Carnegie Building/City Assets Ad Hoc Committee

Monday, April 27, 2015
1:30 p.m.
Governmental Center - 400 Boardman Avenue
Second Floor Committee Room
Traverse City, MI 49684
Posted and Published: April 24, 2015

If you are planning to attend the meeting and you have a disability requiring any special assistance at the meeting, please notify the City Clerk, immediately.

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Penny Hill, Assistant City Manager
400 Boardman Avenue
Traverse City, MI 49684
(231) 922-4440
Email: phill@traversecitymi.gov
Web: www.traversecitymi.gov

Agenda

1. Roll Call

2. Consider Approval of Minutes from March 23, 2015 meeting

3. Discussion regarding Proposal from Bernstein & Associates on the Con Foster Collection

4. Discussion regarding Fees for Building Use
   a. Review draft fee schedule

5. Discussion on Process for Disposition of City Assets
   a. Memo from Acting City Manager

6. Public Comment

7. Adjournment

City Commission Ad Hoc Committee

Carnegie Building/City Asset Discussion

Minutes

Meeting of March 23, 2015

A meeting of the City Commission Ad Hoc Committee: Carnegie Building/City Asset Discussion was called to order on Monday, March 23, 2015 at 1:30 a.m. in the 2nd Floor Committee Room, Governmental Center, Traverse City, Michigan.

The following Commissioners were present, constituting a quorum: Commissioner Easterday, Commissioner Richardson, and Commissioner Howe.

The following Commissioners were absent: None.

Staff in attendance: Penny Hill, and Lauren Vaughn

By consensus, the Committee amended the agenda to include discussion regarding lease agreement for the Carnegie Building and other administrative actions.

1. The first item being: "Consideration of approving the minutes from the February 9, 2015, meeting."

   It was moved by Richardson, seconded by Howe, to approve the minutes from the meeting of February 9, 2015."

   CARRIED unanimously.

2. Next item being, "Discussion regarding Report from Tim Chester & Associates on the Con Foster Collection."

   General discussion took place regarding who best to contact for direction of next steps of sorting and arranging the Con Foster Collection. Item to be revisited at the next meeting after further research by staff.

   The following addressed the Committee.

   George Galic
   Ann Hoopfer
   Peg Siciliano
   Jane Hale

3. Next item, "Discussion regarding Building Use Policy"

   It was moved by Howe, seconded by Richardson to recommend the Building Use Policy to the City Commission.

CARRIED unanimously.

4. Next item, "Update on Lease Agreements for Carnegie Building and other administrative actions."

   General discussion took place regarding a memo from Penny Hill in regards to several items related to building management and lease holder requests.

5. Next item, "Public Comment."

   The following addressed the Committee.

   George Galic
   Peg Jonkhoff

There being no objection, Commissioner Easterday declared the meeting adjourned at 2:42 p.m.

_____
Commissioner Gary Howe
Designated Secretary

Next meetings to be determined.

All meetings are held in the 2nd Floor Committee Room of the Governmental Center unless otherwise stated.

If interested in being on the outreach list for this ad hoc, please email: kstroven@traversecitymi.gov.

Prepared by: Katelyn Stroven, Deputy City Clerk

Bernstein & Associates, LLC

Native American Graves Protection and Repatriation Act (NAGPRA) Consultants

Proposal Prepared for the City of Traverse City

Objective

Because the **City of Traverse City** receives Federal funds and is in control or possession of Native American cultural items, it is considered to be a "museum" and, therefore, is legally required to comply with 25 U.S.C. 3001 et seq., the Native American Graves Protection and Repatriation Act (NAGPRA). The Native American collection is part of the Con Foster Collection, which comprises approximately 7,000 Native American cultural items for which NAGPRA compliance has yet to be completed. This proposal outlines what Bernstein & Associates will do to bring the City of Traverse City into compliance.

Scope of Work

Phase One – Strategic Plan Development

1. Conduct research to determine what, if any, NAGPRA compliance activities previously occurred.
2. Assess documentation associated with the collection to determine which Indian tribes may have an interest. If documentation is insufficient, a site visit may be required.
3. Determine presence of Native American human remains or associated funerary objects, which would necessitate compliance with Section 5 of NAGPRA.

Deliverable

- Strategic plan for NAGPRA compliance
- Letter to the National NAGPRA Program informing them of the plan to comply

Phase Two – Strategic Plan Implementation

1. NAGPRA Section 6 - Design NAGPRA summary, draft letter to be sent with summary to Indian tribes as referenced in the B&A tribal contact database, personalize the letters and generate mailing labels so letters can be sent to current tribal leaders as well as official NAGPRA representatives, respond to and document inquiries generated by summary distribution.
2. NAGPRA Section 5 - If human remains or associated funerary objects are present, comply with 43 CFR 10.9 and if necessary §10.11.

3. Develop a spreadsheet and digital/paper filing system for maintaining documentation associated with compliance. (The Act requires that documentation of repatriations be maintained in perpetuity.)

Deliverables

- NAGPRA Section 6 summary
- Personalized summary cover letters and mailing labels
- Consultation/communication log
- If human remains or associated funerary objects are present, final deliverables will be an inventory, notice of inventory completion, and notice publication announcement

Phase Three – Training

If human remains or associated funerary objects are present, conduct a one-day NAGPRA training, in Traverse City, specifically designed for individuals with decision-making authority. The training will include an overview of NAGPRA with an emphasis on making cultural affiliation determinations for Native American human remains. If human remains are not present, training may still be desirable as the client will be required to approve, for publication, a notice of intent to repatriate upon submission of a valid repatriation claim for sacred objects, objects of cultural patrimony, or associated funerary objects.

Phase Four – Grant Writing

NAGPRA grants are available to museums that are in compliance with the Act. To be considered in compliance, a museum must submit a NAGPRA Section 6 summary for items that may be sacred objects, objects of cultural patrimony, or unassociated funerary objects. For human remains and associated funerary objects, a museum must submit a NAGPRA Section 5 inventory, which was prepared in consultation with Indian tribes/Native Hawaiian organizations (NHO), and also publish a notice of inventory completion in the *Federal Register*.

Only then may additional compliance work, such as consultation about items in the summary or repatriation/disposition of human remains and associated funerary objects, be funded through NAGPRA grants. NAGPRA Consultation/ Documentation grants from $5,000 to $90,000 are awarded on a competitive basis, with applications are due in early March. NAGPRA Repatriation grants are awarded, on a non-competitive basis, from October 1 through June 30 for up to $15,000.

Bernstein & Associates will write grant proposals and implement grant-funded projects.

Time and Cost Estimates

Our hourly rate is $90 and our day rate is $720.

Strategic Plan & Implementation

The amount of time required to produce and implement the strategic plan will depend on the level of documentation and the number of cultures represented in the collection. Based on our 30 years of experience and the list of items provided by the City of Traverse City, a rough estimate puts the cost at $2,000 to $5,000. However, it could go as high as $10,000 if there are a significant number of human remains from widely dispersed locations.

Grant Writing

A grant proposal typically takes 20 to 25 hours to write. This includes the time it takes to contact tribal partners and acquire letters of commitment from them and other grant participants. The cost for each proposal will be $1,800 - $2,250.

Travel

Training and face-to-face consultation with Indian tribes will necessitate travel. Ms. Bernstein typically incorporates work into travel days; therefore, travel days will be billed at the day rate. Costs associated with travel such as airfare, lodging, and ground transportation will be based on actual costs. Reimbursement for meals will be based on actual costs or GSA per diem, whichever the client prefers.

Billing and Payment

Invoices will be submitted to client via email. Payment is due within 30-days of submission.

Invoices for specific deliverables (i.e. strategic plan and grant proposals) will be submitted via email with each deliverable.

Upon completion of travel, Bernstein & Associates will submit an invoice for reimbursement of travel expenses.

Invoices for strategic plan implementation services will be submitted at the beginning of each month for services provided during the previous month.

The undersigned agree to the terms of this agreement:

[INSERT NAME] City of Traverse City	Date
Jan I. Bernstein, Managing Director Bernstein & Associates, LLC	Date

Bernstein & Associates, LLC

Native American Graves Protection and Repatriation Act Consultants

STATEMENT OF QUALIFICATIONS

Bernstein & Associates, LLC
1041 Lafayette Street
Denver, CO 80218

303-894-0648
jan@nagpra.info

www.NAGPRA.info

Our Mission

With sensitivity and commitment, we help our clients envision possibility, efficiently organize ideas into actions, and continue our support until the project's completion.

Our Founder – Jan Bernstein

1986 Four years prior to the passage of NAGPRA, Ms. Bernstein served on a small team tasked with a project, which laid the foundation for the eventual repatriation of human remains, representing tens of thousands of individuals and several hundred thousand funerary objects under the control of the State of California

1988 Ms. Bernstein served as an assistant curator and registrar for the Brooklyn Children's Museum, whose collection includes museum quality ethnographic items from around the world as well as a natural history collection.

1990 Ms. Bernstein co-founded Museum Consultants, which, among its other projects, recruited, trained, and supervised over 900 volunteers for the Vatican Treasures exhibit, mounted in conjunction with World Youth Day and the Pope's visit to the U.S.

1995 – 2003 Ms. Bernstein served as NAGPRA coordinator and collections manager at the University of Denver Museum of Anthropology. She also taught courses in the University of Denver graduate program in museum studies.

2003 Ms. Bernstein established Bernstein & Associates, LLC – Native American Graves Protection and Repatriation Act Consultants.

Since 2009, Ms. Bernstein has served on the faculty of the National Preservation Institute (NPI). She also teaches webinars on NAGPRA and NAGPRA grant writing for the National NAGPRA Program (U.S. Department of the Interior).

Ms. Bernstein has a B.A. in Studio Art and Art History from California State University, Sacramento and an M.S. in Museum and Field Studies from the University of Colorado, Boulder.

Our Clients

- Museums (as defined by the Act)
- Indian tribes, Alaska Native villages, Native Hawaiian organizations
- Federal agencies

Our Services

We provide our clients with a full range of NAGPRA services. They include, but are not limited to:

Strategic Planning

We begin with a site visit and needs assessment that identifies projects that could be funded by NAGPRA Consultation/Documentation grants. A timeline is created, and templates are provided for tracking progress.

Grant Writing – NAGPRA Grant Writing

We have written NAGPRA grant proposals every year since 1999, and each year our proposals have been funded. To date, our clients have been awarded over a 1.5 million dollars in NAGPRA Consultation/Documentation & Repatriation Grants.

We have written NAGPRA Repatriation grants that have funded the physical transfer and reburial of human remains representing over 1000 individuals and nearly 1000 associated and unassociated funerary objects.

Additionally, Ms. Bernstein teaches NAGPRA grant writing for the National NAGPRA Program and the National Preservation Institute.

NAGPRA Consultation

We facilitate consultations customized to meet the unique needs of each of our clients. Our NAGPRA consultation services often include planning, implementation, documentation, and follow-up. We offer support services throughout the entire process. Official tribal representatives frequently praise our culturally sensitive, insightful, and respectful approach.

Since 1990, we have organized and facilitated hundreds of individual and group consultations.

NAGPRA Summary and Inventory Preparation & Distribution

For our museum and federal agency clients, we prepare culturally sensitive section 6 summaries and Section 5 inventories. Typical process:

- Collection assessment and aboriginal territory research to identify appropriate groups with whom to communicate
- Consultation planning and facilitation (pre Inventory & post Summary)
- Personalized correspondence with appropriate Indian tribes and Native Hawaiian organizations with the use of our tribal contact database. It includes up-to-date information for tribal leaders and NAGPRA

representatives for all 566 Federally Recognized Indian tribes as well as 70 Native Hawaiian organizations.

- Technical assistance in the production of culturally affiliated and culturally unidentifiable human remains inventories.
- Draft Notices of Inventory Completion, Notice publication announcements, and transfer of control documents.
- Review Committee preparation and presentation of CUI dispositions.

Repatriation, Physical Transfer, and Reburial

Indian tribes have relied on our assistance

- in the drafting of repatriation requests and repatriation claims
- in locating land for reburial and negotiated land usage agreements

Our museum clients have relied on our assistance

- in writing Notices of Intent to Repatriate
- in writing Notices of Inventory Completion for publication in the *Federal Register*

For both museum and Indian tribe clients, we have facilitated

- the development and implementation of reburial agreements
- transfer of physical custody of repatriated human remains and cultural items

Training

All of our trainings are customized to meet the unique requirements of our clients. Recent trainings have included:

- NAGPRA: Essentials (twice a year for NPI)
- NAGPRA: Planning for and Writing NAGPRA Grants (four times a year for NPI and webinars for the National NAGPRA program))
- NAGPRA: For Indian Tribes
- NAGPRA: For Native Hawaiian Organizations
- Determining Cultural Affiliation
- 43 CFR 10.11 (the CUI Rule)

WHAT OUR CLIENTS SAY

"Expert, Reliable, and Produces Results"

"My museum has worked closely with B&A for the last several years, and find the company to be highly reliable, extremely knowledgeable about NAGPRA, and has the ability to produce results. I highly recommend Bernstein & Associates for either museums or tribes needing help with NAGPRA."

"Fantastic Service"

"The training B&A provided was great value for money. It helped us advance our NAGPRA program, and the follow-up support went beyond the service level we expected. I look forward to future work with this company."

"Great company to hire!"

"B&A have helped my museum not only through initial consultation procedures but has been a great resource for all questions related to NAGPRA without having to call the office in Washington D.C."

"Expertise and Service."

"We have come to rely on Bernstein & Associates for accurate and well-considered answers to complex NAGPRA issues. They are always just a phone call away."

"...was very informative and one of the best trainings I have ever attended."

Select Project Descriptions

Colorado College, Colorado Springs

B&A has provided full NAGPRA implementation services to facilitate the repatriation of human remains representing 41 individuals as well as associated and unassociated funerary objects. Services included:

- Development of the Human Remains Inventories and Notices, in consultation with 35 Indian tribes;
- Staff training in NAGPRA compliance and making cultural affiliation determinations;
- Development of repatriation requests in consultation with Indian tribes;
- Presentation before the NAGPRA Review Committee of requests for recommendations of disposition of CUI;
- Re-interment planning and implementation; and
- Development of memoranda of agreement through consultation with two federal agencies, the Smithsonian, and multiple Indian tribes for the temporary housing and re-interment of remains and funerary objects from multiple sites.

Colorado Land Repatriation and Reburial Workgroup

Ms. Bernstein served as a founding member of the committee whose work resulted in the establishment of this landmark workgroup tasked with providing land for the reinterment of human remains and funerary objects originating in Colorado. Signatories to the workgroup's establishing memorandum of understanding are the State of Colorado, Bureau of Land Management, National Park Service, US Fish & Wildlife Service, and US Forest Services. As a founding member, Ms. Bernstein provided a half-day training to the Native American Graves Protection and Repatriation Review Committee.

Del Norte County Historical Society

In compliance with the 43 CFR 10.13 (the Future Applicability Rule), Bernstein & Associates provided:

- Technical support in the development of the museum's NAGPRA Section 6 Summary;
- Wrote a successful NAGPRA Consultation/Documentation grant in 2012;
- Two NAGPRA trainings – one for the board of trustees and the other for the membership; and
- Facilitated the museum's first on-site NAGPRA consultation.

Denver Museum of Nature & Science

Facilitated disposition of human remains representing 15 individuals from unknown geographic locations, which required communication, on at least two occasions, with all 566 Federally Recognized Indian tribes and 70 Native Hawaiian organizations.

Sam Noble Oklahoma Museum of Natural History

In consultation with museum staff, developed a strategic plan for NAGPRA compliance. Provided technical support that included preparing staff for a presentation to the Native American Graves Protection and Repatriation Review Committee on the current state of compliance at the museum. Facilitated tribal consultation in support of the first project identified in the strategic plan. Wrote a FY 2015 NAGPRA Consultation/Documentation grant to implement the strategic plan.

Sitka Tribe of Alaska

Ms. Bernstein provided an all-day workshop for the cultural preservation staff and the tribe's attorney about NAGPRA and how it applies to the Sitka tribe.

United States Air Force Space Surveillance Stations (sub contracted with HGL)

We facilitated the development of NAGPRA Section 3 Plans of Action and NAGPRA compliance procedures for each of the nine Space Surveillance Stations, which are located on federal, tribal, and private lands. Our aboriginal territory research identified more than 70 Indian tribes all of which were invited to participate in the process.

United States Army Garrison-Hawaii, United States Department of the Interior Native Hawaiian Liaison, and the Kamakakuokalani Center for Hawaiian Studies

Ms. Bernstein taught a one-day NAGPRA workshop specifically designed for Native Hawaiians and Native Hawaiian organizations.

United States Fish & Wildlife Service National Wildlife Property Repository

After an assessment of the collection, in consultation with Indian tribes, B&A developed a NAGPRA Section 6 Summary, which was submitted to Indian tribes throughout the country. We then followed up with the recipients and facilitated the consultation.

University of Colorado Museum of Natural History, Boulder

- In 2003, in consultation with our client, B&A developed a strategic plan for compliance. In 2014, the plan was completed. In total, human remains representing 648 individuals, 630 associated funerary objects, and 109

unassociated funerary objects from sites from California to West Virginia were repatriated.

- To fund the projects, B&A wrote and implemented eight NAGPRA Consultation/Documentation grants, which funded consultations with several hundred Indian tribes.
- The re-interments, which were frequently facilitated by Ms. Bernstein in consultation with the repatriating tribes, were funded by Repatriation grants written by B&A.
- Most recently, Ms. Bernstein completed an assessment of the museum's NAGPRA Section 6 Summary submissions, identifying numerous additional Indian tribes, to which Summaries were submitted using the firm's consultation database to facilitate communication with official representatives of Indian tribes, Alaskan Native villages, and Native Hawaiian organizations.

Wiyot Tribe

Funded by a NAGPRA Consultation/Documentation grant, Ms. Bernstein lead two back-to-back all-day NAGPRA workshops. The first was geared toward Indian tribes and museums. The second day was specifically for the NAGPRA representatives from the regional (Northern California) tribes. A follow-up training is currently underdevelopment for tribal elders.

Select Client List

Buffalo Bill Museum and Grave, CO

Central Council of the Tlingit and Haida Indian Tribes of Alaska, AK

Colorado College, Colorado Springs, CO

Del Norte County Historical Society, CA

Denver Museum of Nature & Science, CO

Pioneer Historical Society of Bent County, CO

Pueblo of Santa Ana, NM

Roberts S. Peabody Museum of Archaeology, Phillips Academy, Andover, MA

Sam Noble Oklahoma Museum of Natural History, OK

Sitka Tribe of Alaska, AK

United States Air Force Space Surveillance Stations

United States Fish & Wildlife Service National Wildlife Repository

University of Colorado Museum of Natural History, CO

University of Wisconsin-Madison, WI

Wesleyan University, CT

Wiyot Tribe, CA

Memorandum

The City of Traverse City

TO: Penny Hill, Acting City Manager

COPY:

FROM: Benjamin Marentette, City Clerk

DATE: Friday, April 24, 2015

SUBJECT: PROPOSED FEE – FOR USE OF RENOLDS-JONKHOFF MEETING ROOM AT CARNEGIE BUILDING

The purpose of this memo is to recommend that the daily room use fee for the Renolds-Jonkhoff Meeting Room be set at $75 per day.

User fees charged by the City must be directly correlated with the City's cost in providing the service/use. My fee recommendation is based on the following:

- Anticipated cost of staff time to book requests, conduct follow-ups, room key coordination, etc. ($30)
- For the FY 15/16 Budget, the Heritage Center Fund, which accounts for the operation of the building, has a $5,000 shortfall (difference between lease revenues and our expenditures) – based on an estimated 120 room days used per year, that equates to $41.66/day)

$75/day for a room fee appears to be in line with what other municipally-owned rooms in the area are rented for.

After we have had experience renting this room, we can re-evaluate our fees based on actual experience. I hope this is helpful; and as always, please feel free to contact me with any questions.

K:\tcclerk\fees\carnegie building fee recommendation 2015

Office of the City Clerk, 400 Boardman Avenue, Traverse City, MI 49684
(231) 922-4480 tcclerk@traversecitymi.gov

Memorandum

The City of Traverse City

Office of the City Manager

TO: CARNEGIE BLDG/CITY ASSETS AD HOC COMMITTEE

COPY: CITY DEPARTMENT HEADS

FROM: PENNY HILL, ACTING CITY MANAGER

DATE: APRIL 23, 2015

SUBJECT: PROPOSED POLICY FOR DISPOSITION OF CITY ASSETS

Background:
In 2009, the City initiated a strategic exercise to identify city-owned parcels of property and to create a process for disposal of that property in order to liquidate some City assets. While a formal, standardized process was not adopted, a number of documents were created through the 2009 effort that may be helpful to the Ad Hoc Committee in their deliberations to create and adopt a formal process for disposition of City assets.

The first is a memorandum from then City Attorney Karrie Zeits regarding the sale of City property. The memorandum describes some steps that need to be performed to determine first, whether or not the property can be sold, and second, if it can be sold, how to determine a fair market value.

The second document is an internal checklist that city staff developed for use when applications or inquiries are received for the sale of city property. This document was later modified to include applications for encroachments, sale of City property and Requests for Relinquishment of Easements. Both versions are attached here for your review.

For Discussion:
Policy vs Process: Policies are clear, simple statements of how the City intends to conduct its services, actions or business, and are consistent with the strategic direction of the City. They provide a set of guiding principles to help with decision making. Policies don't need to be long or complicated – a couple of sentences may be all that is needed.

The Process shows where there is a separation of responsibilities and control points. It describes how the policy will be put into action. A well thought out process should include :

- Who is responsible for the function/task
- What major functions are performed
- When the function is triggered

In 2009, it was not the goal of the City Commission to develop a policy for the disposition of City assets, so no policy was created or adopted. In addition, while the 2009 effort produced some useful documents for City staff to utilize, the goal of creating a complete process, from initial request to final disposition, was not realized.

For purposes of initiating thoughtful discussion about the process, Commissioner Easterday drafted a Proposal for Inventory, Use, and Disposal of City-Owned Property, which is attached for your review.

I have also attached a draft Flow Chart for the Disposition of City Assets, and a sample Policy and Procedure that I downloaded from the internet for your review. These will hopefully spur some high-level discussion about the disposition of City assets.

Memorandum

The City of Traverse City

TO: R. Ben Bifoss, City Manager

COPY: Timothy Lodge, City Engineer

FROM: Karrie A. Zeits, City Attorney

DATE: January 30, 2009

SUBJECT: *Sale of City Property*

The City Commission has identified selling surplus property as a goal. The City owns or controls 144 parcels of property within the City. In order to determine whether a particular property can be sold and the potential costs or benefits to the City of selling each parcel, it will be necessary to evaluate each property on a case specific basis. The purpose of this memorandum is to outline the process for determining whether a parcel may be sold and the potential costs and benefits to the City in selling the property.

The attached maps identify each parcel of property the City owns or controls within the City, its current use, and where applicable the current zoning. For the Coal Dock, the Boys and Girls Club, Depot, Heritage Center, 1430 Wayne, and Opera House properties, the attached sheet indicates how the properties are held and any restrictions on the use or sale.

Process for Disposing of City Property.

A. Restrictions.

The first question that must be asked is whether the property at issue is parkland or cemetery property. The City's Charter provides as follows with respect to parkland and cemetery property:

> All grants or dedications heretofore made shall continue without change. All cemeteries and parks now owned or hereafter acquired by the City of Traverse City either within or without its corporate limits shall be dedicated solely to cemetery or park purposes respectively, provided, however, that the electors by a three-fifths (3/5) majority vote may approve subsequently disposal of such cemeteries and parks or portions thereof.

In order to determine whether property is parkland, it is necessary to look at the City's Master Plan, the conveying document, and the history of the property. In some cases, it is relatively simple to determine whether property is parkland. For example, properties

dedicated to the City for use as a park would be considered parkland. In other cases, it is not quite as simple and a much more extensive analysis needs to be engaged in.

If the property is parkland, the property may not be disposed of unless approved by the voters. In order for a sale to be approved it is necessary for the City Commission to adopt a resolution to place the issue on the ballot in a regular or special election. In the fall, 2004 regular election, the voters approved a sale of parkland located on State Street to the Children's Museum and a sale of cemetery property to Munson Medical Center. The sale to the Children's Museum never occurred because they found another location. The sale to Munson Medical Center was finalized this past August.

If the property is not parkland, the next question is how did the City acquire the property?[1] There are a variety of ways that the City could have acquired the property. Each method has potential implications for the City's ability to sell the property or the cost and benefit the City may realize in the sale. The following is a summary of the various methods through which the City may have acquired a particular parcel and the potential implications for each:

1. Tax Reverted Parcel.

The City has acquired several parcels of property from the state as a result of a failure to pay taxes on the parcel. The conveying document for these parcels contains a provision requiring that these parcels remain for public use and should the City ever sell these parcels, title is to revert back to the State. This reversion clause may be or may have been removed. However, under Michigan law, if this clause is removed, the City is obligated to divide the proceeds received proportionately among the various taxing jurisdictions less the cost to maintain the property.

2. Gift, Grant, or Dedication.

The City has acquired several parcels through gift, grant, or dedication. In a lot of these cases, the gift, grant, or dedication requires that the parcel be used for a particular purpose. For example, several neighborhood parks were acquired through dedication and the dedication requires that the property continue as a park. Another example is the City Opera House. This was acquired by gift from the Votrubas. The deed of gift provides that it is made for the purpose of renovation and operating the Opera House and that no use shall be made of the property except for cultural, charitable, civil, or municipal purposes.

3. Through Gift or Grant of Money to Purchase.

The City has acquired several parcels with funds from a third party. Sometimes these funds have been provided to the City contingent upon them being used to purchase the parcel for a particular use. For example, a portion of the Open Space was acquired with

[1] It should be noted that the parcel in question may have more than one issue making a sale more complicated. For example, the property sold to Munson was both cemetery property as well as a tax reverted parcel.

funds from the federal government, which grant required the City to agree to retain the land for open-space purposes. According to the minutes of the City Commission meeting where the City accepted the funds, the City affirmed its intention to use the property for open space, scenic, conservation, and recreational purposes. In these cases, any sale or transfer contrary to the purpose for which the money may be subject to challenge.

4. Purchase.

The City has acquired several parcels by outright purchase with City general funds. While many of these parcels do not contain any restrictions, some do. For example, 1430 Wayne Street was acquired by the City in settlement of litigation concerning Incochee Woods. One of the restrictions placed on the property is that it would never be used for a public or private road.

5. After Acquired Restrictions.

In addition to restrictions placed on property at the time it is acquired, restrictions may be later added to the property. Such restrictions may include restrictions as to use or restrictions arising as a result of easements or other burdens placed on the property.

B. Fair Value.

Once it is determined what the restrictions or impediments to selling the parcel are, it is necessary to determine what the value of the property is. In general, cities may only sell or lease property for fair market value. MCL 117.4(e). The value of a property can be impacted by such factors as the current zoning for the parcel. For example, the Senior Center property is zoned Open Space. A limited number of uses are allowed as of right on properties zoned Open Space. This would impact the fair market value of the property.

There are exceptions to the fair market value rule; one exception is where there is statutory authority for giving property away, such as the Urban Cooperation Act, which authorizes political subdivisions of the state to enter into agreements gifting land to another political subdivision. Fair value for property held by the City can also be achieved by receiving value in addition to monetary consideration. For example, the City could contract with a person or group to sell property owned by the City in exchange for a sum less than fair market value and a commitment to build affordable housing on the site if the City has identified a need for affordable housing. The key is that the non-monetary consideration serves or achieves a recognized public benefit.

Conclusion.

The determination of whether a particular parcel can or should be sold requires a case by case analysis. The City owns or controls 144 parcels within the City. The most efficient approach for determining the feasibility for selling City owned property would be for the City Commission to identify which parcels it is interested in selling. Once this

determination is made, the parcel may be evaluated to determine whether it is saleable and if so, whether the benefits of sale outweigh any costs.

City of Traverse City

APPLICATION FOR ENCROACHMENT/SALE OF CITY PROPERTY/ RELINQUISHMENT OF CITY EASEMENT

City of Traverse City, 400 Boardman Avenue, Traverse City, MI 49684 (231) 922-4460 Fax (231) 922-4457

Applicant Name: _____ **Phone:** _____

Applicant Email: _____

Address: _____
Street *City* *State* *Zip*

Property Owner Name: _____ **Phone:** _____

Authorized Signatory of Property Owner: _____ **Title:** _____

Type of request *(please check one)*: □ Encroachment

□ Sale of City Property

□ Relinquishment of City Easement

Description/location/nature of request: _____

_____

_____

_____

_____

Applicant Signature: _____ **Date:** _____

The following are required in order to be considered for this request:

_____ Letter describing your request addressed to the City Engineer.

_____ Survey prepared by a Licensed Surveyor detailing the nature and the extent of the request.

_____ Legal description of the property owned.

_____ Legal description of proposed encroachment/city property/city easement.

_____ Certification that property owner is not delinquent in paying any debt owed to or collected by the City.

(*Office Use Only*)

Non-refundable $475.00 Application Fee received on: _____

Staff review by Engineering, Clerk's Office, Planning/Zoning, Assessor, Light & Power, Streets, Water/Sewer Maintenance, Manager's Office completed on: _____

Approval of Permission by City Commission on: _____

STAFF REVIEW CHECKLIST
FOR ENCROACHMENT/ SALE OF CITY PROPERTY/
RELINQUISHMENT OF CITY EASEMENT

LOCATION: _____

REQUESTOR: _____

TYPE OF REQUEST *(check one)*:
- ☐ Encroachment
- ☐ Sale of City Property
- ☐ Relinquishment of City Easement

ATTACH APPLICATION

Staff person completing form

1. ENGINEERING DEPARTMENT

[ ] Is the property noted on the Engineering Department maps? _____ _____

[ ] If so, indicate any pertinent notations and any other documents or notations in department records.

_____

[ ] Are utilities located in the property where the request is being proposed?

_____

[ ] City Engineer's recommendation:

[ ] Request not recommended because _____

[ ] Recommended, with the following conditions: _____

2. STREETS DEPARTMENT

[ ] Has the City been maintaining the property? _____ _____

[ ] If so, in what way(s)? _____

[ ] If so, how long? _____

[ ] Does this department object to the request? _____

_____

Staff person completing form

3. WATER/SEWER MAINTENANCE DEPARTMENT

[ ] Are there any water or sewer services located on the parcel(s)? _____ _____

[ ] If so, where is their location? _____

[ ] Does this department object to the request? _____

4. CLERK'S OFFICE

[ ] List any records regarding this property pertinent to this request, such as easements, covenants and/or restrictions regarding the request, City Commission actions, along with dates of the meetings. _____

_____

_____

_____

[ ] Does this department object to the request? _____

_____

5. LIGHT AND POWER DEPARTMENT

[ ] Are electric utilities located in the property? _____ _____

[ ] Light and Power recommendation:

[ ] Request not recommended because _____

_____

[ ] Recommended, with the following conditions:

_____

_____

6. PLANNING & ZONING DEPARTMENT

[ ] Is the request consistent with the City Plan? _____ _____

[ ] Does the request violate zoning? _____
If so, what zoning laws?

_____

_____

[ ] Does the Planning Commission require a public hearing on the request? If so, what is their recommendation?

_____

Staff person completing form

8. ASSESSING DEPARTMENT

[ ] Will there be new parcels created? _____ _____

[ ] What is the value of the request? _____

Please explain.

_____

_____

[ ] Does the City Assessor object to the request?

_____

9. CITY MANAGER DEPARTMENT

[ ] Indicate any pertinent information from any City Manager or City Attorney files regarding this request. _____

_____

_____

[ ] Does the City Manager object to the request? _____

_____

10. CONCLUSIONS AND RECOMMENDATIONS _____

[ ] Platted or dedicated right of way

[ ] Owned in fee by the City

[ ] Adjoining property owners have been using

[ ] Borders upon, crosses, is adjacent to or ends at a lake or stream. If so, see MCL 247.41, et seq for Circuit Court procedure.

[ ] Request should be permitted with the following conditions:

_____

_____

_____

[ ] Request should not be allowed because:

_____

_____

_____

CHECKLIST FOR THE SALE OF CITY LAND

Please complete and forward to the next department indicated.

PARCEL: _____ (ATTACH MAP)

REQUESTOR: _____

Attach application

Staff person completing form

1. PLANNING DEPARTMENT

[ ] Is the parcel build able? _____

[ ] Is the sale consistent with the City Plan? _____

[ ] Does the Planning Commission require a public hearing on the sale? If so, what is the timeframe required?

_____

_____

_____

2. ENGINEERING DEPARTMENT

[ ] Is the parcel noted on the Engineering Department maps? _____

_____

_____

[ ] If so, indicate any pertinent notations and any other documents or notations in department records.

_____

_____

_____

[ ] Are utilities located on the parcel? _____

_____

[ ] City Engineer's recommendation:

[ ] Sale not recommended because _____

_____

[ ] Recommended, with the following conditions: _____

_____

_____

Staff person completing form

3. STREETS DEPARTMENT

[ ] Has the City been maintaining the parcel? _____ _____

[ ] If so, in what way(s)? _____

[ ] If so, how long? _____

[ ] Does this department object to the sale of the parcel?

_____

4. WATER/SEWER MAINTENANCE DEPARTMENT

[ ] Are there any water or sewer services located on the parcel?

_____ _____

[ ] If so, where is their location?

_____

[ ] Does this department object to the sale of the parcel?

_____

5. CLERK'S OFFICE

[ ] List any records in particular easements, covenants and/or restrictions regarding this parcel pertinent to this sale request. _____

_____

_____

_____

[ ] Does the Clerk object to the sale of this parcel? _____

6. LIGHT AND POWER DEPARTMENT

[ ] Are electric utilities located on the parcel? _____ _____

[ ] Light and Power recommendation:

[ ] Sale not recommended because _____

_____

[ ] Recommended, with the following conditions:

_____

_____

7. CITY MANAGER DEPARTMENT

[ ] Indicate any pertinent information from any City Manager files regarding this parcel. _____

_____

_____

[ ] Does the City Manager object to the sale? _____

Staff person completing form

8. CITY ATTORNEY DEPARTMENT

[ ] Indicate any pertinent information from City Attorney files regarding this parcel. _____

_____

_____

[ ] Does the City Manager object to the sale? _____

9. CONCLUSIONS AND RECOMMENDATIONS _____

[ ] Platted or dedicated right of way
[ ] Owned in fee by the City
[ ] Adjoining property owners have been using
[ ] Borders upon, crosses, is adjacent to or ends at a lake or stream. If so, see MCL 247.41, et seq for Circuit Court procedure.
[ ] Should be sold by the City with the following conditions:

_____

_____

_____

[ ] Should not be sold by the City because:

_____

_____

_____

Proposal for Inventory, Use, and Disposal of City-Owned Property

A Portfolio Plan shall be maintained for all City-owned property. Each portfolio shall include the following information.

Classification-Each property shall be classified as

1. Corporate/Operational: Used to house City functions (fire, administrative offices, service yards)
2. Public Purpose: Used to provide service directly to the public (Parks, Opera House, Marina, Bijou). These properties could be
   - leased at market rate or comparable leasehold investment OR
   - leased at lower than market based on public benefit
3. Investment: Purchased as part of strategic or master plan for future development (trail, park, right of way)
4. Surplus: Properties no longer in use for their originally intended purpose that are vacant or have been declared surplus

Condition-Scaled as poor, fair, good. The most recent real estate appraisal of the property will be included.

Status-Additional detail pertinent to any use of the property. This should include

1. Current zoning and property type (TCL&P, administrative offices)
2. Lease status
3. Leasehold conditions and/or deed restrictions, park land or charter restrictions

Not-for-Profit Plan-This includes any properties leased to a non-profit at lower than market based on public benefit. This should include

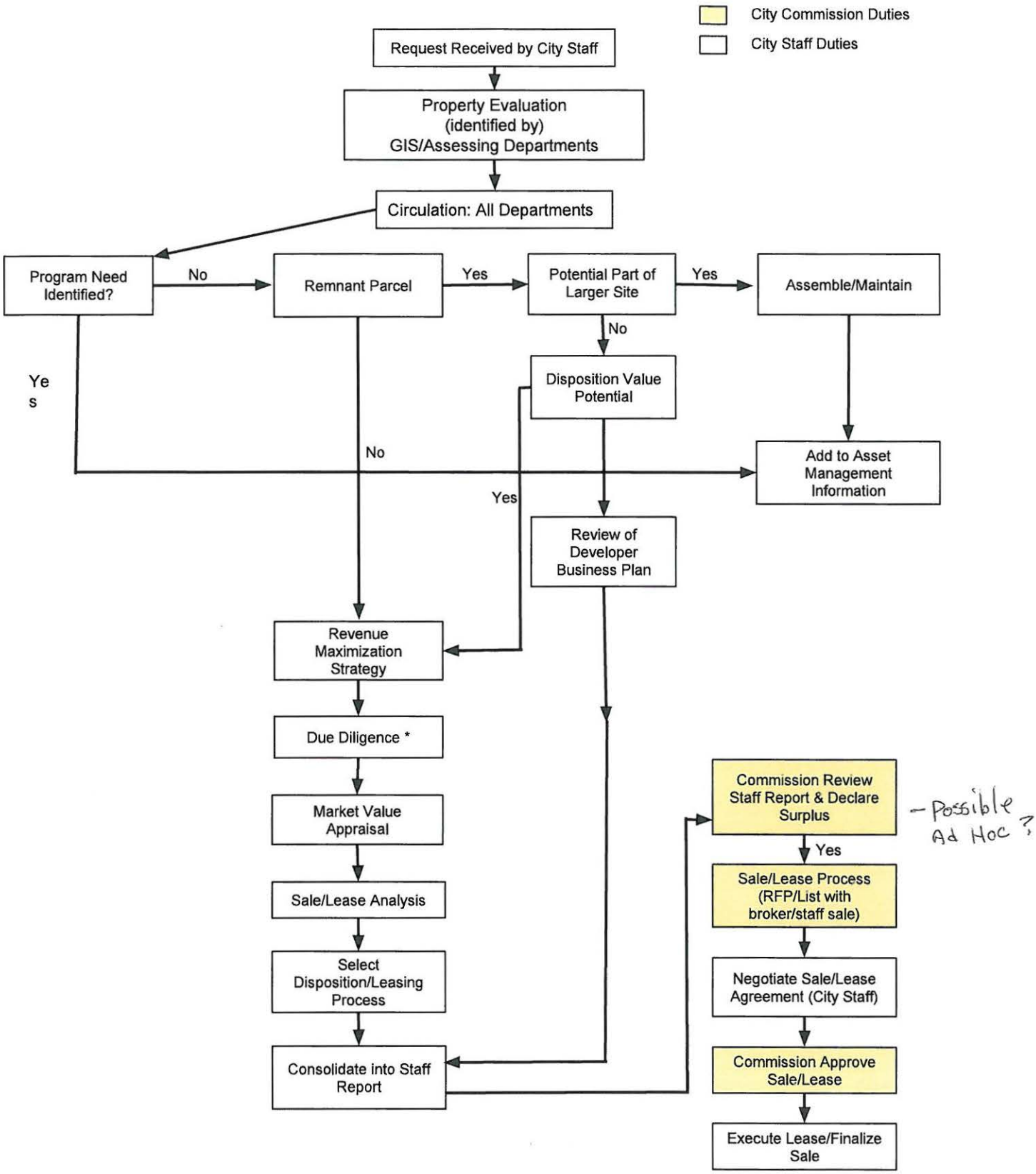
1. Value of property and type of contract (lease, management agreement)
2. Services provided by the City as part of the lease agreement (Maintenance, parking patrol, utilities)
3. Summary of business case for each agreement (Bijou, Carnegie, TCOH)

When a request for proposal is received or inquiry made, the interested party shall be directed to the appropriate City Department as identified on the Portfolio Plan. The department shall provide the potential applicant with the Portfolio Plan. The status of the property shall direct next steps in the process. The applicant will also be made aware of the potential steps in the process that should be addressed in the proposal. This may or may not include items such as financial statements, bidding process, and contract requirements (bonds, insurance, professional services required for engineer, architect, contractor).

All submitted proposals shall be assessed by the appropriate City Committee or Commission as determined by the involved City Department. Items that may be addressed in deliberations by the Committee/Commission should include

- What is the best public benefit this property can provide our citizens?
- Does the proposed use
  - Address unmet public need?
  - What is the community benefit?
  - Are there competing public benefits?
  - What direction is provided by the Charter, the Master Plan and/or associated documents?
  - Provide public access?
  - Leverage public and/or private funding?
  - Provide quantifiable economic impact?
  - Provide a financially stable model?
  - Require additional public funding or subsidy? If so,
    - Do we have the organizational capacity to implement?
    - How will short and long term finances of the City be affected?
  - What other activities or priorities may need to be deferred?

DRAFT FLOWCHART FOR DISPOSITION OF CITY ASSETS



* Survey, Wetland/Parkland; Compare to Master Plan, Corridor Plan, etc.

* Do we/Should we include a Public Participation component?

Sample

COUNCIL POLICIES AND PROCEDURES

SECTION - D

PROPERTY - SALE/PURCHASE POLICIES

SUBJECT: Sale of Municipal Property Number D-1

APPROVAL DATE: May 14, 2008

PREAMBLE: It shall be the policy of Council to consider sale of municipal property when requests are received or when property is no longer required for a municipal purpose.

TERMS:

1. Request to Purchase Property

   a. Upon receipt of the appropriate "Expression of Interest" form (Appendix A) and a deposit of $250.00, Municipal Staff will prepare a report and recommendation to be presented to Council for consideration.

   b. The deposit shall be held by the Municipality as a form of security until the decision is made whether to sell the property so requested.

   c. If a decision is made not to tender the property in question, the $250.00 deposit shall be refunded in it's entirety.

   d. If the applicant is the successful bidder for the property or a decision is reached to waive policy and sell directly to the applicant the $250.00 deposit shall be applied to the cost of the lands and expenses so incurred by the Municipality.

   e. If the applicant is not the successful bidder for the property the $250.00 will be returned along with any tender deposit remitted.

   f. If the applicant does not tender on the property as advertised, and no other tenders are received or accepted by Council, the deposit, or that portion required to cover the expenses incurred to date, shall be applied to those expenses and the balance, if any, shall be returned to the applicant.

2. Request for Proposals

   a. Council may consider, from time to time, the sale of certain strategic parcels of municipal lands by way of a "Request for Proposals" which shall be advertised in a local paper for a period of not less than 2 weeks.

b. Proposals submitted to the Municipality for the purchase of municipal land shall include the following information:

   i. detailed description of the development proposed;
   ii. detailed plot plan showing specific location of any buildings, structures or developments (including parking areas) within the site;
   iii. schedule for the construction of all components of the proposed development;
   iv. detailed description of the building design and other components such as exterior building materials, facade, signage, landscape and other aesthetics impacting on the area where the development will occur;
   v. amount offered for land on a per acre basis and an estimate of total value of project when complete; and,
   vi. detailed description of economic impact of project including number of jobs created both part-time and full-time.

c. Criteria for rating proposals shall be as follows:

   i. Suitability of Development — Rating 20 pts.
      - Land Use Planning compatibility
      - Accessibility
      - Complimentary to existing uses in the area
      - Aesthetic impact (i.e.: structure, landscape, signage, etc.)

   ii. Economic Development Impact — Rating 20 pts.
      - Employment opportunities
      - Tax base impact (displacement)
      - Need for service
      - Competitiveness to Community

   iii. Infrastructure Benefits — Rating 20 pts.
      - Potential to improve sewer service
      - Potential to improve road/access service
      - Potential to improve other provincial or municipal services
      - Potential to allow for improved communication services

   iv. Community Benefits — Rating 20 pts.
      - Provides for needs of local residents
      - Reduces need to seek services outside local area
      - Enhances the building compliment in the area
      - Supports or encourages tourism

   v. Direct Impact to Municipality — Rating 40 pts.
      - Property taxation
      - Cost to provide infrastructure services
      - Efficient use of municipal land requirement

Sample

- Price paid for municipal land

d. Council is not bound to accept any proposal; and, may accept a proposal in whole or in part.

e. Transfer of the land will be made contingent on project implementation and construction as per proposal.

f. Provision for transfer of the land back to the Municipality based upon project timelines not being met will be considered.

g. In accordance with the Municipal Government Act the Municipality must receive market value for land sales.

3. Eligibility of Property for Sale

a. Council shall investigate and verify ownership and eligibility of property before offering land or other property for sale. Ownership and eligibility will be determined by the completion of a title search and migration of the property where possible. A survey may be required to complete this process.

b. Council shall request a valuation of the property to be sold which may be based on the assessed or appraised value of the property. However if the property is to be sold without tendering, Council shall request a written appraisal of the property, the same to be prepared by a qualified land appraiser.

c. All sales of municipal property shall be in accordance with the provisions set out in the Municipal Government Act for the sale of municipal land.

4. Terms of Sale

a. All deeds for the sale of municipal lands shall be Quit Claim or Warranty Deed subject to any easements, rights-of-ways, and public roads on or over the lands.

b. In addition to the purchase price, the purchaser shall pay the Municipality on or before the closing date the following:

i. the expenses of the Municipality in searching the title and migration of the property;
ii. the expenses of the Municipality in surveying the property, when required;
iii. the deed transfer tax on the sale;
iv. the HST on the sale;
v. the recording fees for the deed;
vi. the postage expenses; and,
vii. the expenses of the Municipality in arriving at the valuation of the property.

c. The purchaser must, prior to the sale, agree to comply with all the municipal bylaws and regulations in his/her use of the lands purchased.

d. Closing date for the sale shall be within thirty (30) days of the date of notification of final municipal expenses of sale.

5. Procedures on Tendering

a. All tender bids for the purchase of property shall be accompanied by a deposit equal to ten percent (10%) of the tender price, or such other amount as the Council may have determined. The deposit shall be in the form of a certified cheque, cash or money order. Failure to enclose the required deposit will result in rejection of the bid.

b. The Municipality reserves the right to reject any or all tenders received. Should the Municipality decide that it is in the best interest of the Municipality to retain the tendered property, the tenderers shall have no claim against the Municipality.

c. Only those tenders received on or before the deadline date advertised for the submission of tenders will be considered by Council or it's authorized representative.

d. If a tender bid is withdrawn following acceptance by Council or it's authorized representative, the accepted tenderer's deposit shall be forfeited to and retained by the Municipality as liquidated damages, with the Council reserving the right to proceed against the tenderer for additional expenses and damages incurred and the tender being deemed as having not been received.

e. The Municipality accepts no responsibility for damage to the tendered property after the date of notification of acceptance of tender to the successful tenderer.

6. Waiver of Policy

a. This policy may be waived by a majority vote of Council if:

i. A request is received to purchase the land by family members of the last known owner of the property prior to its acquisition by the Municipality.
ii. A request is received from an adjacent landowner and the size of the lot in question is less than one acre.
iii. The public interest appears to be better served accepting the initial offer without tendering.
iv. A fair and reasonable price is received in accordance with the Terms of Sale for municipal property.
v. The valuation received shall be in accordance with the Eligibility of Property for Sale section of this policy when determining the price of the property to be sold.

Sample

vi. All sales of municipal property shall be in accordance with the provisions set out in the Municipal Government Act for the sale of municipal land.

vii. A request is received for the purchase of a parcel of municipal land and upon review the parcel requested is not required for a municipal purpose but is considered to be strategic in location for economic development purposes then Council may, by majority vote, waive this policy to sell by public tender. In lieu of the public tender process Council may instead request proposals in accordance with the Request for Proposals section of this policy which establishes the requirements of the proposal and criteria for evaluation.

7. Limits of Responsibility

a. The sale of municipal property shall be without warranty as to its completeness or condition, its accessibility or its suitability for intended use of the purchaser. This shall apply to land, equipment, vehicles, buildings or any other property offered for sale by the Municipality of the District of Guysborough.

a. All property to be sold, shall be sold "**AS IS, WHERE IS**".