

# **JACKSONVILLE TRANSPORTATION AUTHORITY**

## **SURPLUS REAL PROPERTY DISPOSITION RULE**

**(RULE NO. 012)**

**DATE OF LAST REVISION:**

## **I. GENERAL**

### **A. Purpose**

The purpose of this rule is to set forth the basic procedures by which the Jacksonville Transportation Authority (hereinafter, the "Authority") disposes of surplus real property. This Rule does not apply to TOD Property. Specifically, TOD Property shall not be treated as Surplus Property but rather shall be utilized and developed in accordance with the requirements of Section 349.22, Florida Statutes, and the Authority's Joint Use and Transit-Oriented Development Policies and Guidelines. The Authority's Long Range Planning and System Development Division (hereinafter "Long Range Planning Division") will accomplish and coordinate the Authority's real property disposition activities as set forth in this Rule. This Rule is intended as guidance for disposition of interests in real property, including fee ownership, easements or other rights or interests, which are no longer needed for transportation-related purposes, and this Rule shall supersede any and all previous Authority Surplus Real Property Disposition Rules. The Executive Director/Chief Executive Officer (hereinafter "Chief Executive Officer"), or a Vice President as designated by the Chief Executive Officer, shall be responsible for disposition of the Authority's real property and may execute all necessary documents. Furthermore, subject to the terms and conditions of this rule, the Board hereby delegates the day-to-day routine administration of real estate contracts and related agreements to the Chief Executive Officer, including, with the advice of legal counsel, approving and executing minor modifications or amendments thereto (such as modifications of contractual time periods without Board approval or submission to the Long Range Planning and System Development Committee ("LRPSD Committee"); provided, that the such delegated authority shall not include changes to substantially material terms (such as the identity or amount of property to be sold; the sale price or financing terms; the purchasing entity; the use of the subject property; any representation, covenant or warranty as to the quality, condition or title of the subject property or any term that imposes materially substantive obligations or liabilities upon the Authority).

### **B. Authority**

These rules have been adopted by resolution of the Authority pursuant to its authority as provided in Florida Statutes §349.04(2)(c).

### **C. Effective Date; Applicability**

The effective date of these rules shall be the date of their adoption by the Authority and shall be binding on all Authority action, except as otherwise expressly pre-empted by applicable state or federal law. In the event there are conflicts between these rules and any applicable state or federal law, as they currently exist or as they may be amended from time to time, such state or federal law shall take precedence.

Notwithstanding anything provided herein, for any property acquired through eminent domain after May 11, 2006, any disposition or conveyance of such land shall be made in accordance with the provisions of Section 73.013, Florida Statutes.

#### **D. Severability**

If any provision of these rules or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the rules which can be given effect without the invalid provision or application and, to this end, the provisions of these rules are severable.

#### **E. Recordkeeping and reports**

The Authority shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with all applicable laws.

## **II. DEFINITIONS**

- a. **Excess Property.** Real property, of any monetary value, not currently needed to support existing or currently planned Authority operations or Authority Facilities, or use as TOD Property, as determined in accordance with the provisions of this Rule; provided, however, Excess Property may have other possible future use by the Authority. Excess property may include excess property with economic value created when design, construction or operational requirements change after acquisition.
- b. **Authority Facilities.** Any and all lands, buildings, fixtures, improvements, roadways and appurtenant facilities which may be owned, constructed, operated or maintained in whole or in part with Authority funds for Authority transportation or related operations.
- c. **Inequitable Sale.** A sale or other disposition of Surplus Property which would unfairly or unjustly affect an adjacent property owner's ultimate or present use of the owner's property to the extent that the property owner is or will be hindered or prevented from full use of such property.
- d. **Authority Sales Agreement.** An agreement for sale and purchase of Surplus Property made between a potential purchaser and the Authority being materially in the Authority's standard form and content which will contain the terms of the sale.
- e. **Surplus Property.** Excess Property declared by the Authority's Board to no longer be essential to, or have any present or future use or purpose for, Authority, Authority Facilities or as TOD Property.
- f. **TOD Property and Joint Use Property.** Authority real property determined to be potentially suitable for use in a joint-use development, private party development and/or other mixed used

development related or complementary to transportation projects, facilities or goals of the Authority. As used in this Policy "TOD Property" shall mean Joint Use or TOD Property.

- g. **LRPSD Committee**. The Committee created by the Chairman of the Authority's Board of Directors, or created by the Authority's Board of Directors, pursuant to the Authority's Bylaws.

### **III. DETERMINATION OF NON-ESSENTIAL PROPERTY**

The Chief Executive Officer or his or her designee may from time to time review property holdings of the Authority to determine if Excess Property exists. The Chief Executive Officer, or his or her designee, in coordination with the Long Range Planning Division, shall make a preliminary determination whether Excess Property is essential for present or future construction, operation or maintenance of an Authority Facility or essential for Authority purposes after conferring with Authority departments which may have an interest in the property. The Chief Executive Officer, or his or her designee, in coordination with the Long Range Planning Division, the Director of Legal Services, outside legal counsel, and/or engineering consultants shall also determine whether the property in question (1) is subject to any bond covenants, otherwise restricted by agreement or law by the federal government, the Florida Department of Transportation (the "FDOT"), or the City of Jacksonville and shall determine any requirements for release of said property, including any federal re-imbusement requirements, (2) may be needed for any imminently pending transportation-related uses by FDOT, the City or other transportation agency, (3) may qualify as TOD Property, and (4) would constitute an Inequitable Sale if sold or otherwise conveyed. Any immediately pending transportation-related use as set out in subsection 2 (two) above, shall be defined as a need for the property for a transportation-related use that is currently funded for either design, right of way acquisition or construction. Any such immediately pending need by the FDOT, City or other transportation agency shall be considered by the LRPSD and the Board in making its determination that excess property is nonessential, but such immediately pending need shall not prohibit the Board from designating the property as surplus property.

The foregoing findings shall be reported to the LRPSD and then to the Authority's Board. After considering these findings, and any recommendation of the LRPSD, the Board shall make the final determination that Excess Property is non-essential which determination shall be made by a resolution of the Board. If a parcel of property is determined to be non-essential, it will be designated as Surplus Property. Any designation of Surplus Property by the Board shall be effective for two years.

### **IV. PROCEDURE FOR DISPOSITION**

After the Board has determined a parcel of property is Surplus Property, the Authority may, but is not required to, dispose of the Surplus Property. In determining whether to dispose of Surplus Property the Authority may consider, but is not limited to, the current market conditions and whether the cost to dispose of the Surplus Property

outweighs the price which may be obtained from the sale of the Surplus Property. The Authority may sell less than a fee simple interest in Surplus Property. Surplus Property may be sold to, or exchanged with, private entities and persons. When deemed by the Authority Board to be in the public interest, the Authority may also sell, give or exchange Surplus Property to or with another public entity.

A. SURPLUS PROPERTY VALUED UNDER \$200,000

When Surplus Property has an estimated value of less than \$200,000 (as set forth in an appraisal or set forth in a written good faith estimate of value by a licensed Authority real estate broker, land agent and/or an appraisal consultant), the property may be sold by negotiated sale as provided in VI below, by public sale as provided in VII below, or by listing with a licensed real estate broker as provided in VIII below. Surplus Property valued at less than \$200,000 may be sold, or transferred as set out in this Rule, by the Chief Executive Officer, without Board approval, and without submission to the LRPSD. However, any property sold by the Chief Executive Officer, for less than appraised value, must be approved by the Board. It is the intent and goal of the Authority that the LRPSD and the Chief Executive Officer sell or dispose of Surplus Property valued under \$200,000 in the most expeditious, efficient and cost-effective manner possible in accordance with this rule.

B. SURPLUS PROPERTY VALUED OVER \$200,000

Where Surplus Property has an estimated value at greater than \$200,000, it shall be disposed of by public sale as provided in VII below, or by listing with a licensed real estate broker as provided in VIII below.

C. INEQUITABLE SALES

Where the sale of Surplus Property would be an Inequitable Sale, regardless of the value of the property, the Surplus Property may be sold to an adjacent affected property owner by a negotiated sale. If more than one adjacent property owner desires to purchase the property, it shall be sold by a public sale. Without limiting anything else contained in this policy, if no adjacent property owner desires to purchase the property, then the Authority may keep the property or elect to dispose of such land by public sale, negotiated sale,

exchange, donation or any other manner contemplated in this policy. Nothing in the immediately preceding sentence is intended to override the terms of subparagraphs IV (a) or (b) above.

**D. SURPLUS PROPERTY SOLD TO A PUBLIC ENTITY**

If Surplus Property is to be sold to another public entity it may be disposed of by a negotiated sale.

**E. SURPLUS PROPERTY GIVEN TO A PUBLIC ENTITY**

If Surplus Property is to be given to a public entity, the Board shall determine whether or not the gift of the Surplus Property is appropriate under all of the circumstances.

Notwithstanding A-E above, upon recommendation of the Chief Executive Officer, the Director of Legal Services or outside legal counsel, where deemed in the best interest of the Authority and the public, the Board may waive the procedures for disposition of Surplus Property in a particular circumstance. Such waiver shall be by Board resolution. Without limiting anything contained herein, to maximize revenues to the Authority, the Authority may market its Surplus Property, including through marketing and/or listing with licensed real estate broker or brokers approved by the Board.

**V. APPRAISALS**

Except as provided herein, prior to closing on the sale or exchange of Surplus Property, the Authority shall obtain an appraisal report. If deemed appropriate by the Authority in light of all the circumstances, the appraisal may be in the form of a summary opinion of value or letter appraisal by an Authority-approved appraiser confirming the proposed transaction price is a reasonable market price. Appraisal costs shall be payable by the purchaser of any Surplus Property.

If the sale of Surplus Property is initiated by the Authority, an appraisal shall be obtained by the Authority prior to closing on sale or exchange of any Surplus Property and the purchaser shall pay for the appraisal cost at closing. If Surplus Property valued at \$200,000 or less is sold by a negotiated sale, a formal appraisal does not need to be obtained provided that the Authority shall have a written good-faith estimate by the Authority's real estate broker consultant, land agent and/or general appraisal consultant that the property value does not exceed \$200,000; however, the Board, the Chief Executive Officer, or their designee, may require an appraisal for Surplus Property valued at less than \$200,000 if the Board, the Chief Executive Officer, or designee, determines a formal appraisal is appropriate under the circumstances. An appraisal obtained

hereunder shall not be dated more than three hundred sixty-five (365) days prior to the date of the sale.

## **VI. NEGOTIATED SALES**

A negotiated sale is a transaction between the Authority and a prospective purchaser which occurs as a result of negotiations between the Authority and the purchaser, and the sales price is decided through negotiation. In such circumstances, the parties will enter into an Authority Sales Agreement. Upon execution of the Authority Sales Agreement, a prospective purchaser shall provide a deposit equal to ten percent (10%) of the sales price or such other reasonable amount as approved by the LRPSD. The deposit shall be paid by an electronic transfer of funds, cashier's check, or money order in United States dollars.

## **VII. PUBLIC SALES**

In order to sell Surplus Property by public sale, the Authority shall utilize either the bid or proposal procedures set forth below:

### **Bid Procedure:**

- a. The Authority shall advertise the sale, including, at a minimum, an advertisement in a newspaper of general circulation in the area where the property is located and shall post the advertisement on the Authority internet web site. The advertisement shall state the date, time and place of the proposed auction, bid due date, bid opening or other method of buyer and price selection. The advertisement shall state a brief description of the property, the minimum bid amount, and the location of where to obtain additional information. The advertisement shall run in the newspaper of general circulation in the area where the property is located at least one (1) day, which must occur at least fourteen (14) calendar days prior to the date of the public sale. At the election of the Authority, more notice may be afforded, but not less. The Authority shall reserve the right to reject any or all bids, to request and consider additional information from any bidder and to waive minor irregularities and technical defects in any bid.
- b. The public sale shall be held at: (i) the Authority offices, or (ii) such other place designated by the Authority.
- c. The public sale shall be in sealed bid, auction format, or such other method determined by the Authority and shall be conducted by a designated representative of the Authority.
- d. The Authority may, at its option, establish a minimum bid amount of not less than the appraised value of the property; however, the Authority Board may determine, subsequent to a public sale where

- the minimum bid is not obtained, that a lower bid may be accepted; provided, the sale shall be to the highest responsible bidder.
- e. Upon the Authority's notice of the successful bid, the successful bidder shall be required within five (5) business days after such notice to place a deposit in the amount of ten percent (10%) of the purchase price (or such other reasonable amount as approved by the LRPSD) in an escrow account designated by the Authority. The deposit shall be refundable pursuant to the terms of the Authority's standard Sale Agreement only in the event the Authority does not proceed to execute and/or close on a contract for sale of the subject property or, if after executing the contract the purchaser shall determine within the inspection period not to proceed with the purchase of the property. Full payment of the purchase price shall be made to the Authority at closing by electronic transfer of cash in United States dollars in accordance with the terms of the Sale Agreement.

**Proposal Procedure:**

- a. The Authority may solicit proposals, or consider unsolicited proposals, (Request for Proposals) for purchase of the Authority property. The Authority shall advertise the Request for Proposals, including, at a minimum, an advertisement in a newspaper of general circulation in the area where the property is located and shall post the advertisement on the Authority internet web site. The advertisement shall state a brief description of the property and where to obtain additional information. The advertisement shall run in the newspaper at least one (1) day, which must occur at least fourteen (14) calendar days prior to the date of the public sale. At the election of the Authority, more notice may be afforded, but not less.
- b. The Request for Proposals shall constitute an invitation to submit offers to purchase and does not constitute an offer by the Authority to sell any property. All sales are subject to execution and Authority Board approval of a written contract materially in the Authority's standard form of Sale Agreement. The proposals shall be evaluated by the Chief Executive Officer, or his or her designee, in coordination with the Long Range Planning Division, the Director of Legal Services, outside legal counsel, and the LRPSD. In evaluating the proposals, criteria considered may include, the total sales price, the proposed financing, if any, the proposed use of the property, and the apparent ability to obtain approvals, close and develop the property as contemplated in the proposal. The Authority shall reserve the right to negotiate modifications to any offer that it deems acceptable, to place conditions on any sale, to reject any or all offers, to request and consider additional information from any submitter, and to waive

minor irregularities and technical defects in any proposal. The Authority shall reserve the right to seek new proposals or offers when it determines that it is in its best interest to do so. The Authority also reserves the right not to pursue sales of any specific properties identified in the Request for Proposals.

- c. The proposals shall be opened on a date specified in the request for proposals at the Authority offices, or such other place designated by the Authority, by a designated representative of the Authority.
- d. Upon the Authority's notice of acceptance of an offer, the potential buyer shall be required within five (5) business days after such notice to place a deposit in the amount of ten percent (10%) of the purchase price (or such other reasonable amount as approved by the LRPSD) in an escrow account designated by the Authority. The deposit shall be refundable pursuant to the terms of the Authority's standard Sale Agreement only in the event the Authority does not proceed to execute and/or close on a contract for sale of the subject property or, if after executing the contract, the purchaser shall determine within the inspection period not to proceed with the purchase of the property. Full payment of the purchase price shall be made to the Authority at closing by electronic transfer of cash in United States dollars in accordance with the terms of the Authority's Sale Agreement.
- e. As a condition precedent to the Authority's obligation to sell any property listed in a Request for Proposal, all proposals to purchase such property will be subject to an appraisal to confirm that the offer is a reasonable market offer. The appraisal shall be paid for by the buyer of the property.
- f. Any successful proposer shall enter into the Authority Sale Agreement. Should a successful proposer fail to enter into the Authority Sale Agreement within the time specified in the Request for Proposal and/or the Authority Sale Agreement, then the proposer shall be deemed to have reneged on the proposal and the Authority may, but shall not be obligated to, pursue a transaction with any other potential proposers.

All potential bidders and proposers are placed on notice that the Authority is a public agency and is subject to Chapter 119, Florida Statutes, regarding the disclosure of public records. Pursuant to Section 119.071(1)(b), Florida Statutes, sealed bids or proposals received by the Authority are exempt from public disclosure only for the ten (10) day period following the bid or proposal opening. Once the ten (10) day period has passed, all bids or proposals received by the Authority shall be made available to the public for inspection and copying in accordance with Chapter 119, Florida Statutes. Any language in a bid or proposal attempting to keep all or part of such bid or proposal confidential is of no force and effect and will be disregarded as contrary to Florida law.

## **VIII. LISTING WITH A LICENSED REAL ESTATE BROKER**

A listing with a licensed real estate broker is a sale in which the Authority sells Surplus Property through a negotiated sale obtained via a listing of the property for sale to the general public, which listing shall be placed with a licensed real estate broker or broker approved by the Board pursuant to the Authority's Procurement Rule. The LRPSD may review any selection criteria proposed by staff for the selection of any broker. Any such negotiated sale shall be in accordance with all applicable requirements of this Rule.

## **IX. UNSOLICITED PROPOSALS**

In the event JTA receives an unsolicited proposal to sell or transfer real property, the procedures set forth in this Rule shall apply based on the monetary value of the property at issue. If the property has a value of less than \$200,000, the property may be sold or transferred by following the negotiated sales procedures set out in Section VI or by following the public sales procedures set out in Section VII. In the event the property has a value of more than \$200,000, the property may be sold or transferred by following the public sales procedures set out in Section VII. In the event the property has a value of more than \$200,000 any unsolicited proposal shall be submitted to the LRPSD for its review, and thereafter to the Board for final determination after considering any recommendation of the LRPSD. Any unsolicited proposals received by JTA regarding TOD Property, or TOD projects, shall be considered and developed in accordance with the requirements of Section 349.22, Florida Statutes, and the Authority's Joint Use and Transit-Oriented Development Policies and Guidelines.

## **X. EXCHANGES OF PROPERTY**

The Authority may exchange Surplus Property for other real property. Any proposed exchange of real property that has a value of more than \$200,000 shall be submitted to the LRPSD for its review, and thereafter to the Board for final determination after considering any recommendation of the LRPSD. If a prospective purchaser of Surplus Property wishes to exchange a parcel of real property which has value to the Authority (the "Exchange Property"), the Authority may take title to the Exchange Property in exchange for the Surplus Property, provided the Board determines that acceptance of such Exchange Property is in the best interest of the Authority and the public. Factors considered in such determination include, without limitation, whether the Exchange Property is: (i) located in Duval County, Florida, (ii) contiguous to a current or planned Authority Facility or roadway important to the Authority, or (iii) located in an area which would serve an important function for the Authority, the Authority-related project or the Authority Facilities even if not contiguous to a current or planned Authority property or Authority Facility.

If the Board determines Surplus Property may be exchanged for Exchange Property, the exchange may be an equal exchange or, if the Exchange Property is worth less than the Surplus Property, the prospective purchaser shall pay the difference

between the appraised value of the Exchange Property and the appraised value of the Surplus Property; provided, however, that if the Surplus Property is to be exchanged with a public entity and/or for a public purpose as determined by the Board, the Board may agree to waive payment of the differential if deemed appropriate under all of the circumstances. In instances where the Exchange Property is appraised and/or is priced at a higher value than the Surplus Property, the Authority shall follow its normal acquisition procedures to obtain such Exchange Property but the Surplus Property may be conveyed as partial consideration for the Exchange Property and under such additional terms and conditions as deemed appropriate by Authority in light of all circumstances.

Notwithstanding anything contained herein, the Authority may exchange property in connection with the settlement of eminent domain matters upon terms and conditions deemed acceptable to the Chief Executive Officer, the Director of Legal Services, and/or outside legal counsel and the Board without complying with this exchange policy.

## **XI. CLOSING**

Closing for the sale of all Surplus Property, shall occur at either Authority offices, at the office of outside legal counsel for the Authority, or at such other mutually agreed upon location as specified in the Sale Agreement and shall occur as provided in the Authority Sales Agreement.

Title to the Surplus Property shall be conveyed by a special warranty deed, "as-is" and "where-is", subject to all matters of record and any matters set forth in the purchase and sale contract executed between the Authority and the purchaser. The Authority will execute an owner's affidavit for title insurance purposes if requested by the purchaser. If any structures are located on the Surplus Property, the purchaser shall receive a radon gas disclosure form which shall be executed by the purchaser.

If the purchaser fails to purchase the property as provided in the Authority Sales Agreement, the purchaser shall forfeit the deposit and the Authority may proceed to sell the Surplus Property to other parties.

Unless otherwise specifically agreed by the Authority, no deed conveying surplus property shall be deemed to waive or release any limited-access line and the deed shall expressly state that the Authority is not conveying or restoring any other abutter's rights including, without limitation, any claims or air, light and view between the Surplus Property conveyed, any abutting property and the Authority's property.

## **XII. INEQUITABLE SALES**

If Surplus Property is sold to an adjacent owner to avoid the occurrence of an otherwise Inequitable Sale, the adjacent property owner must provide the Authority evidence of title to the adjacent property. Further, the adjacent property owner shall certify at closing that he holds title to the adjacent property.

### **XIII. TRANSACTION COSTS**

Unless otherwise approved by the LRPSD, after consideration of all circumstances in a given transaction, at the sale of any property hereunder, the purchaser shall pay all costs associated with the closing, including, but not limited to the following:

- a. Appraisal and review appraisal costs;
- b. recording the deed and any closing documents;
- c. title work/title insurance (if provided under the Authority Sale Agreement);
- d. prorated ad valorem taxes, if any;
- e. all survey and due diligence costs;
- f. preparation of a legal description;
- g. advertising for the public sale;
- h. all costs relating to buyers financing, if any;
- i. all costs of broker, attorneys or other consultants or contractors retained by the buyer; and
- j. all other costs specified under the Authority Sale Agreement.

The Authority's legal counsel shall prepare, and the Authority shall bear the cost for, the deed and all Authority-required closing documents, but not documents related to any purchaser financing, entity organization or other purchaser-requested documents. Any such purchaser-requested documents shall be subject to approval by the Authority.

### **XIV. LRPSD FUNCTION**

Surplus Property valued at less than \$200,000 will not be submitted to the LRPSD for its consideration. Surplus Property valued at more than \$200,000 will be submitted to the LRPSD for its consideration and its recommendation to the Board. The LRPSD will not make a final determination regarding the sale of any surplus property, or disposition of any property under this Rule, but will make recommendations to the Board for the Board's ultimate determination as to the propriety of any sale or disposition.