

Table of Contents

***Executive Summary*1**

This audit focused on acquisitions and dispositions of City-owned real estate. 1

During the four-year period covered by this audit, acquisitions were made at a cost of \$29 million and dispositions were made for \$3.8 million. 1

Overall, acquisitions and dispositions were proper, and in accordance with established policy and good business practices. 1

Issues were identified indicating the need to improve current policy and practices. 2

Recommendations are made to address the identified issues. 2

***Objectives, Scope, and Methodology*3**

The audit focused on real estate acquisitions and dispositions, the City real estate policy, and fixed asset records maintained for City-owned real estate. 3

Acquisitions and dispositions occurring from 1999 through mid 2003 were reviewed. 3

***Background*4**

The City owns approximately 11,000 acres of real estate comprised of land for various City facilities and programs. 4

Land is acquired through traditional real estate purchases, eminent domain, donations, legislative acts, and transfers. 4

Dispositions are made of real estate for which there is no current or foreseeable future uses. 4

The City real estate policy provides that the Real Estate Division shall be responsible for the acquisition, management, and disposition of City-owned real estate. 5

The City real estate policy establishes procedures for the acquisition and disposal of real estate. 5

***Acquisitions of Real Estate*6**

Our tests of a sample of 15 acquisitions showed that, overall, acquisitions were proper, fair, and in accordance with policy and sound business practices. 6

Consideration should be given to requiring independent reviews and approvals of certain eminent domain acquisitions that are currently negotiated and settled by the City Attorney’s Office. 8

The real estate policy should be revised to require that appraised values be included in information provided to the City Commission and/or City Manager as the applicable approving authorities. 10

The real estate policy should be revised to require documentation of the Real Estate Committee’s review and approval of proposed land acquisitions. 11

All closing and title documents should be reviewed by the City Attorney’s Office and those reviews should be documented. 12

As required by policy, two independent appraisals should be obtained for acquisitions where values exceed \$300,000. 13

The criteria for requiring environmental audits should be revised. 13

***Dispositions of Real Estate*15**

Our testing of nine dispositions showed that, generally, dispositions were proper, in the best interest of the City, and in accordance with established policy and sound business practices. 15

The real estate policy should be revised to provide specific methods of disposition for the various circumstances in which real estate is sold. 15

Nearby landowners should be notified of the City’s intent to sell property. 16

Real estate should be sold through competitive bid solicitation unless the purpose or circumstances of the disposition result in that process not being in the best interest of the City. 17

The method of disposition and justification for that method should be documented and communicated to the applicable approving authority. 18

Comments received from “nearby” landowners should be reviewed, summarized, and considered. 19

Document retention practices for real estate dispositions should be improved. 19

***Fixed Asset Records*20**

Due to differences in the manner land descriptions have been recorded, a reconciliation of land recorded in the City’s fixed asset records to the inventory records maintained by the Real Estate Division would be difficult, if not impossible. 20

Some disparities were noted between land recorded in the fixed asset records and the property appraiser’s records; some of these were due to errors in the fixed asset records..... 21

Actions should be taken to ensure that all real estate acquisitions and dispositions are properly recorded and reflected in the City’s fixed asset records. 22

Conclusion.....23

Overall, real estate acquisitions and dispositions were proper, fair, and in accordance with established policy and good business practices. However, issues were identified that indicate the need for improvements. 23

Response From Appointed Officials.....24

Appendix A - Action Plan26

Real Estate



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City Auditor

Report #0510

October 29, 2004

Executive Summary

This audit focused on acquisitions and dispositions of City-owned real estate.

During the four-year period covered by this audit, acquisitions were made at a cost of \$29 million and dispositions were made for \$3.8 million.

Overall, acquisitions and dispositions were proper, and in accordance with established policy and good business practices.

This audit focused on acquisitions and sales of City-owned real estate over a period of approximately four years. Accountability of City-owned real estate also was addressed.

The City owns approximately 11,000 acres of real estate, comprised of land for various City facilities and programs, including but not limited to, City Hall and satellite office buildings, fire and police facilities, a municipal complex, airport, utility power plants and facilities/substations, spray fields, parks, and remnants from property acquired for roads or other capital projects.

During the period October 1, 1999, through May 28, 2003, the City executed 347 transactions for real estate acquisitions at a total cost of \$29,076,425. Those acquisitions were made through traditional real estate purchase methods, as well as through the right and power of eminent domain. The City also acquired land through donation, legislative acts, and transfers resulting from new developments (e.g., green spaces in new subdivisions).

During the period January 1, 1999, through July 10, 2003, the City sold 19 properties for a total of \$3,879,994.

Overall, we found that acquisitions and sales were made properly, fairly, in the best interest of the City, and in accordance with established policy and good business practices. However, issues were identified that indicate improvements are needed to current real estate policy and practices. Recommendations are made to address these issues. These include:

- Eminent domain acquisitions that are negotiated and settled by the City Attorney's Office should be independently reviewed and approved by the City Real Estate Committee.

Issues were identified indicating the need to improve current policy and practices.

- For proposed acquisitions, appraised values should always be included in information provided to the applicable approving authority (City Commission or City Manager).
- Reviews and approvals of proposed acquisitions by the Real Estate Committee and reviews and approvals of closing statements and documents by the City Attorney's Office should be documented.
- A second appraisal should be obtained for all large land acquisitions when required by the City real estate policy.
- The criteria for requiring an environmental audit for proposed land acquisitions should be revised to ensure that audits are performed only when appropriate, as based on the applicable circumstances.
- The real estate policy should be revised to provide the specific and best methods for real estate dispositions in varying circumstances.
- Nearby landowners should be notified of the City's intent to sell real estate.
- Document retention practices should be improved for real estate dispositions.
- Procedures should be established to help ensure that land acquisitions and dispositions are accurately and correctly recorded and reflected in the fixed asset records maintained by Accounting Services.

Recommendations are made to address the identified issues.

We would like to acknowledge the full and complete cooperation and support of applicable City staff within the Real Estate Division, City Attorney's Office, and Accounting Services Section during this audit.

Real Estate



Sam M. McCall, CPA, CGFM, CIA, CGAP
City Auditor

Report #0510

October 29, 2004

Objectives, Scope, and Methodology

The audit focused on real estate acquisitions and dispositions, the City real estate policy, and fixed asset records maintained for City-owned real estate.

Acquisitions and dispositions occurring from 1999 through mid 2003 were reviewed.

The objectives of this audit were to determine whether: (1) acquisitions and dispositions of real estate by the City were in accordance with the City real estate policy and sound business practices; (2) the City real estate policy was sufficient to ensure that acquisitions and dispositions were made in a manner that was in the best interest of the City; and (3) accurate records were maintained to account for City-owned real estate.

The scope of this audit included a review of selected: (1) real estate acquisitions during the period October 1, 1999, through May 28, 2003 and (2) real estate dispositions during the period January 1, 1999, through July 10, 2003. The adequacy of the City real estate policy also was reviewed as it pertains to real estate acquisitions and dispositions. In addition, the audit addressed the accuracy of the fixed asset records maintained by Accounting Services for City-owned real estate.

To address the stated audit objectives, we selected samples of acquisitions and dispositions of real estate and obtained and reviewed the related supporting documentation, including but not limited to: sales contracts, closing statements, title certificates/deeds, appraisals, court orders pertaining to eminent domain acquisitions, and City Commission agenda items and minutes. We interviewed applicable staff within the Real Estate Division, the City Attorney's Office, and Accounting Services. For selected items, records of City-owned property were compared to records maintained by the Leon County Property Appraiser's Office.

This audit was conducted in accordance with Generally Accepted Government Auditing Standards and the Standards for the Professional Practice of Internal Auditing, as applicable.

Background

The City owns approximately 11,000 acres of real estate comprised of land for various City facilities and programs.

Land is acquired through traditional real estate purchases, eminent domain, donations, legislative acts, and transfers.

Dispositions are made of real estate for which there is no current or foreseeable future uses.

The City owns approximately 11,000 acres of real estate, comprised of land for various City facilities and programs including, but not limited to, City Hall and satellite office buildings; Fire and Police Department facilities; City municipal complex; airport; power plants; utility substations and facilities; spray fields; parks; flood mitigation; green space; economic development; and remnants from property acquired for road or other City projects.

The City acquires land through traditional real estate purchase transactions and through the right and power of eminent domain established by State statute. The City also acquires land through donation, legislative acts, and transfers resulting from new developments (e.g., green spaces are given to the City for some new subdivisions). In addition to acquiring entire parcels, the City acquires drainage, storm water, utility, and other right-of-way easements.

Real estate dispositions occur when property is determined not to have current or foreseeable future uses (i.e., “surplus property”). This includes dispositions made for remaining land remnants after completion of capital projects (e.g., an entire parcel is acquired for a new road, after completion of that road the unused portion of that parcel may be sold).

Pursuant to the City Commission Policy 136, “Real Estate Policy,” the Real Estate Division within the Public Works Department is responsible for all functions associated with acquisition, management, and disposal of real estate utilized within the operation of the City. Specific responsibilities assigned by that policy to the Real Estate Division include:

- Implementing the City real estate policy (i.e., acquiring, managing, and disposing of City-owned real estate).
- Developing uniform and clear procedures for property transactions.

The City real estate policy provides that the Real Estate Division shall be responsible for the acquisition, management, and disposition of City-owned real estate.

- Assuring uniform and clear documentation for all property transactions.
- Assuring equitable purchase prices.
- Assuring cost-effective management of all property not in current use by a City department.
- Maintaining an accurate inventory of all City-owned real estate.

The City real estate policy establishes procedures for the acquisition and disposal of City-owned real estate. For example, the policy addresses:

- Approval authorities for acquiring/disposing of real estate under different circumstances (e.g., the value of the property and/or the intent/use impacts whether the transaction is to be approved by the City Commission or City Manager).
- Establishment of a Real Estate Committee to review, evaluate, and make recommendations to approving authorities on land acquisitions.
- Requirements for appraisals to be used in establishing values and negotiating purchase/sale prices.
- Obtaining applicable documents (abstracts, title certificates/deeds, title insurance, etc.).
- Requirements for obtaining environmental audits for land considered for acquisition (i.e., environmental audits are intended to identify potential hazardous waste contamination).
- Review and approval of closing statements and title work by the City Attorney's Office.
- Recordkeeping (i.e., providing the Treasurer-Clerk's Office, Accounting Services, and other Public Works Department staff documents and notifications of land acquisitions and sales).

The City real estate policy establishes procedures for the acquisition and disposal of real estate.

The Real Estate Division is also responsible for activities other than land acquisition and disposition. Those activities include management of City-owned properties (e.g., leasing activities and contracts for certain City parking garages) and administration and

operation of City cemeteries. These other activities are not included in the scope of this audit.

Acquisitions of Real Estate

Our tests of a sample of 15 acquisitions showed that, overall, acquisitions were proper, fair, and in accordance with policy and sound business practices.

During the period October 1, 1999, through May 28, 2003, the City executed 347 transactions for real estate acquisitions at a total cost of \$29,076,425. From those transactions we identified and judgmentally selected and tested a sample of 15 acquisitions for which the City paid in excess of \$13.5 million. Overall, our tests of those transactions disclosed that acquisitions were proper, fair, and in accordance with established policy and sound business practices. However, as described below, certain issues were noted for which recommendations are made.

Settlements for the acquisition of land through the eminent domain process should be reviewed and approved by the City's Real Estate Committee and not approved solely by the City Attorney's Office.

The City's Real Estate Committee is comprised of the Director of Public Works, the Real Estate Administrator, the director of the department having project responsibility, and the City Attorney. For land acquired for projects that have been approved by the City Commission as part of the City's capital budget, section 136.08 of the City's real estate policy provides that the Real Estate Committee shall review and evaluate the terms and conditions and make recommendations (to the City Commission) on single parcel acquisitions over \$100,000, or single parcel acquisitions over \$50,000 which exceed the appraised value by 25% or more. Section 136.05 of the real estate policy provides that the City Commission shall review and approve all land acquisitions for which the purchase price exceeds \$100,000. These policy provisions do not differentiate between the methods of acquisition (e.g., voluntary acquisition versus eminent domain).

Many of the City's land acquisitions are acquired through eminent domain (e.g., for new or expanded roads). Of the \$29,076,425 paid for acquisitions during the period October 1, 1999, through May 28, 2003, approximately \$7.8 million was for acquisitions made through the eminent domain process. (Note: Many other City acquisitions were made through voluntary negotiations while the subject real

estate was under the threat of eminent domain, i.e., the property would have been taken under eminent domain if the owners had not been willing to voluntarily negotiate a sale.)

Under the eminent domain process, the following steps and actions generally are taken:

- For the identified parcel, the City’s Real Estate Division initially obtains an estimate of the property’s value through an independent appraisal, makes a written offer to the owner, and attempts to negotiate a settlement.
- If the Real Estate Division is unsuccessful in negotiating a voluntary settlement, the City Attorney’s Office is notified of the need to acquire the property through eminent domain.
- The City Attorney’s Office prepares a condemnation resolution, which is submitted to the City Commission for approval.
- Upon approval of the condemnation resolution, the City Attorney’s Office files an eminent domain lawsuit with the circuit court and obtains a legal “Order of Taking.” Upon receipt of the Order of Taking and the making of the required “Deposit of the Good Faith Estimate of Value” with the circuit court, the City acquires ownership of the property.
- After the City obtains ownership, full compensation to the previous owner must be determined and made. This process may be formal (e.g., court ordered mediation) or informal (e.g., voluntary negotiations). The vast majority (i.e., all in recent history) of eminent domain acquisitions are settled in this manner. However, in the event the City and previous owner are unsuccessful in negotiating a final settlement, a court trial will occur in which a jury will determine the final compensation.
- For acquisitions settled through negotiation after the Order of Taking is received and required deposit made, the court issues a “Stipulated Final Judgment” that specifies the amount to be paid by the City for the parcel.

Our review of eminent domain land acquisitions showed that the City often negotiates and pays a price higher than the value indicated

by independent appraisals obtained by the City (i.e., “City’s Appraisals”). City Attorney staff indicated that paying more than the appraised value was often necessary to preclude the courts (jury) from establishing the price. The City Attorney’s office stated that the City risks paying an even higher price, in addition to using significant City resources (time and staff), if a jury determines the price. Also, the City Attorney’s Office brought to our attention instances where the negotiation process disclosed additional information not considered by the City’s appraisal that justified higher prices.

Consideration should be given to requiring independent reviews and approvals of certain eminent domain acquisitions that are currently negotiated and settled by the City Attorney’s Office.

We noted that purchases of land under eminent domain, as part of capital projects and involving single parcels that exceed the noted thresholds (\$100,000 or \$50,000 when the price being considered exceeds the appraised value by 25% or more), were not reviewed by the Real Estate Committee and were not presented to the City Commission for final approval. Instead, these acquisitions were handled, negotiated, and approved within/by the City Attorney’s Office. Applicable acquisitions noted during our review included:

- Three land parcels for the Blair Stone Road Northern Extension for which the City paid \$346,424.05 pursuant to a stipulated final judgment. The City’s appraisal indicated a value of \$252,000, while the owner’s (seller’s) appraisal indicated a value of \$470,000.
- One land parcel for the Blair Stone Road Northern Extension for which the City paid \$675,000 pursuant to a stipulated final judgment. The City’s appraisal indicated a value of \$550,000 while the owner’s (seller’s) appraisal indicated a value of \$675,000.
- Four land parcels for the Bryan/Stadium/Call Road Project for which \$542,600 was paid pursuant to a stipulated final judgment. (Note: A total of \$745,600 was paid for which the City Attorney’s Office attributed \$200,000 to business damages.) For this acquisition the City’s appraisal indicated a value of \$402,882. The owner’s (seller’s) appraisal indicated a value of

\$705,000. Also, no City funds were disbursed for the project. The City was working in conjunction with Florida State University, which was the funding source for the acquisition.

Consistent with this practice, we noted that draft changes to the City real estate policy provide that property for approved capital projects to be acquired through eminent domain will be transferred to the City Attorney's Office for the City Attorney or his/her designee to: (1) prepare a condemnation resolution for approval by the City Commission, and upon City Commission approval (2) file a petition with the appropriate court to obtain title to the property. In addition, the draft changes provide that the City Attorney will have the authority to approve all such condemnation settlements, or the City Attorney may require the proposed settlement be presented to the City Commission for approval.

We acknowledge that it is appropriate and necessary for the City Attorney's Office to handle eminent domain acquisitions. We also acknowledge that in practice other members of the Real Estate Committee (i.e., Director of Public Works, the Real Estate Administrator, and applicable department director or his/her representative) actively participate with the City Attorney's Office in negotiating the proposed settlements. However, sole authority by the City Attorney's Office to approve settlements could potentially result in, or be perceived as, one person (or Office) having too much control or authority without adequate external oversight. Accordingly, to ensure that negotiated prices in eminent domain purchases are fair and in the best interest of the City and to provide a measure of independence, we recommend that the Real Estate Committee review proposed settlements negotiated by the City Attorney's Office. Those reviews should culminate in:

- An approval or disapproval by the Committee of the proposed settlements, and
- A decision by the Committee as to whether the proposed settlement should be presented to the City Commission for approval.

To further ensure independent decisions, consideration also should be given to:

- Changing the City Attorney’s role on the Real Estate Committee from a voting member to a participating, non-voting member (In a non-voting capacity the City Attorney would provide consultation and legal advice on proposed real estate settlements, and would not be placed in the position of having to subsequently defend, as City Attorney, the actions of the committee of which he is a voting member.); and
- Adding a member to the Real Estate Committee who does not actively participate in the negotiation process (e.g., the Treasurer-Clerk or Deputy Treasurer-Clerk).

To ensure an efficient process, the revised policy should continue the City Attorney’s Office role as sole approving authority (i.e., no review and approval required by the Real Estate Committee) for “small” eminent domain acquisitions. Small acquisitions should be defined as negotiated settlements that are: (1) less than a pre-established threshold and (2) within a pre-established range (e.g., percentage) of the value indicated by the City’s independent appraisal.

For recommended land acquisitions, the City real estate policy should require that appraised values be included in information provided by staff to the City Commission and/or City Manager as the approving authorities for the transaction. The City real estate policy establishes approving authorities for proposed land acquisitions. The City Manager has the authority to approve land acquisitions for which the costs are (1) \$50,000 or less if not part of the approved capital budget project and, generally, (2) \$100,000 or less if the land is acquired in connection with an approved capital budget project. All other land acquisitions are to be approved by the City Commission. (As noted in the previous issue, the City Attorney has served as the City’s approval authority for eminent domain acquisitions.)

The real estate policy should be revised to require that appraised values be included in information provided to the City Commission and/or City Manager as the applicable approving authorities.

For all land acquisitions where the estimated value exceeds \$25,000, the City real estate policy requires that independent appraisals be obtained. Those appraisals are intended to assist the City in negotiating a fair price to pay for the land. The appraised values provide meaningful information to the approving authority during the review and approval of proposed land acquisitions.

Our review of selected real estate acquisitions showed that appraisals were generally obtained and included in documentation provided to the approving authorities. However, for two of the 15 land acquisitions reviewed, available records did not demonstrate that the appraised values were included in the provided information. It is likely that the approving authorities were made aware of the appraised values for these two acquisitions through verbal communications during and/or subsequent to the negotiation process. To clearly document that information is communicated, we recommend that the real estate policy be revised to require inclusion of the appraised value in documentation (e.g., agenda item) provided to the approving authorities.

The real estate policy should be revised to require documentation of the Real Estate Committee's review and approval of proposed land acquisitions.

The Real Estate Committee's review and approval of proposed land acquisitions should always be documented. As noted in a previous issue, the City's Real Estate Committee is comprised of the Director of Public Works, the Real Estate Administrator, the director of the department having project responsibility, and the City Attorney. For land acquired for projects that have been approved by the City Commission as part of the City's capital budget, section 136.08 of the City's real estate policy provides that the City's Real Estate Committee shall review and evaluate the terms and conditions and make recommendations (to the City Commission) on single parcel acquisitions over \$100,000, or single parcel acquisitions over \$50,000 which exceed the appraised value by 25% or more.

Four of the 11 land acquisitions (not involving eminent domain) that were selected and tested were above the \$100,000 threshold and required a Real Estate Committee review. For two of those four, the review and approval by that committee was documented by committee minutes and agendas. However, for the other two

purchases, there was no documentation to demonstrate the committee's review and approval. In response to our inquiry, Real Estate Division staff indicated that the committee reviewed and approved the proposals for these two acquisitions (involving the Southeast Farm and land acquired for the Blair Stone North Extension Project) but did not document the reviews and/or did not retain documentation of those reviews.

Required reviews by the Real Estate Committee should be documented to demonstrate that proposals have been properly evaluated and approved prior to submission to the City Commission. We recommend that language be added to the real estate policy requiring the documentation of those reviews.

All closing and title documents should be reviewed by the City Attorney's Office and those reviews should be documented.

Reviews of closing and title documents by the City Attorney's Office should be documented. Section 136.18 of the City real estate policy provides that the City Attorney shall review all closing statements and title work prior to closing. Such reviews serve to ensure that the closing and title documents: (1) accurately represent the terms of the applicable purchase contract as intended and understood by the City and (2) are complete, binding, and otherwise in the proper legal format. Reviews by the City Attorney's Office can help avoid potential problems, such as those relating to the title to acquired property or to the party responsible for paying specific closing costs. In nine of the 15 sampled land acquisitions reviewed, there was no indication that the closing or title documents had been reviewed by the City Attorney's Office. The land acquisitions in these nine instances were made through negotiations with the landowners and not through the eminent domain process. Notwithstanding the lack of documented reviews, we noted no indications of problems or discrepancies with the nine instances subsequent to the applicable closings.

In response to our inquiry on this matter, the City Attorney's Office indicated that an attorney with a real estate background was hired in December 2000, and subsequent to that date the attorney has ensured that required reviews have been performed. However, those reviews have not always been documented.

Legal reviews by the City Attorney's Office are beneficial to the City. In response to our inquiries on this matter, the City Attorney's Office indicated that the reviews would now be documented. In addition, the Real Estate Division is proposing additional language to the real estate policy requiring the reviews to be documented. We recommend that these stated actions be completed.

As required by policy, two independent appraisals should be obtained for acquisitions where values exceed \$300,000.

A second independent appraisal should be obtained when required by City policy. Section 139.07(3) of the City real estate policy requires that two independent appraisals be obtained from state certified appraisers for land acquisitions where the values exceed \$300,000. These appraisals are to be used by the City in determining a fair and appropriate price to pay for the land. In our review of five land acquisitions with values exceeding \$300,000, we noted two instances where only one of the two required independent appraisals was obtained. The first instance involved an acquisition from the State of Florida, where the City acquired land for the Blair Stone Road North Extension Project (eminent domain was not used as the State is exempt from those provisions). The second instance involved an acquisition from a private entity for the Blair Stone Road North Extension Project that was made through the eminent domain process, for which the final price was settled through the City's negotiation with the landowner.

The subjective nature of real estate appraisals may result in different appraised values from one appraiser to the next. For large purchases, obtaining a second appraisal may mitigate (or at least demonstrate the degree of) that subjectivity. Accordingly, a second appraisal puts the City in a more knowledgeable/better position for negotiating the compensation that should be paid for land acquisitions. We recommend that second appraisals be obtained when required by the City real estate policy.

The criteria for requiring environmental audits should be revised.

The criteria for requiring environmental audits should be revised. Section 136.21 of the City real estate policy provides that "The City shall perform an environmental audit on all property purchases involving a cost of \$100,000 or more, or on any property involving active or past uses that may be the cause for hazardous waste

contamination.” One of our sampled purchases was an acquisition of a small strip of commercial land for a road-widening project (Bryan/Stadium/Call Project). The land was acquired through eminent domain for \$945,000. Contrary to the stated policy provision, the City did not perform or obtain an environmental audit. In response to our inquiry, the Real Estate Division stated a judgmental decision was made that, since it was a small strip of land that had previously been used for a restaurant parking lot, the risk of contamination was considered low. As a result, staff determined that an environmental audit was not necessary.

Based on these circumstances, we recommend that consideration be given to revising the requirements in the real estate policy for an environmental audit. Specifically, the policy should be revised to:

- Define an environmental audit, including what specific types of potential contamination (soil, radon gas, etc.) such an audit is intended to address.
- Specify that the type (scope or coverage) of environmental audit requested/performed should be based on factors such as location, land type (if known), known past use, current use, and intended use.
- Provide for professional judgment in determining if an audit is necessary based on applicable factors and variables (e.g., see above bullet).
- Eliminate the dollar threshold for determining whether an environmental audit is required. (The risk of contamination, cost of cleaning up such contamination, and other potential liability to the City is impacted by many factors other than the price paid for a parcel of land.)

Because of the costs of environmental audits (we noted fees ranging from a few hundred dollars to over \$15,000) and the subjectivity that would be involved in determining whether such audits are appropriate, the policy should also be revised to require that

documentation be prepared and retained on the need for environmental audits for each land acquisition.

Dispositions of Real Estate

Our testing of nine dispositions showed that, generally, dispositions were proper, in the best interest of the City, and in accordance with established policy and sound business practices.

The real estate policy should be revised to provide specific methods of disposition for the various circumstances in which real estate is sold.

During the period January 1, 1999, through July 10, 2003, the City disposed (sold) 19 different parcels of land for a total of \$3,879,994. We judgmentally selected and tested nine of those dispositions for which the City received \$3,741,626. Our tests showed that, generally, dispositions were proper, in the best interest of the City, and in accordance with established policy and sound business practices. However, the following issues were noted for which recommendations are made.

The City real estate policy should be revised and clarified to ensure the most appropriate and equitable dispositions of City property. Section 136.11 of the City real estate policy addresses disposal of City-owned real estate. That section contains provisions that address:

- Identification of surplus property (City-owned real estate not currently used and for which there is no potential City use);
- Obtaining input/comments from City staff on City-owned real estate considered for potential sale;
- Obtaining independent appraisals to assist in establishing values of real estate being considered for sale;
- Processing of proceeds received from real estate sales; and
- Notifying contiguous landowners and the general public of the City-owned land for sale.

Our tests of nine real estate dispositions showed:

- Independent appraisals were obtained and used in establishing values; and appraised values were included in information provided to the City Commission (e.g., agenda items) to assist in reviewing proposed sales.

- Other than three sales for economic development purposes and one sale resulting from an unsolicited offer, a competitive process was used in which the public was requested to submit bids for the property. In the five instances where the competitive bid process was used, two resulted in sales to the highest bidder, two were sold through negotiation with the highest bidder after submitted bids were initially determined not to be acceptable, and one was sold through negotiation with a non-bidding party after no bids were received.
- Descriptive and accurate agenda items were prepared requesting approvals of the sales from the City Commission.
- Sale proceeds were properly processed.

Nearby landowners should be notified of the City's intent to sell property.

We determined that, contrary to established policy, contiguous landowners were not being notified of the City's intent to sell property. Also, we noted that there are no clear guidelines within the current real estate policy that provide the methods of sale that should be used for the different circumstances under which City-owned real estate is sold. Specifically, the policy provides that all surplus property (real estate) shall be marketed for sale or disposal in accordance with the "City's Purchasing Manual," unless otherwise authorized by the City Manager. This policy provision is unclear because: (1) it does not address sales of City-owned property that is not categorized as "surplus" and (2) there is nothing in the City purchasing policies or procedures that addresses disposing of City-owned real estate.

We recommend that nearby landowners be notified of the City's intent to sell real estate. Additionally, we recommend that the real estate policy be revised and clarified to specifically address the methods that should be used in the sale of City-owned real estate. Specific policy revisions and recommendations that should be considered include:

- Subject to defined exclusions (see following for recommended exclusions), the general public should be notified of the intent to

Real estate should be sold through competitive bid solicitation unless the purpose or circumstances of the disposition result in that process not being in the best interest of the City.

sell any property and the property should be disposed through competitive bid solicitation (i.e., solicitation of competitive bids from the general public or a public auction). Competitive solicitation from the general public helps ensure the City obtains the best price for the property and generally provides all interested parties the opportunity to acquire the property.

- The City should retain the right to reject all bids.
 - In the event all bids are found to be unsatisfactory, the City should be allowed to negotiate with bidding parties to obtain a sale that is satisfactory/favorable to the City.
 - In the event that the City finds all bids unsatisfactory and is unable to negotiate a favorable sale with a bidding party, the City should be allowed to negotiate with any entity for a favorable price up to a specified period (to be defined by Real Estate Division) after the initial bid process. At the end of that period, new bids should be solicited if the City elects to continue efforts to dispose of the property.
- The City should be allowed to dispose of City-owned real estate without using a competitive bid solicitation under certain circumstances to be defined by the Real Estate Division. Examples of exclusions that should be considered include:
 - The value of the property is determined to be below a pre-established threshold.
 - The City chooses to sell property to a specific party for economic development purposes.
 - The City chooses to sell property to another governmental entity.
 - The City chooses to sell property to a specific party (e.g., non-profit organization) that intends to use the

property to foster a City-sponsored or supported endeavor.

- There is only one adjacent landowner, and an unsolicited offer is received from that adjacent landowner and the property is determined to be of no significant value (monetary or otherwise) to any other parties (e.g., remnant from a right-of-way acquisition for a new road). (NOTE: Not notifying the general public and requesting competitive bids in these circumstances would preclude another party from acquiring such property for uses that are unfairly detrimental to the adjacent landowner.)
- An unsolicited offer is received from an adjacent landowner and the property is considered to be of no significant value (monetary or otherwise) to any parties other than the solicitor and other adjacent landowners (e.g., remnant from a right-of-way acquisition for a new road that borders more than one landowner). In such circumstances the other adjacent landowners should be notified in writing and given the opportunity to comment and/or submit offers. (NOTE: Not notifying the general public and requesting competitive bids in these circumstances would preclude another party from acquiring such property for uses that are unfairly detrimental to the adjacent landowners.)
- Other unique circumstances where the use of the competitive bid process is determined not to be appropriate and in the best interest of the City/citizenry.

The method of disposition and justification for that method should be documented and communicated to the applicable approving authority.

- Documentation should be prepared and maintained clearly demonstrating the method of sale used. Also, for each disposition in which the competitive bid process is not used, documentation should be prepared and retained that justifies not

using that process. Documentation provided to the appropriate approving authority (i.e., City Commission or City Manager) should clearly identify the method used and reasons for that method.

Comments received from “nearby” landowners should be reviewed, summarized, and considered.

- Regardless of the method of sale, all “nearby” property owners should be notified in writing of the City’s intent to sell the property. Such notifications will ensure that those property owners are afforded an opportunity to provide their comments (favorable or unfavorable) as to the proposed sale (e.g., notify the City of any probable or potential detrimental impacts the sale may have on the nearby property owners). The term “nearby” should be defined within the policy, but should include impacted landowners other than just those with property adjacent (contiguous) to the applicable City-owned property. For example, landowners across a street or other public right-of-way should be notified.
 - Any comments received from such nearby landowners should be reviewed and considered.
 - All comments should be summarized. The applicable approving authority (City Commission or City Manager) should be notified of the comments. That notification should be documented (e.g., included in descriptive information included in an agenda item).

The establishment of specific guidelines within the real estate policy should assist City staff in disposal of City-owned real estate in a manner that is advantageous (financially or otherwise) to the City and documented as fair and equitable to all interested parties.

Document retention practices for real estate dispositions should be improved.

The Real Estate Division should improve document retention practices for real estate dispositions. During our testing of nine real estate dispositions, we noted that records and files were sometimes incomplete and unorganized. For example, copies of the independent appraisals were not located for four of the nine sales.

In another instance, a copy of the final closing statement was not provided. In addition, documents relating to individual dispositions were not always retained together in a single file or location. To facilitate the retention and organization of real estate sales documents, we recommend that the Real Estate Division develop a checklist for staff to use when completing real estate transactions. A filing system should be developed that provides a standard manner and process for retention of documents. Supervisory staff should review these files after completion of transactions to ensure that all documents are properly obtained and filed. Consideration should be given to using the City's electronic data imaging system (EDMS) for record retention.

Fixed Asset Records

To ensure accountability for City-owned real estate, generally accepted accounting principles require that balances (maintained on a cost basis) be recorded as part of the City's fixed assets. Accounting Services within the Department of Management and Administration is responsible for maintaining the City's fixed asset records.

Due to differences in the manner land descriptions have been recorded, a reconciliation of land recorded in the City's fixed asset records to the inventory records maintained by the Real Estate Division would be difficult, if not impossible.

Enhancements are needed to ensure that the City's fixed asset records maintained by Accounting Services are properly and accurately updated for real estate transactions. The Real Estate Division maintains a database of all real estate owned by the City. Information recorded in that database includes parcel identification numbers assigned by the Leon County Property Appraiser's Office and, when known/applicable, the land use description (e.g., road right-of-way, fire station, park) and location (i.e., street address). In addition, the City's Accounting Services Section maintains records of the City's fixed assets, including land. Information recorded for land in those records includes, but is not limited to, a unique asset identification number assigned by Accounting Services, a short description, the acquisition date, the land class (e.g., land, right-of-way, easement), and the City department that is the assigned "owner" of the property. All real estate acquisitions and dispositions executed by the City and recorded in the Real Estate Division

database should be reflected in the fixed asset balances maintained by Accounting Services, and vice versa.

Our observations and analyses of land recorded in the Real Estate database and in Accounting Services' fixed asset records showed that the records would be difficult, if not impossible, to reconcile. This is because the data recorded in the two sets of records is different. The only potential common data is the location and/or description, and in many cases that data is recorded differently in the two systems (e.g., the description of the property when acquired may be different than the description when the Real Estate database was prepared, or Accounting Services may have combined and recorded several parcels as a single land acquisition). In addition, as land transactions have occurred throughout the history of the City, the original transaction records supporting many (if not most) of the fixed asset land balances are no longer available.

Some disparities were noted between land recorded in the fixed asset records and the property appraiser's records; some of these were due to errors in the fixed asset records.

We noted that the Real Estate Division is actively verifying the accuracy of its database by reconciling to the Leon County Property Appraiser's records of land owned by the City of Tallahassee. In an attempt to determine the accuracy of the land data recorded in the City's fixed asset records, we judgmentally selected five land items identified by the Leon County Property Appraiser as owned by the City and attempted to trace those items to the fixed asset records. We also attempted to trace five pieces of land recorded in the City's fixed asset records to the Property Appraiser's records. Those efforts disclosed:

- Three instances where the fixed asset records show land recorded as owned by the City but the Property Appraiser's records show the land owned by other parties (e.g., the Federal government and the Frenchtown Community Development Corporation).
- Three instances where the Property Appraiser's records show land owned by the City that could not be traced into the City's fixed asset records (i.e., land for Kleman Plaza, Mission Road substation, and green space at the Countryside at Benjamin's Run subdivision).

Based on the above and subsequent discussions with Accounting Services and Real Estate, those disparities are attributed to:

- Accounting Services not being notified in the past of dispositions in order to delete the land from the fixed asset records;
- Real Estate Division and Accounting Services not being notified when the City gains ownership of land through platting from new developments (i.e., developer gives roads, sidewalks, and green spaces to the City), legislative acts, or other donations; and
- Land descriptions in the fixed asset records are not accurate and/or do not contain sufficient information to trace to the Property Appraiser's records.

Actions should be taken to ensure that all real estate acquisitions and dispositions are properly recorded and reflected in the City's fixed asset records.

We recommend that Accounting Services and the Real Estate Division review these records and correct discrepancies and inaccuracies that can be identified. In addition, to ensure that these records are reconcilable and accurate on a prospective basis, we recommend the following:

- A standard method and process should be developed and implemented for the Real Estate Division to notify Accounting Services of all acquisitions and dispositions of land. Information in the notification should include, but not be limited to, closing documents, accurate descriptions of the land, parcel identification numbers, and all associated costs (e.g., appraisal fees and fees for environmental audits) not included in the closing documents.
- Accounting Services should include the parcel identification number (assigned by the Leon County Property Appraiser's Office and used by the Real Estate Division to track land in its database) in the description field of the fixed asset records. This will provide a direct correlation between the two sets of records.
- The City Real Estate Policy should be revised to require that any City department that acquires, or causes to be acquired, land in

the name of the City to communicate the acquisition and all pertinent data to the Real Estate Division. This would include, for example, land donated to the City by private individuals or entities, land platted from new developments, and land acquired through State legislation (e.g., Cascades Park). As recommended above, the Real Estate Division should, in turn, notify Accounting Services of those acquisitions.

Based on our discussions with Real Estate Division and Accounting Services, these recommendations are being initiated. We recommend that those efforts continue.

Conclusion

Overall, real estate acquisitions and dispositions were proper, fair, and in accordance with established policy and good business practices. However, issues were identified that indicate the need for improvements.

It is our opinion that, overall, acquisitions and dispositions of City – owned real estate were done properly, fairly, in the best interest of the City, and in accordance with established policy and good business practices.

However, issues were identified for which recommendations are made. These include:

- Requiring independent reviews and approvals of eminent domain acquisitions that have traditionally been handled by the City Attorney' Office.
- Requiring that appraised values always be included in information provided to applicable approving authorities.
- Documenting reviews and approvals of proposed land acquisitions by the Real Estate Committee.
- Documenting required reviews of closing statements for all land acquisitions by the City Attorney's Office.
- Obtaining a second independent appraisal for large land acquisitions when required by City policy.
- Revising the criteria for requiring environmental audits.
- Establishing a policy for specific and best methods to be used for real estate dispositions in varying circumstances.

- Notifying nearby landowners when the City intends to sell property.
- Improving document retention practices for real estate dispositions.
- Establishing procedures to help ensure that land acquisitions and dispositions are accurately and correctly reflected in the City's fixed asset records maintained by Accounting Services.

We would like to acknowledge the full and complete cooperation and support of applicable City staff during this audit.

***Response From
Appointed
Officials***

City Manager: I have reviewed the draft Real Estate Audit and action plan. It has been a pleasure working with you and your staff to ensure accountability and make necessary improvements for the Real Estate Division. Your summary, conclusions and recommendations are accepted and have either been addressed or will be in the action plan.

As you are aware, we initiated revisions to the Real Estate Policy prior to the audit and with your suggestions will now complete this task. The revisions pertaining to property disposition, eminent domain settlements and general accounting are necessary and will be completed by year's end. A number of your suggestions have already been implemented and are now standard process for the Division. I look forward to implementing the policy changes and process improvements as necessary to ensure accountability for all real estate transactions.

City Treasurer-Clerk: We concur with the recommendation to add the Treasurer/Clerk or Deputy Treasurer/Clerk to the Real Estate Committee. I will be glad to serve on the Committee and will designate the Deputy Treasurer/Clerk to serve in my absence.

City Attorney: The City Attorney supports the recommendations and conclusions outlined in the Real Estate Audit, and believes the Audit identified changes, which, when implemented, will result in improved acquisitions and dispositions of City-owned Real Estate. The City Attorney concurs with the Auditor's recommended

modification to the approval process for eminent domain settlements, and agrees with the Auditor's recommendation that the City Attorney's role on the Real Estate Committee be changed from a voting to a non-voting capacity. As noted in the Audit Action Plan, the City Attorney's Office will continue to review closing and title documents, as required, and will develop a documentation process for such reviews. In order to ensure these recommended changes are incorporated in the Real Estate Policy, this office will assist Real Estate in drafting the necessary revisions, pursuant to the schedule outlined in the Action Plan.

Copies of this audit report #0510 (project #0310) may be obtained from the City Auditor's web site (<http://talgov.com/citytlh/auditing/index/html>), or via request by telephone (850 / 891-8397), by FAX (850 / 891-0912), by mail or in person (Office of the City Auditor, 300 S. Adams Street, Mail Box A-22, Tallahassee, FL 32301-1731), or by e-mail (auditors@talgov.com).

Audit conducted by:
Dennis Sutton, CPA, Senior Auditor
Bert Fletcher, CPA, Audit Manager
Sam M. McCall, CPA, CGFM, CIA, CGAP, City Auditor

Appendix A - Action Plan

Action Steps		Responsible Employee	Target Date
A. Objective:	Ensure independent review of eminent domain acquisitions.		
Real Estate			
	1. The Real Estate Committee will independently review proposed settlements (except for those defined in step A.5) for eminent domain acquisitions negotiated by the City Attorney’s Office and other City staff. Based on those reviews, the Real Estate Committee will approve (or disapprove) those settlements.	Mark Beaudoin & Debra Schiro	12/7/04
	2. The Real Estate Committee will determine if proposed settlements (except those defined in step A.5.) for eminent domain acquisitions should be presented to the City Commission for approval.	Mark Beaudoin & Debra Schiro	12/7/04
	3. The Treasurer-Clerk (or Deputy Treasurer-Clerk) will be added to the Real Estate Committee.	Mark Beaudoin	1/7/05
	4. The City Attorney’s role on the Real Estate Committee will be changed from a voting to a non-voting capacity.	Mark Beaudoin & Jim English	1/7/05
	5. Thresholds (dollar and percentage) will be established for determining which eminent domain acquisitions may be settled and approved by the City Attorney’s Office and which ones must be reviewed and approved by the Real Estate Committee. Acquisitions that are less than those thresholds may be settled solely by the City Attorney’s Office and will not require review and approval by the Real Estate Committee.	Mark Beaudoin & Debra Schiro	12/7/04
	6. The City real estate policy will be revised to reflect the actions and requirements included in steps A.1 through A.5.	Mark Beaudoin & Debra Schiro	12/7/04
B. Objective:	Ensure complete information is provided to approving authorities.		
Real Estate			
	1. Revisions will be made to the real estate policy to require the communication of appraised values to the applicable approving authorities. This communication will be documented through the inclusion of the appraised value(s) in documentation provided to the approving authorities.	Mark Beaudoin	12/07/04

C. Objective:	Ensure required reviews are documented.	
<i>Real Estate</i>		
1. Required reviews by the Real Estate Committee of proposed acquisitions will be documented. The real estate policy will be revised to require that documentation.	Mark Beaudoin	12/7/04
<i>City Attorney's Office</i>		
2. Required reviews by the City Attorney's Office of closing and title documents associated with acquisitions will be documented. The real estate policy will be revised to require that documentation.	Mark Beaudoin	12/7/04
D. Objective:	Ensure fair and appropriate amounts are paid for land.	
<i>Real Estate</i>		
1. Staff will be reminded of the policy requirement to obtain a second independent appraisal for land acquisitions where the values exceed \$300,000.	Mark Beaudoin	10/6/04*
E. Objective:	Clarify the circumstances under which an environmental audit is appropriate.	
<i>Real Estate</i>		
1. The real estate policy will be revised to: (1) define an environmental audit; (2) specify that the type of audit (scope or coverage) to request/perform should be based on specific factors; (3) define the specific factors to consider such as location, land type, known past use, current use, and intended use; (4) provide for professional judgment in the determination if and what type of environmental audit is necessary; and (5) eliminate the dollar threshold as a controlling factor in determining if an environmental audit is required.	Mark Beaudoin	12/7/04
2. The real estate policy will be revised to require that documentation be prepared and retained for each acquisition to explain/justify: (1) the determination to obtain or not obtain an environmental audit and (2) the type of environmental audit obtained.	Mark Beaudoin	12/7/04

<p>F. Objective:</p>	<p>Ensure real estate dispositions are fair and in the best interest of the City.</p>	
<p><i>Real Estate</i></p>		
<p>1. The real estate policy will be revised to require the use of competitive bid solicitation in the disposal of all City-owned real estate, unless exempted by defined exclusions.</p>	<p>Mark Beaudoin & Steve Taff</p>	<p>12/7/04</p>
<p>2. In connection with competitive bid solicitations (see step F.1), the policy will allow the City to: (1) reject all bids in the event none are found favorable; (2) negotiate with responding parties to obtain a favorable sale in the event that no bids are found to be satisfactory/favorable; and, (3) in the event no bids are found favorable and the City is unable to negotiate a favorable deal with a responding party, allow the City to negotiate with any party for a favorable sale up to a specified period of time (to be determined and included in the policy). At the end of that period, the policy will provide that new bids must be solicited if the City elects to continue efforts to sell the property.</p>	<p>Mark Beaudoin & Steve Taff</p>	<p>12/7/04</p>
<p>3. The policy will be revised to allow for the disposition of City-owned real estate without using competitive bid solicitation under certain defined circumstances. Those defined exclusions will be addressed in the policy and will include instances where: (1) the value of the property is below a specified dollar threshold (to be determined and included in the policy); (2) the property is being sold to a specific party for economic development purposes; (3) the property is sold to another governmental unit; (4) the property is being sold to a specific party that intends to use the property to foster a City-sponsored or supported program/endeavor; (5) there is only one adjacent landowner and an offer is received from that adjacent landowner, and the property is determined to be of no significant value to any other party; (6) an unsolicited offer is received from an adjacent landowner and the property is considered to be of no significant value to any party other than the solicitor and other adjacent landowners, and the other adjacent landowners have been notified and provided the opportunity to comment and also make offers; and (7) any other unique circumstances where the use of the competitive bid process is determined not to be appropriate and in the best interest of the City/citizenry.</p>	<p>Mark Beaudoin & Steve Taff</p>	<p>12/7/04</p>
<p>4. The real estate policy will be revised to require that documentation be prepared and maintained that clearly</p>	<p>Mark Beaudoin &</p>	<p>12/7/04</p>

demonstrates the disposition method used.	Steve Taff	
5. The real estate policy will be revised to require, for each disposition where the competitive bid process is not used, documentation and/or explanation that justifies the disposition method used.	Mark Beaudoin & Steve Taff	12/7/04
6. The real estate policy will be revised to require that documentation provided to the appropriate approving authority clearly identifies the disposition method used and reasons for that method.	Mark Beaudoin & Steve Taff	12/7/04
7. Regardless of the method of disposition, all nearby property owners will be notified in writing of the City’s intent to sell the property.	Mark Beaudoin & Steve Taff	12/7/04
8. The term “nearby” as addressed in step F.7 will be defined in the real estate policy.	Mark Beaudoin & Steve Taff	12/7/04
9. The real estate policy will be revised to provide that all comments received from nearby property owners be reviewed and considered.	Mark Beaudoin & Steve Taff	12/7/04
10. The real estate policy will be revised to provide that: (1) all comments from nearby landowners shall be summarized; (2) the applicable approving authorities shall be notified of the comments (e.g., provided the summary); and (3) the notification to the approving authorities will be documented.	Mark Beaudoin & Steve Taff	12/7/04
G. Objective:	Improve document retention practices for dispositions.	
Real Estate		
1. A checklist for dispositions will be developed that lists the required documents/records that should be obtained/retained for each sale. The checklist will be completed for each disposition.	Mark Beaudoin	10/4/04*
2. A standard filing system will be implemented for the retention of applicable disposition documentation (e.g., closing statements, title documents, appraisals, environmental audits).	Mark Beaudoin	10/4/04*
3. Supervisory staff will review completed checklists and files to ensure that all documents have been obtained and properly filed.	Mark Beaudoin	10/4/04*
4. Consideration will be given to using the City’s electronic data management system (EDMS) to retain disposition documents.	Mark Beaudoin	10/19/04*

H. Objective:	Enhance accountability for City-owned real estate.	
<i>Real Estate</i>		
1. The real estate policy will be revised to require that any City department or office that acquires, or causes to be acquired, land in the name of the City must communicate the acquisition and all pertinent data to the Real Estate Division.	Mark Beaudoin	12/7/04
2. All City departments and offices will be notified of the requirements established pursuant to the preceding step (step H.1).	Mark Beaudoin	1/7/05
3. Staff will work in conjunction with Accounting Services to reconcile City-owned real estate recorded in the current fixed asset land records to the inventory maintained by Real Estate.	Mark Beaudoin	10/19/04*
4. A standard method and process will be developed to notify Accounting Services of all acquisitions and dispositions of City-owned real estate. Documentation and information in the notifications will include, but not be limited to, closing documents, accurate land descriptions, parcel identification numbers, and all associated costs (e.g., appraisal fees, legal fees, engineering fees, fees for environmental audits).	Mark Beaudoin	10/19/04*
<i>Accounting Services</i>		
5. Staff will work in conjunction with the Real Estate Division to assure all future land transactions are recorded in the fixed asset records.	Lorrie Harvey	10/01/2003*
6. For City-owned real estate, if a parcel identification number is provided by the Real Estate Division, it will be included in the description field of the fixed asset records for all future land additions.	Lorrie Harvey	10/01/2003*
7. Staff will attempt to reconcile previous land transactions in the fixed asset records to records kept by the Real Estate Division making changes that they deem appropriate to improve the accuracy of the asset records. Parcel identification numbers will be added to all land transactions matched during this reconciliation.	Lorrie Havey	9/30/05

* As per department, action plan step has been completed as of indicated date. Completion will be verified during follow-up process.