

RESOLUTION 21-10954

**A RESOLUTION REPEALING RESOLUTION 93-16740, AND
ESTABLISHING A POLICY OF THE CITY OF BILLINGS, MONTANA AS
IT RELATES TO THE PURCHASE OF REAL PROPERTY.**

WHEREAS, from time to time the City of Billings has need to purchase real property in order to carry out the programs and projects adopted by the City Council; and

WHEREAS, the City is desirous of developing a uniform guide for the purchase of real property; and

WHEREAS, market value shall be defined as the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts regarding the property.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA, AS FOLLOWS:

Resolution No. 93-16740 is hereby repealed.

A. NEGOTIATIONS: City staff may enter into negotiations with the property owner prior to determining market value and may prepare, but not execute, a draft acquisition agreement with contingencies that shall not be binding upon the City until executed by the mayor or City Administrator pursuant to authorization granted by the City Council or this resolution. Contingencies include, but are not limited to, market value determination and City Council or City Administrator approval.

B. GUIDE TO DETERMINE MARKET VALUE: Except as provided herein, the City of Billings shall have an appraisal performed to assist in determining the market value prior to purchase of real property. The appraisal must be by disinterested, certified, general real estate appraiser selected by staff. The City Administrator may waive this requirement for an appraisal if the purchase price of the real property is less than \$25,000, provided that the City Administrator determines that it would not be prudent to incur the expense or delay of an appraisal and the purchase price is reasonably consistent with other indicia of market value, including, but not limited to, one or more broker price opinions, recent arm-length sales of this or comparable properties, etc.

Staff shall review the appraisal and bring their recommendation of market value to the City Council for approval. In cases where staff does not recommend approval of the appraisal, staff may request additional appraisals and/or that a certified appraiser reviews the appraisal(s). Except as expressly provided in this resolution, no determination of market value expressed in an appraisal obtained by the City shall be binding upon the City, and the City may accept or reject the findings of any appraisal in the discretion of the City.

Appraisals for property \$750,000 and over in value must be reviewed by a qualified review appraiser selected by the City of Billings. After the review appraiser has reviewed the appraisal(s) and arrived at a market value of the property being appraised, the city staff will present the review appraisal to the City Council for the purpose of establishing the market value.

The City may not purchase property for more than the appraised market value, except as expressly allowed by this resolution or later approval of the City Council.

The City Administrator may approve real property purchases with appraised values within the limits of his/her signing authority.

C. NEGOTIATING FLEXIBILITY: In cases of significant need where purchase of property is critical to the success of a public improvement project or would fulfill another public purpose, the City Administrator may bring to the City Council an offer over the fair market value. The City Council will then determine if the amount over market value is appropriate and, if it is, the council may accept the same in its discretion.

For purchases within his or her signing authority, the City Administrator may also approve a purchase price above the appraised value in his or her discretion based on the same criteria described in the previous paragraph.

D. THIS RESOLUTION IS INTENDED TO PROVIDE A SET OF GUIDELINES FOR THE CITY'S PURCHASE OF REAL ESTATE IN FEE. THIS RESOLUTION IS NOT INTENDED FOR PROPERTY AGREEMENTS INVOLVING THE ACQUISITION OF OTHER INTERESTS IN PROPERTY, SUCH AS EASEMENTS AND DEEDED ACCESS.

E. THIS RESOLUTION IS NOT INTENDED FOR CONDEMNATION OR EMINENT DOMAIN ACTIONS.

F. WHERE THE REAL PROPERTY WILL BE PURCHASED WITH FEDERAL FUNDS, THE CITY IS REQUIRED TO FOLLOW THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970 AS AMENDED.

G. IN CASES WHERE THE DEMANDS OF A PROJECT REQUIRE A VARIANCE FROM THESE GUIDELINES, THE CITY ADMINISTRATOR MAY COME TO THE CITY COUNCIL TO REQUEST A VARIANCE.

APPROVED AND PASSED by the Council of the City of Billings this 24th day of May, 2021.



CITY OF BILLINGS:

By: William A. Cole

William A. Cole, Mayor

ATTEST:

By: Denise R. Bohman
Denise R. Bohman, City Clerk