

## **RESOLUTION NO. 2020-02**

**A RESOLUTION** of the City Council of Bainbridge Island, Washington, establishing procedures for the surplus and sale of real property owned by the City of Bainbridge Island.

**WHEREAS**, on March 11, 2009, the City Council adopted Resolution No. 2009-02, establishing a procedure for the surplus and sale of City-owned real property; and

**WHEREAS**, on August 11, 2015, the City Council adopted Resolution No. 2015-15, amending the procedure set out in Resolution No. 2009-02; and

**WHEREAS**, on August 23, 2016, the City Council adopted Resolution No. 2016-18, further amending the procedure originally adopted under Resolution No. 2009-02; and

**WHEREAS**, WAC 308-125-200 adopts the Uniform Standards of Professional Appraisal Practice (“USPAP”) of the Appraisal Foundation as the standard of practice governing real estate appraisal activities within Washington State; and

**WHEREAS**, prior editions of the USPAP provided for three types of written appraisal reports (i.e., self-contained, summary, and restricted); and

**WHEREAS**, the current edition of the USPAP now only provides for two types of written appraisal reports (i.e., appraisal report and restricted appraisal report); and

**WHEREAS**, the City Council now desires to update the City’s procedure for the surplus and sale of real property owned by the City of Bainbridge Island to reflect the changes in the USPAP, as well as to provide other updates to the procedure.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BAINBRIDGE ISLAND DOES RESOLVE AS FOLLOWS:**

**Section 1.** Resolution No. 2009-02, Resolution No. 2015-15, and Resolution No. 2016-18 are hereby repealed in their entirety.

**Section 2.** A new procedure for the surplus and sale of City-owned real property is hereby adopted as shown on **Exhibit A**, attached hereto and incorporated herein by this reference.

**Section 3.** This resolution shall take effect immediately upon passage by the City Council.

PASSED by the City Council this 25<sup>th</sup> day of August, 2020.

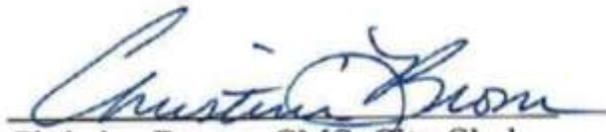
APPROVED by the Mayor this 25<sup>th</sup> day of August, 2020.



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Leslie Schneider, Mayor

ATTEST/AUTHENTICATE:



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Christine Brown, CMC, City Clerk

FILED WITH THE CITY CLERK:	August 7, 2020
PASSED BY THE CITY COUNCIL:	August 25, 2020
RESOLUTION NO.	2020-02

**Exhibit A**  
**City of Bainbridge Island**  
**Real Property Surplus and Sale Procedure**

**1. Surplus Procedure for Real Property**

City-owned real property may be declared surplus by the City Council after the procedures outlined in this section have been completed.

**1.1 Public Hearing**

The City Council shall hold a public hearing as part of its process to consider whether to declare any real property surplus to the needs of the City. Notice of the public hearing shall be given, and a news release disseminated, in accordance with RCW 39.33.020.

**1.2 Surplus Declaration**

Following conclusion of the public hearing, the City Council shall determine whether the property shall be declared surplus. If such determination is made, the City Council shall pass a resolution declaring the property surplus and making each of the following determinations:

**1.2.1** Whether the real property should be sold to, transferred to, or exchanged through one of the procedures outlined in Subsection 2.3 below;

**1.2.2** Whether special covenants or restrictions should be imposed as a condition of the sale; and

**1.2.3** Whether an appraisal is necessary to obtain the fair market value of the real property.

**2. Sale Procedure for Real Property Declared Surplus**

Real property declared surplus under Section 1 may be sold, transferred, or exchanged in accordance with the procedure outlined in this section.

**2.1 Determination of Market Value.**

**2.1.1** If the resolution declaring the real property surplus indicates that an appraisal is necessary, then the City Manager shall contract with an appraiser licensed by the State of Washington as a “state certified general appraiser” to conduct the appraisal and prepare a written appraisal report in accordance with the edition of the Uniform Standards of Professional Appraisal Practice of the Appraisal Foundation (“USPAP”) in effect on the date that the appraisal report is issued to the City. For the purposes of this subsection, “appraisal report” means a written report containing the information required under Standards Rule 2-2(a) of the 2020-21 Edition of the USPAP, as may subsequently be amended by the Appraisal Foundation.

**2.1.2** If the resolution declaring the real property surplus indicates that the City has sufficient and acceptable information regarding the valuation of the real property, then no appraisal shall be obtained.

## **2.2 SEPA Review.**

The sale, transfer, or exchange of real property that is subject to a specifically designated and authorized public use established by the City and used by the public for that purpose shall be subject to review under the State Environmental Policy Act (“SEPA”), Chapter 43.21C RCW, and the City’s SEPA procedures and policies, Chapter 16.04 BIMC. Under WAC 197-11-800(5), all other sales, transfers, or exchanges of City-owned real property are exempt from review under SEPA.

## **2.3 Procedures for the Sale, Transfer, or Exchange of Real Property.**

If the resolution declaring the real property surplus indicates that the real property should be sold, transferred, or exchanged, then the resolution shall specify one of the following procedures for the sale, transfer, or exchange of the real property. All conveyances of surplus real property shall be made by quit claim deed. Closing costs, including, but not limited to, title insurance, recordation costs, and escrow fees, shall be allocated as agreed by the parties. Each party shall bear its own brokerage costs, if any.

**2.3.1 Disposition by Sealed Bid.** Where a property is sold by sealed bids, the prevailing bidder must enter into a purchase and sale agreement and make a deposit in the amount agreed by the parties within the time specified by the City. Such deposit shall be deposited into escrow until closing on the purchase of the property, and payment of the remaining amount of the purchase price shall be made within thirty (30) days, unless otherwise agreed by the parties. In the event the prevailing bidder is unable to pay the remaining amount within the required time, the earnest money deposit shall become non-refundable and may be retained by the City as liquidated damages.

**2.3.2 Disposition by Auction.** Where property is sold at auction, the prevailing bidder must immediately tender a cash deposit or certified check for deposit into escrow as earnest money to the City in an amount acceptable to the City. Payment of the remaining amount of the purchase price shall be made within thirty (30) days, unless otherwise agreed by the parties. In the event the prevailing bidder is unable to pay the remaining amount within the required time, the earnest money deposit shall become non-refundable and may be retained by the City as liquidated damages.

**2.3.3 Disposition by Negotiated Sale.** Where real property is sold by negotiated sale, the City and the prospective purchaser shall enter into a purchase and sale agreement which will detail, among other issues, the earnest money to be deposited for the subject parcel.

**2.3.4 Disposition by Request for Proposal.** Where property is sold through a process that includes a request for proposals (“RFP”), a specification document, including criteria for evaluation of applicant proposals, shall be made available to any person or entity which the City determines would be a qualified applicant. Acceptance or rejection of responses to a Request for Proposal shall be in the sole discretion of the City Council. If a responsive proposal is accepted by the Council, the development process will proceed as follows:

**2.3.4.1 ENA Stage.** Once the City selects a developer related to the property at issue, an Exclusive Negotiating Agreement (“ENA”) will be negotiated between the parties and presented to the Council for approval.

**2.3.4.2 DDA Stage.** Once the ENA has been negotiated and approved by the Council, a Disposition and Development Agreement (“DDA”) will be negotiated between the parties and presented to the Council for approval. All legal rights and obligations between the selected developer(s), if any, and the City will come into existence only when a DDA is fully executed by the parties and then approved by the Council. The legal rights and obligations of each party shall be only those rights and obligations which are set forth in the DDA and any other documents specifically referred to in that DDA and executed by the parties.

**2.3.4.3 Construction Stage.** Once all the DDA conditions precedent to property transfer have been met, the City will transfer the site to the developer, and construction will begin shortly thereafter, as mutually agreed upon by the City and the developer.

**2.3.5 Special Disposition.** In cases where the City Council determines that the public interest in a reasonable return is outweighed by the public benefit, the Council may designate such real property for disposal by special disposition through any procedure authorized by law, including, but not limited to, the sale, transfer, or exchange of the property through one of the procedures outlined above, but for less than fair market value to the extent allowed by law.

## **2.4 Rules Implementing RCW 39.33.015.**

For the purposes of RCW 39.33.015, Sections 1 and 2 shall, in addition to being of general application, also serve as the City’s rules to regulate the disposition of property for “public benefit” purposes, as defined by RCW 39.33.015.

## **3. City Real Property Inventory**

The City Manager, or their designee, shall establish and maintain an inventory and map of City-owned real property, which includes all real property owned by the City or any of the City’s utilities or other special purpose funds. The inventory will include the following information:

- a. Property name;
- b. Street address (if available);
- c. Kitsap Assessor's Office Property Tax Parcel Number;
- d. Current use of property;
- e. Any planned future use;
- f. City fund that currently owns the real property; and
- g. Restrictions on property use or sale (if applicable).

#### **4. Review of City Real Property Holdings**

The City Manager, or their designee, shall annually review all of the City's real property holdings with regard to the following:

- a. If the current use is appropriate and necessary;
- b. If the property could be used for another City purpose consistent with its original purchasing fund restrictions, if any;
- c. If the property could be used for another City purpose outside of the original purchasing fund restrictions, if any;
- d. If the property appears to be surplus to the City's needs;
- e. Whether there is evidence of potential interest by anyone in purchasing the property; and
- f. Whether there is an interest by the Bainbridge Island Metropolitan Park & Recreation District, or by any other taxing district operating on Bainbridge Island, in acquiring the property.

#### **5. Surplus Property Report**

The City Manager, or their designee, shall prepare an annual written report containing an update on real property previously declared to be surplus. The written report shall be submitted to the City Council in connection with the City's Mid-Year Financial Report.

The report shall also include any recommendations that the City Manager, or their designee, may make as to whether any additional City-owned real property should be declared surplus by the City Council. If the City Manager, or their designee, makes a recommendation that certain real property be declared surplus, then the report shall contain the following information with regard to the real property recommended for surplus:

- a. Description of the location and size of the property;
- b. Description of the circumstances under which the property was obtained;
- c. Description of the funds used to acquire the property and any restrictions on the property's use or disposal;
- d. Description of what municipal use the property has been put to in the past, if any, and what use, if any, for which it might be held;
- e. Whether an appraisal is recommended;
- f. Whether the property is only usable by abutting owners or is of general marketability;

- g. Whether special consideration ought to be given to some other public agency that has a use for the property;
- h. Recommendation as to the procedure through which the property should be sold, transferred, or exchanged;
- i. Recommendation as to whether any special covenants or restrictions should be imposed in conjunction with sale of the property; and
- j. If owned by a City utility, recommendation as to whether the property should be sold or transferred to the City's General Fund prior to being conveyed or sold to a third party.