



Economic Development Division

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CITY OF MADISON LAND BANKING FUND POLICY Adopted: _____, 2021

The 2021 City of Madison Executive Capital Budget proposes \$3 million for a land banking fund. The following policy was created by Housing Strategy Committee and approved by Common Council on _____, 2021.

1. Program Objective

The objective of the land banking program is best described in the 2021 budget language adopted by the Common Council, which reads as follows:

This program is for the acquisition of land and buildings that could be used for future economic development, affordable housing projects, and other City uses. The goal of this program is to acquire strategic properties for future purposes that might include: assisting displaced businesses, reducing blight, stabilizing housing markets, improving the quality of life of residents and neighborhoods, and preserving land for City purposes.

The City of Madison Common Council will approve the purchase of property under this program. Projects that leverage additional Federal, State, or Local funding (including tax incremental financing or the Affordable Housing Fund) are eligible for land banking investment and shall be subject to these guidelines to the greatest extent practicable, so as to promote consistency with the Program Objective.

2. Priorities for Use of Land Banked Property

City staff shall consider the impact of any form of property transfer (acquisition or disposition) on short and long-term neighborhood and community development plans and vice versa. The Council may consider the following priorities:

- Affordable housing, including the preservation, production or rehabilitation of housing for persons with low or moderate incomes, and the creation or preservation of long-term affordability through community land trusts, or ownership by not-for-profit organizations or the CDA. This includes properties that currently serve as naturally-occurring affordable housing but are at risk of becoming unaffordable through forces of gentrification¹ and other real estate market conditions, and properties that are physically and financially amenable to affordable housing development. The definitions of affordable housing and related income targets utilized to implement this policy will be generally consistent with Madison General Ordinance 4.22.
- Neighborhood revitalization, including the return of vacant, abandoned or foreclosed property to productive status; land assemblage for housing, community or economic

¹Gentrification is defined as “a market-driven racial and socio-economic reconfiguration of urban communities that have suffered from a history of disinvestment.” Displacement occurs “when households are forced to move or are prevented from moving into a neighborhood due to conditions which are beyond their ability to control or prevent (e.g. rent increases).” [Equitable Development in Madison: An assessment of factors contributing to displacement and gentrification](#). Accepted by the Madison Common Council, November 19, 2019.

development purposes; opportunities for small-scale “missing middle” housing consistent with existing neighborhood character; long-term (over five years) “banking” of properties for future strategic uses; and provision of financial resources for City operating functions, i.e., property and asset management, etc.

- Economic development, to the extent related to the long-term sustainability of affordable housing and neighborhood revitalization projects described above. This includes mixed-use development and/or development of adjacent property that promotes job creation, improves resident quality of life, and generates revenue for City operations and capital investments.

3. Property Acquisition Criteria

City staff will use the following primary and secondary criteria as a guide for determining whether to purchase property using with land banking funds in order to meet the Program Objective.

A. Primary Criteria

- The property is located along a transportation corridor providing near-term transit-oriented development (TOD) opportunities. The sites should be proximate to major transit corridors or transfer stations.
- (Re)development of the property for affordable housing will assist in preventing potential gentrification in neighborhoods or counter where gentrification has already been identified.
- The anticipated use will be compatible with approved City plans and is anticipated to be compatible with planning processes in progress. Properties not explicitly identified in a City of Madison plan will be considered if the location and (re)development goals are aligned with the objectives of the applicable plan.
- The anticipated use of the property is clearly identified and primarily benefits low-income households, with emphasis on opportunities for homeownership and household equity/wealth building. Impacts on existing or prospective businesses owned and operated by low-income persons and/or persons of color will also be considered.

B. Secondary Criteria

- There is adequate budget authority for the purchase, maintenance and planning of the site.
- Acquisition of the property will prevent development incompatible with approved City plans and/or the displacement of low- and moderate-income residents.
- The City determines that the acquisition and subsequent (re)development of the land would not otherwise be undertaken or driven by the private market.
- Acquisition of tax foreclosed residential properties will ensure long-term affordability upon resale to eligible LMI buyers or eligible nonprofits.
- (Re)development of the property will enhance neighborhood stability, encourage economic development and/or stimulate additional (re)development in the surrounding area.
- Barriers to (re)development such as environmental remediation, market conditions, holding costs, demolition costs, etc., are more easily addressed if the property is owned by the City.
- (Re)development of the property could presumably occur within five (5) years of purchase by the City.

4. Property Disposition Criteria

Similar to the acquisition criteria in the previous section, the City will consider a combination of factors in property disposition decisions:

- The intended or planned use of the property;
- The nature and identity of the transferee of the property; and
- The impact of the property transfer on the short and long-term neighborhood and community development plans.

The disposition of any given parcel will be based upon an assessment of the most efficient, effective, and equitable way to maximize the aggregate policies and priorities. The City shall retain flexibility in evaluating the appropriate balancing of the priorities for the use of property, priorities as to the nature of the transferee of properties, and priorities concerning neighborhood and community development.

While in many instances a property may be acquired with the intention to reconvey to a third party within a relatively short time period (within five years), the City may, at its sole discretion, elect to hold said property indefinitely for purposes of property assemblage, consistency with long-range City plans, availability of sufficient development funding, and/or to develop and operate publicly-owned projects (e.g. public housing or community centers).

A. Property Marketing

City staff will typically market property purchased under this program through a competitive Request for Proposal (RFP) process, which shall be informed by the tools and analytical framework developed through the City's Racial Equity and Social Justice Initiative (RESJI). The RFP will present clear and detailed expectations for the future use of the property, with responses considered according to the following general guidelines.

The City will consider either selling the property, or conveying the site through a ground lease with attendant land use restriction agreements (LURAs) to ensure long-term housing affordability.

- The City will grant options to bona fide prospects for reasonable periods of time. The City will not grant indefinite options to purely speculative ventures.
- The City may consider joint venture and co-development proposals between the City and a private entity.
- The City will consider subdividing the property, and selling portions to multiple end-users in conformance with adopted City Plans or Planned Unit Developments (PUDs).
- The City, when applicable and feasible, expects applicants seeking to acquire land-banked property to demonstrate prior consultation with neighborhood associations; the alder in whose district the subject property is located; nearby alders whose districts lie within 500 feet of the subject property; and nonprofit entities and other stakeholders in the geographical vicinity of the property (e.g. neighbors and/or property owners) who may benefit from its (re)development. The City shall solicit and consider public input in its decision making but reserves the final authority to acquire property deemed to be in accordance with these criteria.

B. Priorities as to the Nature of the Transferee

Except where limited by the terms of its acquisition, the City may, at its discretion, give priority to transferees of land banked properties including, but not limited to, non-profit or for-profit entities seeking to obtain the land for neighborhood revitalization, affordable housing, and/or limited

economic development purposes described above. At its discretion, the City may also give priority to transferees including, but not limited to, the following:

- Qualified (as determined by RFQ or other and competitive process) nonprofit corporations that will hold title to the property on a long-term basis (primarily rental properties) or hold title to the property for purposes of subsequent reconveyance to private third parties for homeownership.
- Entities that are a partnership, limited liability corporation, or joint venture comprised of a private nonprofit corporation and a private for-profit entity.
- Nonprofit institutions such as academic institutions and religious institutions.
- Individuals that intend to occupy a property as their primary residence that do not have any of the following:
 - outstanding blight or code violations;
 - outstanding discrimination complaints filed against them with the Department of Civil Rights
 - any property owned in the City of Madison that is in poor condition, including those with obvious signs of disrepair;
 - delinquent property taxes in the City of Madison or elsewhere in Dane County;
 - ownership interest in a property located in Dane County that has been tax foreclosed in the last five years; or
 - delinquency or default on repayment of any City of Madison loan program in the last five years.

C. Property Rehabilitation

The City may undertake rehabilitation of properties prior to the transfer to third parties. The nature and extent of any such rehabilitation shall be determined by the City at its sole discretion. The City may choose to engage a real estate agent, or Realtor, in accordance with City guidelines to assist in the marketing of a rehabilitated property. A listing agreement is to be signed with such agent prior to completion of the rehabilitation. Marketing of the property will normally commence at the completion of the rehabilitation. The City and/or transferees shall provide tenant relocation assistance and/or right to return, as appropriate.

D. Compensation

The following factors shall constitute general guidelines for determination of the compensation to be received by the City for the transfer of properties. For all transfers of real property, the City shall require good and valuable payment and/or other concessions to be determined by the City at its sole discretion.

The City will consider both the fair market value of the property and the Property Costs in its determination of compensation for each property. "Property Costs" shall mean the aggregate costs and expenses of the City attributable to the specific property in question, including costs of acquisition, maintenance, repair, demolition, marketing of the property and indirect costs of the operations of the City attributable to the property. Market value of land-banked properties to be acquired or sold by the City shall be determined through a standard third-party appraisal. Below-market sales and/or rights of first refusal may be considered for priority transferees (such as nonprofits) on a case-by-case basis.

The transferee may provide the agreed upon compensation to the City in the form of cash, deferred financing, performance of contractual obligations, imposition of restrictive covenants, community benefits agreement, other obligations and responsibilities of the transferee, or any combination thereof. This may include, for example, sale of property at no cost in exchange for

a long-term Land Use Restriction Agreement to preserve the use of the property as affordable housing for a permanent or near-permanent period of affordability.

5. Staff Investigation

City staff will utilize all of the preceding criteria in developing recommendations for each property proposed for land banking funding. In the event that multiple properties are under simultaneous consideration for acquisition with land banking funds, staff shall apply a standardized set of qualitative and quantitative factors in a brief report for each property for review and action by the Common Council at its sole discretion. Such factors to be included in these staff reports may include, but are not limited to:

- Short-term development potential (within five years of City acquisition).
- Proximity to existing transit lines and planned bus rapid transit (BRT) corridors.
- Proportion of affordable housing currently available within vicinity of property (e.g. Neighborhood and within ½ mile radius).
- Extent to which (re)development of the property will enhance neighborhood viability and stability, and prevent and/or mitigate housing gentrification and displacement.
- Extent to which (re)development of the property will have a catalytic impact, stimulating additional (re)development within the surrounding area.
- Barriers to (re)development (holding costs, demolition costs, environmental remediation, etc.) that can be more easily eliminated if the property is owned by the City.
- Ability to leverage additional federal, state, and local funding through land banking investment.