable) of purchaser(s),
- i) name of principal for purchaser who is authorized to execute all documents on behalf of purchaser,
- j) timeline for implementation and completion of any proposed project
- k) any specific contingencies to be performed by the City,
- l) dollars to be invested (if constructing a building/home),
- m) number of jobs to be created/retained (if commercial or industrial),
- n) average job wage (if commercial or industrial),
- o) name, address and telephone number of developer,
- p) terms of sale (e.g. cash, land contract or option), and
- q) an acknowledgment of a copy of this Policy and Attachment A.
- r) City shall require a development agreement (if commercial or industrial)

All brokers or agents acting on behalf of the proposed purchaser shall be disclosed.

4.5 Deadline for Proposals, Responses, Offers or Bids

The City may refuse to consider any response, proposal, offer or bid concerning Surplus Real Property which is received after the expiration of the published deadline. The City, if determined to be in the City's best interest, may consider offers on any parcel of City owned real property which is not included in any announcement of Surplus Real Property.

4.6 Approval

Vacant Surplus Real Property with 50' Frontage or Less. Disposition of vacant surplus real property with frontage of 50' or less may be approved by the City Manager.

ALL REMAINING SALES AND TRANSACTIONS COVERED BY THIS POLICY MUST BE APPROVED BY THE CITY COUNCIL. Prior to the City Council's consideration of any transaction, the City Manager shall provide the City Council with a summary of all responses, proposals, offers and bids received for each parcel of Surplus Real Property.

4.7 Purchaser's Use of Real Estate Broker (i.e. "Buyer's Agent")

Purchaser shall be responsible for payment of its real estate brokerage fee. The City may agree to pay all or a part of purchaser's real estate brokerage fee from the sale's proceeds. Purchaser must have a written contract with the real estate broker and the broker's fee must be acceptable to the City. Purchaser and its real estate broker shall certify:

4.7.1 That the real estate broker is a "Buyer's Agent", as defined in the Michigan Real Estate Brokers Act, in the transaction and that the Buyer's Agent has performed a service and procured the sale for purchaser; and

4.7.2 That the Buyer's Agent shall not be considered to be an agent or representative of the City.

4.8 Real Estate Broker

When the City requires the services of a real estate broker, the City and a licensed real estate broker shall enter into the listing agreement in the form attached to and incorporated in this Policy by reference. The broker's fee charged to the City shall be negotiated by the broker and the City. The City will pay the broker's fee preferably out of the proceeds of the sale at closing, but in no event more than forty-five (45) days from the date of the successful closing of the transaction.

4.8.1 Subject to negotiation and acceptance by the City and Broker, the City may consider real estate brokerage fees in the following ranges:

A. Residential

up to \$100,000: up to 7%

\$100,001 – 200,000: up to 6%

\$200,001+: up to 5%

B. Commercial

up to 10%

C. Industrial

up to \$100,000: up to 10%

\$100,001 – 200,000: up to 9%

\$200,001+: up to 8%

4.8.2 No exclusive brokerage agreements will be granted.

4.8.3 The broker shall use all available marketing methods to advertise and promote the sale of the Surplus Real Property.

4.9 Awards, Preferences and Conditions

4.9.1 Residential: Preference will be given to purchasers that will construct a home on a vacant parcel. Adjoining property owners will be given preference if the Surplus Real Property is unbuildable because of zoning, other codes or laws, or economic factors or conditions.

4.9.2 Commercial and Industrial: Preference will be given according to the number of jobs to be created and the dollar amount of the purchaser's total investment.

4.9.3 Prior to any listing; Notice of Intent to Sell; other marketing or solicitation method; or any acceptance of any response, proposal, offer or bid concerning commercial and industrial Surplus Real Property, parcels designated in subsection 4.9.4 shall be appraised by an appraiser who is licensed or certified by the State of Michigan to conduct the appraisal deemed necessary for the particular parcel of Surplus Real Property. The appraisal and any agreement related thereto shall be distinct and separate from any listing agreement, proposal, offer, bid, or market analysis which may be requested or entered into by the City.

4.9.4 Appraisals: All commercial and industrial Surplus Real Property having an assessed value for the land, buildings and improvements, in excess of \$50,000 must be appraised.

4.10 Reserves of the City

The City absolutely reserves to itself the right and prerogative: to reject any and all proposals, responses, offers and/or bids to purchase any Surplus Real Property; to reject any proposals, responses, offers and/or bids not accompanied by the documents or data required by this Policy, or the advertisement and/or any request for proposals, offers or bids; or to reject any offer which is in any way incomplete, irregular, not responsive or not responsible; or to withdraw any parcel of Surplus Real Property prior to the acceptance of or entry into any purchase agreement. The City may enter into a purchase agreement with a purchaser which the City Council, in its sole and absolute discretion and judgment, determines will be in the best interests of the City. The City reserves the right to waive informalities or irregularities in any of the processes, procedures, terms or conditions set forth in this Policy. The City shall not enter into any purchase agreement until the City has concluded all investigations it deems necessary to establish the responsibility, qualifications and financial ability of the proposed purchaser to purchase the Surplus Real Property and/or to complete any project identified by a prospective purchaser as set forth in section 4.4.

4.10.1 This “reservation” shall be included in any publication, listing agreement, notice or other request concerning Surplus Real Property or any other City owned real property.

Inventory


Please contact the City of Ewart at 231-734-2181 or via email sarah.dvoracek@evart.org to obtain an inventory listing of available residential, commercial, and industrial property for sale by the City of Ewart or visit our website www.evart.org

Forms

Offer to Purchase Form (complete and return)

Disclaimer Form (complete and return with Offer to Purchase Form)

Real Estate Brokers Only Non-Exclusive Right to Sell Real Estate Agreement (complete and return)

| | |
|---|--|
|  | <h2>Disclaimer Form</h2> <h3>Regarding Surplus Real Property</h3> |
| | <h3>Attachment "A"</h3> <p>Adopted by City Council on June 30, 2020</p> |

Purchaser understands, acknowledges and agrees that he/she/it is purchasing the Surplus Real Property located at _____, City of Evart, Michigan, in its "AS IS" condition, and that neither the City of Evart, nor any of its officers, employees, brokers, agents or representatives [hereinafter collectively referred to as "City"] has made any promises, representations, warranties or guarantees concerning or relating to the Surplus Real Property, including, but not limited to, the legal ownership or marketability of title, or the condition of the Surplus Real Property or any building, structure, fixture or appurtenance thereon. It is expressly agreed that City makes no warranties that the Surplus Real Property complies with federal, state or local government laws or regulations applicable to its use. Purchaser assumes all responsibility for any damages caused by the condition of the Surplus Real Property upon transfer of title and the environmental condition of the Surplus Real Property, and hereby releases and forever discharges City from any and all actions, causes of actions, claims and demands, in law and equity, for, upon or by reason of any damage, loss or injury sustained by or threatened against Purchaser or any other person in connection with the Surplus Real Property and with respect to the environmental condition of the Surplus Real Property. Conveyance of the City's interest in the Surplus Real Property will be made by a quit claim deed prepared by the City which will include the releases set forth herein. All conveyances shall be subject to any existing easements, reservations, rights of use and restrictions of record, building and use restrictions, zoning ordinances, municipal regulations, prior conveyances or leases of oil, gas and mineral rights, and all liens, encumbrances, defects and other conditions on, concerning or relating to the Surplus Real Property.

Purchaser acknowledges that he/she has inspected the Surplus Real Property. Purchaser further acknowledges that he/she may not be able to obtain title insurance for the Surplus Real Property. Purchaser assumes all responsibility for any defects or deficiencies in the title and for the suitability of the Surplus Real Property for Purchaser's uses and purposes. Purchaser acknowledges and agrees that he/she/it will not be able to return the Surplus Real Property to the City nor obtain a refund of the purchase price for any reason.

Purchaser represents to City that he/she are not in default of any contract or obligation with the City, including, but not limited to, delinquent City real or personal property taxes or special assessments, past due City utility bills, outstanding invoices for City services, or any notice or citation for a violation of any City ordinance, rule or regulation.

Purchaser agrees and shall be responsible to pay for any owner's or mortgage title insurance policy, all costs in applying for and securing financing or assuming existing financing (if available), all costs of preparation of documents relating to new or existing financing, recording financing statements, inspections, environmental assessments, recording fees for mortgage and deed, costs in connection with matters relating to Purchaser's use or intended use of the Surplus Real Property, including but not limited to, re-zoning, special use permits,

variances, soil borings, surveying, rights of way, site plan preparation, sanitary sewer lines, water lines and all other matters related to his/her development of the Surplus Real Property, and Purchaser's broker and attorney fees.

All of the agreements and undertakings set forth above shall be binding upon Purchaser and its successors and assigns.

PURCHASER: _____ Date: _____

PURCHASER: _____ Date: _____



Offer to Purchase Surplus Real Property Form

Adopted by City Council on June 30, 2020

In accordance with City Policy, all offers to purchase Surplus Real Property shall be submitted in writing and signed by the prospective purchaser(s). The following must be completed in its entirety before an offer will be considered.



I acknowledge and certify that I have read the Policy for the Disposition of City Owned Surplus Real Property_____ (initials)

I acknowledge and certify that I have read and returned a signed Disclaimer Form Regarding City Owned Surplus Real Property (Attachment A)_____ (initials)

Real Estate Brokers must enter into the listing agreement incorporated in the Policy for the Disposition of City Owned Surplus Real Property.

Purchaser(s) Name: _____

Purchaser(s) Address: _____

Telephone Number – Home: () _____ Work: () _____

Legal name of organization: _____
(if applicable, if not insert n/a)

Name of principal for purchaser who is authorized to execute all documents of behalf of purchaser: _____
(if same as Purchaser, insert Same)

Parcel number: _____

Parcel address: _____

Total purchase price: _____

Proposed use and development of the property _____

Guarantees for completing any proposed project _____

Dollars to be invested (if constructing a building /home) _____

Anticipated method(s) of financing _____

Timeline for implementation and completion of any proposed project _____

Contingencies required by purchaser _____

Any specific contingencies to be performed by the City _____

If proposed use of the property is commercial or industrial complete the following:

Number of jobs to be created/retained: _____

Average job wage: _____

Developer Name: _____

Developer's Address: _____

Developer's Telephone Number: _____

Terms of Sale (e.g. cash, land contract or option): _____

Signatures of Prospective Purchaser(s):

Name: _____ Date: _____

Name: _____ Date: _____

Return this form along with the disclaimer form to:

Attn: City Manager, City of Ewart 5814 100th Ave. Ewart, MI 49631

| FOR INTERNAL USE ONLY: | | | |
|---|--|-------------------------------|--|
| Received Date | | Approved | |
| Received Disclaimer (Attachment A) | | Commission Proceeding Date | |
| Real Estate Broker Listing Agreement (if applicable) | | Date Title Recorded | |



Non-Exclusive Right to Sell Real Estate Agreement

For Real Estate Brokers Only

Adopted by City Council on June 30, 2020

In consideration of the services of the undersigned licensed Real Estate Broker ["Broker"], the City of Evart ["City"] hereby lists with Broker, but not exclusively, the real property ["Property"] located at _____, Evart, Osceola County, Michigan, and legally described as: _____

The City hereby grants Broker the non-exclusive right to sell the Property at the price and on the terms set forth herein, or at such other price and terms as may be accepted by the City Council. Broker agrees to use its best efforts to find a purchaser for the Property, including disseminating and distributing sales information concerning the Property to members of Michigan MLS Northwest and Northeast regions. The City hereby grants to Broker the non-exclusive right to sell the Property from the date of this Agreement to 5:00 p.m. on _____, 20___. The sale is to include all buildings, structures, fixtures and appurtenances, except:

SALES PRICE: The sales price shall be \$ _____

CITY POLICY: The Property has been declared "Surplus Real Property" in accordance with the City's Policy for the Disposition of City Owned Surplus Real Property ["Policy"], which is attached hereto and incorporated herein in its entirety. All listings and sales of the Property shall be expressly subject to and fully comply with the Policy, unless modified or waived by the City Council. The refusal by the City to sell to a prospective purchaser because of any condition, provision or reason set forth in the Policy shall not constitute a default or breach of this Agreement.

COMMISSION: In case of a sale by the City to any party with whom the Broker negotiated during the term of this listing and whose name was disclosed in writing to City by Broker prior to the expiration of this Agreement or any extension thereof, the City agrees to pay Broker a commission of (___ %) percent of the sale price. No commission shall be paid if the subsequent sales agreement is not signed within three (3) months after this listing expires, anything to the contrary contained herein notwithstanding.

DEFAULT: If Broker produces a purchaser who is ready, willing and able to purchase the Property on the terms and conditions set forth herein and if the sale is not consummated because of the City's refusal to perform, then the full commission price shall be due and payable to Broker. If the sale is not consummated because of the purchaser's failure to perform and the purchaser's deposit is forfeited, the City agrees that the deposit shall be first applied to reimburse the Broker for all expenses incurred by the Broker on the City's behalf, with the remainder of the deposit being paid to the City.

PARTICIPATION OF OTHER BROKERS: Broker may offer a portion of the total commission to another broker as compensation for the cooperating broker producing an acceptable offer to purchase while acting as a Buyer's Agent, as defined in the Michigan Real Estate Brokers Act.

TITLE: Unless otherwise set forth in a writing approved by the City Council, the Property shall be sold "AS IS" with any conveyance by a quit claim deed or a land contract (which provides for the subsequent conveyance by quit claim deed) prepared by the City. Broker shall provide a copy of the Disclaimer Regarding City Owned Surplus Real Property (Attachment A to the Policy) ["Disclaimer"] to every prospective purchaser; attach the Disclaimer to all listing, sales and other documents related to the prospective sale or transfer of the Property; and have the Disclaimer executed by all of the purchasers of the Property and attached to the purchase agreement.

SHOWING THE PROPERTY: The Broker is authorized to place a "For Sale" sign on the Property. The "For Sale" sign shall comply with all city ordinances. Broker shall have access, during reasonable hours, to the buildings on the Property for the purpose of showing the Property.

POSSESSION TO PURCHASER: Purchaser will be given possession of the Property _____ days from the date of closing the sale / on the closing date (select one).

DISCLOSURE OF EXISTING CONTRACTS: Broker shall disclose the existence of an accepted offer to any other broker seeking cooperation. Broker may, in response to inquiries from prospective purchasers, Buyer's Agents or cooperating brokers, but only with the approval of the City, disclose the existence of pending offers on the Property or divulge the contents of those pending offers.

NON-DISCRIMINATION CLAUSE: It is agreed by Broker and the City that discrimination because of religion, race, color, national origin, age, sex, disability, familial status, or marital status on the part of the any broker, real estate salesperson, seller, or lessor is prohibited.

Dated this ___ day of _____, 2020. CITY OF EVART

John Joyce, City Mayor

CITY OF EVART

Kathy Fiebig, City Clerk

Dated this ___ day of _____, 2020. BROKER

DRAFT