



## **Metropolitan Government of Nashville and Davidson County - Finance Dept. Policy: Public Property Administration**

**Effective Date:** December 19, 2018

**Revision Date:** N/A

**Policy Number:** N/A

**Sponsor:** Department of Finance

### **Purpose**

To establish uniform guidelines of the standard procedures for: i. acquisition, ii. disposal, and iii. leasing of real property ("property") by and for the Metropolitan Government of Nashville and Davidson County (hereinafter referred to as "Metro"). This policy shall also cover the following:

- a) Easements;
- b) Maintenance of property inventory; and
- c) Land use evaluation.

The policies herein shall be applied consistently with regard to all transactions processed through the Division of Public Property Administration (sometimes referred to herein as "Public Property") and are applicable to all Metro Departments and the Board of Education, unless otherwise directed by the Metro Department of Law. This policy is not applicable to the Convention Center Authority, Nashville Electric Service, Sports Authority, Industrial Development Board, Health and Education Facilities Board, and the Metropolitan Development and Housing Agency.

### **Definitions**

**Acquisition:** Improved or unimproved property purchased or otherwise obtained for use by Metro.

**Appraisal:** The process of developing an opinion of value for real property. For Public Property purposes this shall not include restricted use appraisal reports or summary appraisal reports, as defined under the Uniform Standards of Professional Appraisal Practice. All appraisals shall include all applicable approaches to determining fair-market value, including, but not limited to the sales comparison, cost, and income approach. Additionally, all appraisals shall reflect the current value and the prospective value after taking into account any anticipated changes in entitlements, including legally allowable zoning changes.

**Buildable Parcel:** As allowed or approved by Codes Department or Planning Department, where applicable, property which meets the criteria for a building to be erected, making it suitable for development.

**Condemnation:** The acquisition of private property by Metro through Court action and the compensation of the owner.

**Conditions:** Circumstances described in the Mandatory Referral letter from the Planning Department which may affect approval of purchase or sale of the property.

**Delinquent Tax Property:** Property which is acquired by Metro at a court ordered auction to satisfy delinquent tax liens in accordance with T.C.A. § 67-5-2501.

**Development:** Construction of a new structure or infrastructure improvements related to land use or repurposing.

**Direct Sale:** Sale made directly to a purchaser, not including any Metro government department, commission, board, or authority with no public opportunity to purchase. For purposes herein, this shall include non-buildable parcels, easements, and rights-of-way.



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**Disposal:** The sale or other conveyance of ownership of Metro owned property.

**Environmental Site Assessment:** Typically conducted in two phases. Phase I includes a review of records, a site inspection, and interviews with owners, occupants, neighbors and local government officials. Should the Phase I identify potential contamination of the site by hazardous materials, a Phase II assessment may be conducted. The Phase II environmental site assessment includes sampling and laboratory analysis to confirm the presence of hazardous materials.

**Fair Market Value:** An estimate of the market value of a property, based on what a reasonable buyer would pay to a seller in the market.

**Good Faith Deposit:** A deposit equal to a percentage of the agreed upon purchase price; this amount is paid by a purchaser as evidence of intent to finalize the transaction.

**Improved Property:** Property which includes a building or other structure.

**Leasing:** The renting of property or facilities by or from Metro.

**Mandatory Referral:** As contemplated under Section 11.505 of the Metro Charter, the process by which the Planning Commission considers whether the acquisition or disposition of an interest in property comports with Metro's general plan, and approves or disapproves the acquisition or disposition on that basis. Council has the power to overrule any Planning Commission disapproval by majority vote.

**Non-buildable Parcel:** Property which does not meet Codes Department or Planning Department criteria, where applicable, for building, making it unsuitable for development. *Option Agreement* - a contract between two or more parties granting the right to purchase property for an agreed upon price within a certain time frame.

**Purchase Agreement:** An agreement between two or more parties to purchase property; such agreement may include the following: consideration, rights and obligations, contingencies, and any other applicable terms.

**Redemption Period:** In accordance with T.C.A. §67-5-2701, the one-year period from the date of entry of the order confirming the sale of a Delinquent Tax Property by the Chancery Court Clerk & Master of Davidson County.

**Settlement Statement:** Provided at closing, this is an itemization of services and fees charged to the borrower/purchaser.

**State Certified Real Estate Appraiser:** In accordance with T.C.A. §§ 62-39-203 and 62-39-333, a person who has been issued a general real estate appraiser certificate by the Tennessee Real Estate Appraiser Commission.

**Title Policy:** A policy issued by a title company in the amount of the purchase price which protects the buyer should a covered title problem arise.

**Unimproved Property:** Property that does not contain any building or other structure.

## General Policies

### I. Acquisition

Pursuant to 2.24.240 of the Metropolitan Code of Ordinances {"Code"}, the following steps must be taken with regard to acquiring property for use of any Metro department.

1. Any director or other chief administrative official ("CAO"), and with the approval of the mayor (or his or her designee), is authorized to initiate the process to acquire land on behalf of Metro by purchase or condemnation for any department, commission, board, or agency (collectively referred to herein as



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- "department"). Upon receipt of the acquisition request the Director of Public Property shall additionally consider the needs of individual departments based on requests and other information received from all applicable Metro departments to determine if any collaborative land uses may be possible.
2. Property acquisitions must be paid for with funds specifically appropriated for the purchase of land or for a related capital project that includes a land component. Unless waived in writing by the Finance Director, a valid funding source must be provided to confirm available funding prior to commencement of negotiations or ordering of appraisals, environmental assessments or surveys for any proposed purchase.
  3. The Director of Public Property Administration shall order an appraisal for any potential purchase. In accordance with the Metro Code, any appraisal shall be conducted by a "state certified real estate appraiser." In the event any appraisal should age more than one year, an appraisal update shall be ordered to verify the accuracy of the purchase price, unless otherwise approved by the Finance Director in writing. Additionally, per subsection 2.24.240.J of the Code, an appraisal is required for any property with a purchase price in excess of \$200,000 that is to be used for open space or for recreation.
  4. If a department has a board or commission, any acquisition must be approved by a resolution of that board or commission.
  5. Once a site is chosen for purchase and the appraisal is obtained as required, the director or CAO of the department shall submit for approval to the Mayor, or his or her designee, the Finance Director and/or Director of Public Property Administration, a request to purchase, which shall include the following: location of property sought proposed use of property, appraised value, and any additional information that may be relevant.
  6. If the acquisition is to be used for a public school and is legislated by ordinance, a public hearing shall be held prior to the second reading of the ordinance.
  7. Upon approval by the mayor, or his or her designee, the Director of Public Property Administration shall proceed with steps to acquire the property and commence negotiations.
  8. Option Agreements giving Metro the right to acquire property for a fixed price and containing only typical purchase and sale terms may be approved by resolution of the Metro Council. Other Purchase Agreements imposing substantive obligations on Metro in addition to the making of any required purchase payment, such as the conveyance of Metro-owned property, or containing atypical purchase and sale terms, must be approved by ordinance of the Metro Council. Once the option or purchase agreement is finalized, the agreement and any exhibits thereto, along with the draft legislation, as prepared by the Department of Law and/or Public Property, are sent to the Planning Department for Mandatory Referral.
  9. In rare instances where negotiations with the property owners are unsuccessful and a particular property is necessary for a public project, upon the approval of the Council and the Mayor, or his or her designee, the Department of Law may initiate condemnation proceedings.
  10. In satisfaction of Metro Code section 2.24.250(b), the Mandatory Referral process includes submission of legislation and all applicable exhibits to all Metro departments for review, plus the Sports Authority and the Metropolitan Development and Housing Agency, per current Planning Department guidelines.
  11. Upon approval by all departments and receipt of the Mandatory Referral letter from the Planning Department with no applicable conditions, the legislation is submitted for the Metro Council agenda.
  12. Should conditions apply under the Mandatory Referral letter, Public Property Administration will work with the applicable department to either remedy any existing conditions noted in the Mandatory Referral letter, if necessary, or to identify other properties if the conditions make the property unsuitable for the intended purpose.
  13. After conclusion of the Mandatory Referral process but prior to acquisition, a Phase I environmental survey is required for property acquisitions other than routine easements, unless otherwise waived by the Finance Director in writing. Depending on the results, a Phase II environmental survey or additional actions may be required.
  14. Once approved by Council, closing may proceed on the property. Within two business days of closing, the settlement statement along with the legislation authorizing the acquisition - including all agreements and attachments - shall be provided to the Department of Finance's Chief Accountant, the Planning Department, and the Property Assessor.

## II. Disposal

### A. General Surplus Metro Property



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Pursuant to 2.24.250 of the Code, the following steps must be taken with regard to surplus property owned by Metro departments.

1. When the CAO of a department or agency or when a board or commission by their own resolution declares real property surplus, it is then transferred (assigned) to Public Property for action, unless otherwise directed by the Finance Director. Public Property will then review and consider the needs of individual departments that may have use for the property based on requests and other information received from all applicable Metro departments.
2. If a department has a need for the property, Public Property shall internally transfer such property to the department and notify the Property Assessor's office so that they may update the necessary records.
3. In the event no department is known to have a need for the property, Public Property shall consult with Metro departments regarding any unrecorded easements which may exist on the property proposed for disposal in order to determine whether a permanent easement should be filed prior to disposal.
4. Upon authorization of the Finance Director, the proposed disposal shall then proceed to the Planning Department for Mandatory Referral, as described above.
5. When it is in the best interest of Metro, and in keeping with the Metro Planning Department's adopted general plan for the area, property may be rezoned prior to disposal.
6. Should conditions apply under the Mandatory Referral letter, Public Property will work with the applicable department to remedy any existing conditions prior to filing the legislation, as applicable.
7. If the property to be disposed has an assessed value as determined by the Property Assessor in excess of Five Hundred Thousand Dollars (\$500,000), an appraisal by an independent "state certified real estate appraiser" shall be obtained prior to submitting the legislation to Council, and a copy of the appraisal shall be attached with the legislation. An appraisal will be obtained by the Director of Public Property prior to the sale of any surplus property, regardless of assessed value, unless waived in writing by the Finance Director.
8. Once Metro Council approves the sale of the surplus property, it is listed on an approved on-line auction site for sale to the public, unless a direct sale is agreed upon and approved by Metro Council. Unless prohibited by law, the bidding will start at a discount of 20% of the appraised value in order to encourage competitive bidding in an effort to result in the highest purchase price possible to obtain maximum fair market value.
9. On-line property auctions will be advertised prior to posting, including advertising on available Metro public communications channels and displaying signs on the property.
10. In recognition of the fact that an online auction will generally be reflective of market conditions and in the event that it is in Metro's best interest to dispose of the surplus property, if no bids are received after the on-line auction closes, the property may be further discounted from appraised value and reposted.
11. The winning bidder must submit a "good faith" deposit equal to 10% of the winning bid to Public Property within five business days of acceptance of the bid.
12. Closing on real estate sold through the online auction site must occur within 30 days of receipt of the "good faith" deposit, unless otherwise agreed upon in writing by the Director of Public Property. In the event closing does not occur as provided herein, the "good faith" deposit shall be forfeited and the property relisted for sale on the online auction site.
13. Upon closing, the property shall be conveyed to the new owner by quitclaim, or if approved by the Department of Law, special warranty deed to be filed by the Director of Public Property.
14. Unless otherwise directed in the ordinance, proceeds of the sale are deposited to the general fund from whose operating budget the last department, commission, board, or agency using the real property is financed.
15. Within two business days of closing, the settlement statement along with the legislation authorizing the disposal - including all agreements and attachments - shall be provided to the Department of Finance's Chief Accountant, the Planning Department and the Property Assessor.

### **B. Delinquent Tax Property**

Pursuant to T.C.A. § 67-5-2501 et. seq., delinquent tax property that is ordered to be publicly auctioned by the Chancery Court of Davidson County which receives no public bid, is purchased by Metro to satisfy the delinquent tax lien. At the expiration of the redemption period and in a manner consistent with T.C.A. § 67-5-2507(a), the following steps shall be taken by the Director of Public Property with regard to the disposal of delinquent tax properties. In accordance with T.C.A. § 67-5-2511, the Director of Public Property shall cause a list of all properties brought in by Metro at a delinquent property tax sale to be compiled and published annually. Such



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published list may contain a solicitation for offers to purchase the properties and notice as to how and where such offers may be filed.

In accordance with T.C.A. § 67-5-2507(a), the Director of Public Property shall arrange for the disposition of every property as expeditiously and advantageously as possible unless parcels acquired through the delinquent tax sale are identified as being in an area or zoning classification that would make the accumulation of larger areas advantageous to the properties' reuse and redevelopment.

Buildable and non-buildable parcels shall be informally reviewed by the Planning Department to determine whether it is advantageous to Metro to offer the properties to all departments within Metro, including for affordable housing purposes.

### Buildable Parcels:

1. If the review of delinquent tax properties by the Planning Department results in a determination that it is most advantageous to Metro for the properties to be utilized for affordable housing purposes, Metro staff working on affordable housing initiatives ("Metro Staff") shall review the properties to determine suitability for that purpose.
2. Properties identified by Metro Staff to be held for affordable housing shall go through the Mandatory Referral process for approval.
3. Pursuant to T.C.A. § 7-3-314(e), Metro Council may authorize that real property acquired by a delinquent tax sale be granted to a nonprofit organization. This will follow a competitive affordable housing grant proposal process. Note that transfer documents conveying the property are required to include all relevant deed restrictions regarding affordability measures and enforcement.
4. In the event it is determined that it is not advantageous to Metro to utilize delinquent tax property for a departmental purpose or for affordable housing purposes and after the one-year redemption period has elapsed, the property shall be disposed of following the steps for general surplus Metro property above. Note that buildable parcels with improvements are the highest priority for disposal.

### Non-buildable Parcels:

1. In the event that it is determined that it is not advantageous to offer the delinquent tax property to Metro departments or no department has a need for a non-buildable parcel, after following the Mandatory Referral process for surplus property, the Director of Public Property may offer the property for sale to the general public or to the adjacent land owner(s) at the current tax appraised value, as determined by the records maintained by the Property Assessor or for the highest and best offer.
2. In the event there are multiple persons wishing to purchase the property, they shall be given the opportunity to submit their "highest and best" offer for the property, with the property being sold to the highest bidder.

In each of these instances the Director of Public Property executes the necessary documents for conveyance of the property and makes all applicable filings.

### III. Lease Agreements

1. Pursuant to 2.24.230 of the Code, the following shall be observed with regard to property leased by or from any Metro department. Upon determination that a lease is needed and upon approval by the Finance Director, lease terms and rental amounts are determined by market valuations as may be ordered by the Director of Public Property. Other lease terms are negotiated based on departmental needs.
2. All lease agreements are subject to approval by ordinance of the Metro Council. Lease amendments and extensions may be approved by resolution of the Metro Council if specified in the original ordinance. No leases related to the erection of billboards shall be allowed unless expressly approved by ordinance of the Metro Council.
3. Pursuant to BL2018-1054, any property owned by Metro to be leased for a term of greater than 50 years must be declared surplus property prior to the lease taking effect.
4. All leases and subleases shall be filed with the Metropolitan Clerk.



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### **IV. Easements**

As routinely approved by council, preparatory steps for the acquisition of easement rights and for the abandonment of easements are performed by the departments responsible for projects associated with the easements - namely Water and Sewer and Public Works. Each of these departments contracts with outside vendors to complete the obtaining of appraisals, negotiating with property owners, and preparing all related documents. Upon finalization of terms related to any acquisition, the Director of Public Property is required to approve all transactions, review and sign all related documents and execute all applicable legislation involving any easement.

### **V. Property Inventory and Property Needs Evaluation**

Public Property shall maintain an up-to-date inventory of all Metro-owned property. Additionally, in accordance with T.C.A. § 67-5-2511, the Director of Public Property shall cause a separate inventory of all properties brought in by Metro at a delinquent property tax sale to be compiled and published annually.

In addition to maintaining an accurate property inventory, Public Property shall conduct an evaluation of Metro owned properties in order to determine potential underutilization or alternate use of any property which may present opportunities to optimize property use either within Metro or by surplusing the property. Among other factors, this evaluation will take into account future needs as identified in the Capital Improvement Budget, as well as available Master Plans, and based on the strategic goals of Metro departments and policy makers. As a result, the need to acquire properties will also be considered. This evaluation will occur on an ongoing basis, with recommendations related to properties provided to the Director of Finance at least annually by January 31 of each year.

## **Applicable Local, State or Federal Regulations**

Section 8.112 of the Metro Charter

Section 8.103 of the Metro Charter

T.C.A. §67-5-2501

Section 11.505.1 of the Metro Charter

T.C.A. §67-5-2701

T.C.A. § 67-5-2507

T.C.A. § 67-5-2511

T.C.A. §§ 62-39-203

T.C.A. §62-39-333

Section 2.24.240 of the Metro Code

Section 2.24.250 of the Metro Code

T.C.A. §7-3-314(e)

Section 2.24.250(G) of the Metro Code

Section 2.24.230 of the Metro Code

BL2018-1054



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BL2018-1282

### Associated Policies

None.

### Effective Date

This policy statement shall become effective upon issuance and shall be applied to all Metro departments and agencies.

### Approvals

#### Approval of the Director of Public Property Administration

I hereby approve this Policy Statement of the Department of Finance and as such agree with and authorize the actions necessary to implement its requirements.

Steve Barry

Director of Public Property Administration

**Date:** December 5, 2018

#### Approval of the Executive Director of Planning

I hereby approve this Policy Statement of the Department of Finance and as such agree with and authorize the actions necessary to implement its requirements.

Lucy Kempf

**Date:** December 5, 2018

#### Approval of the Director of Legal

I hereby approve this Policy Statement of the Department of Finance and as such agree with and authorize the actions necessary to implement its requirements.

Jon Cooper

**Date:** December 7, 2018

#### Approval of the Director of Finance

I hereby approve this Policy Statement of the Department of Finance and as such agree with and authorize the actions necessary to implement its requirements.

Talia Lomax-O'dneal

Director of Finance



**METROPOLITAN GOVERNMENT OF  
NASHVILLE & DAVIDSON COUNTY**

**Date:** December 10, 2018

**Approval of the Mayor**

I hereby approve this Policy Statement of the Department of Finance and as such agree with and authorize the actions necessary to implement its requirements.

David Briley

Mayor

**Date:** December 19, 2018