

PORT OF KENNEWICK

Real Property Sales Policy

I. PURPOSE OF THIS POLICY:

To implement a policy for the sale of designated Port of Kennewick (Port) real property.

II. POLICY STATEMENT:

The Port shall make every effort to ensure that a consistent, equitable and legally compliant process is implemented for the sale of Port real property designated as “for sale”.

III. GENERAL GUIDING PRINCIPLES:

1. The Port Commission shall from time to time designate Port property that is “available for sale” and prepare and publish such listing on its website. The listing shall also be disseminated to other services or groups as staff determines appropriate to achieve the highest and best price.
2. Port-owned real property shall only be sold for identifiable, immediate development and not for speculative purposes. To serve this goal most sales will include a repurchase option in favor of the Port in the event identified development does not occur in a timely manner.
3. Long term options, rights of first refusal and onerous contingencies shall be discouraged and accepted only in exceptional circumstances.
4. No property shall be sold except pursuant to a valid, written offer to purchase has been submitted to the Port Commission and the Port Commission has accepted the offer. Until accepted all property for sale, shall remain for sale.
5. No property shall be reserved except through a binding purchase and sale agreement approved by the Port Commission.
6. Unless otherwise stated in writing, all Port property shall be sold “AS IS”

IV. PROCEDURE:

A. Determining Price

A determination of fair market value shall be made for all property designated as available for sale. This determination shall be made prior to the time any offer is presented to the Port Commission. The Port Commission may choose to sell Port-owned properties for less than fair market value, on a case-by-case basis if such sale would result in substantial economic development, help achieve other Port goals, or would substantially enhance the area’s quality of life: provided all sales shall be made in accordance with applicable law.

B. Offers to Purchase Port Owned Real Property

No Port real property shall be sold until Port staff has received a valid offer and the Port Commission approves such offer by Resolution adopted by the Port Commission in a regularly-scheduled or special Port Commission meeting.

1. Prior Inspection. Prior to submitting an offer for a particular parcel, all offerors shall be encouraged to meet with City or County staff in the appropriate jurisdiction to review the proposed site conditions, (such as zoning, servicing, topography, grading, history of the property, existing neighbors, etc.).

2. Port Staff Assistance. Port staff shall offer reasonable assistance to prospective purchasers of Port real property designated for sale pursuant to this policy. Assistance may include providing basic property information such as parcel size and proposed parcel value. Staff assistance shall not be deemed to reserve any parcel of real property for any party, nor shall staff assistance be deemed a commitment in any way whatsoever with respect to any Port real property.

3. Submission of Offer to Purchase by Offeror to Port Staff. Offers to purchase Port property shall be submitted by the offeror to Port staff in writing and dated. A valid offer must be signed upon submission and contain all information set forth below. A single staff member shall be designated for initial receipt and processing of all offers. Non-complying offers will be returned without processing:

- a. Identify the full legal name of the purchasing party and be executed by an authorized party;
- b. Contain a check for earnest money in a sum of not less than 5% of the offer price (in no case less than \$5,000);
- c. Contain a separate non-refundable administrative processing fee of \$500 for all parcels where the proposed purchase price is less than \$500,000 and \$1,000 for all parcels where the proposed purchase price is \$500,000 or greater;
- d. Identify the party to use and occupy the property, if different from the offering party;
- e. Legally describe the property subject of the offer;
- f. Indicate the total offer price;
- g. Indicate any terms for payment of purchase price;
- h. Identify any proposed contingencies;
- i. Identify a proposed closing date;
- j. Detail the proposed use of the property and timing for construction and development;
- k. Identify size and type of building to be erected, if applicable;
- l. Identify anticipated number of employees with approximate wage levels;
- m. Indicate whether or not any new positions shall be created as a result of the real property purchase, and if so, indicate number of new employees with approximate wage levels;

Interested parties shall be encouraged to submit offers using a Purchase and Sale Agreement in Port approved format. The current format is attached as Exhibit "A". If another format is used all information required above must be included in the offer and there shall be an additional \$500 non-refundable processing fee. Staff shall review the offer with the offeror to ensure that the offeror has submitted the information required below. Port staff shall present the offer to the Port Executive Director with a brief oral summary of the offer. The Executive Director may send the offer back to the offeror for additional information or may proceed to present the offer to the Port Commission as set forth in section 4, below.

4. Presentation of Offer by Port Executive Director to Port Commission. If the Executive Director determines that an offer properly submitted to staff complies with the requirements of this policy, the Executive Director shall submit the offer to the Port Commission for its consideration in due course (usually within 30 days of the submission of the offer to staff). Additionally the Executive Director shall make a written recommendation to the Commission (except in cases of unusual circumstances, in which cases the Executive Director's recommendation to the Commission may be oral).

The Executive Director's recommendation shall request that the Commission accept the offer, reject the offer, present a counter offer or table the offer. The Executive Director shall not sign any proposed offer until approved by the Port Commission by formal resolution.

5. Action on the Offer by Port Commission. Offers shall be evaluated by the Port Commission based upon the criteria set forth in Section 3 above. If there are competing offers, either of which may be acceptable if made separately, the Port Commission may select the offer which it believes best serves the goals of the Port. The Port Commission may reject any or all offers. The Commission shall respond to the offer through the Executive Director, who shall communicate the response to the offeror as soon as practicable. Any action on an offer shall only be made by official action of the Port Commission at a Commission meeting.

a. Acceptance of Offers. Within 10 days of the Port's acceptance of an offer, the Executive Director shall sign and accept the offer on behalf of the Port Commission. The executed agreement and deposited earnest money shall be transmitted to the closing agent designated in the offer. The property subject to the offer shall be not removed from the "available for sale" list, but shall be marked with a 'sale pending' designation.

b. Rejection of Offers. If the Port Commission rejects an offer, the offer shall immediately be null and void and of no force and effect. Earnest money shall be refunded less processing fee.

c. Tabling of Offers. The Port Commission may table an offer. The tabling of an offer shall have the effect provided by the Port Commission.