

# Buyers Agent Tutorial



## 2021

### DISCLAIMER

This Buyers Agent Tutorial is a training aide and should not be construed to be the definitive position of Fulton County in matters related to the sale of its surplus real estate. The public is directed to consult the Bid Package, which is made available for each property offered for sale, for legally binding terms and conditions of the public sale process.



NOTES



## Buyers Agent Tutorial

### Agenda

- I. Overview (see page5)
- II. What is Expected of the Buyer's Agent (see page 6)
- III. How to Bid (see page 7)
- IV. The Bid Package Explained (see page 8)
- V. Frequently Asked Questions (starts on page 13)



NOTES



## Overview

The Land Division is part of the Fulton County Department of Real Estate and Asset Management. For purposes of this tutorial, the Land Division is the Owner of the County's surplus properties and, as in the "For Sale by Owner" model that real estate agents are well familiar with, we market our own properties.

- The **official source** of information for any and every property being offered for sale to the public is the BID PACKAGE. It is a product of the Fulton County Purchasing Department and is accessible via <https://www.bidnetdirect.com/georgia/fultoncounty>. A Bidder must be registered as a Fulton County *Vendor* in order to access the Bid Package. There is a Solicitation Number associated with each property that is offered for sale.
- The primary **marketing vehicle** is the Fulton County web site. You can access information on the public sale process via [www.fultoncountyga.gov/realestateforsale](http://www.fultoncountyga.gov/realestateforsale).
- As we are all currently operating in the **Covid-19** environment, there are certain accommodations that have been adopted for the safety and well-being of Fulton County staff and employees, for you as our professional sales force, and for the public. For example, bid documents are distributed via Bid Net Direct; Bid Openings are conducted via Zoom; and Earnest Money shall be delivered by mail to the Purchasing Department within five (5) business days of the Bid Opening. These and other accommodations are addressed as appropriate throughout this Tutorial and in the Bid Package.
- An announcement will be made when the County initiates an offer of one or more properties for sale to the public. There are three ways that you may be notified:
  1. An ad placed in the Daily Report or other publication of wide circulation in Fulton County
  2. The Bid Package posted on the Fulton County web site
  3. An e-blast sent out to agents and other individuals who have expressed an interest in buying Fulton County's surplus real estate.



As active real estate agents, you can help the Land Division reach qualified buyers. We encourage you to promote our properties and we welcome your participation in the public sale process.

Typically, we will pay a commission of 5% of the sale price at closing to the brokerage representing the buyer. You should consult the Bid Package as it is the definitive source of information regarding real estate commissions and any requirements relating to representation.

Earning a commission from the County could be some of the easiest money you've ever earned. We have worked hard to simplify the BID PACKAGE and to provide this tutorial to make this a financially worthwhile experience for you.

Both Fulton County and your client are relying on you to understand the public sales process. When there is an active sale in progress, and after you have completed this Tutorial, your starting point is to carefully read the BID PACKAGE and all information and downloads available on the web site.

What is expected of the Buyer's Agent?

- Knowledge of Fulton County policies and procedures that govern the sale of publicly-owned real estate.
- Presentation of our properties to qualified Buyers exactly as you do for properties that are listed by other property owners in the multiple listing services.
- Ability to accurately and fully complete a Bid Package.
- Assistance to your clients, facilitating the sales process in their best interests.



## How to Bid

Here is a short list of things you need to know:

- There is a BID PACKAGE for each property offered for sale.
- Properties are sold “as is where is with all faults”.
- While we are in the Covid environment and there is an earnest money requirement, a copy of the check must accompany the bid that is uploaded to [www.bidnetdirect.com/georgia/fultoncounty](http://www.bidnetdirect.com/georgia/fultoncounty) and the actual check must be delivered by mail to the Purchasing Department within five (5) business days of the date of Bid Opening.
- The Successful Bidder pays all closing costs.
- There is no provision for “due diligence” so inspections must be completed before the bid opening.
- All transactions are for cash.

The **official source of information** is the BID PACKAGE. NOTE: *Bidders must first register as Vendors of Fulton County to gain access to Solicitations on Bid Net Direct. To register, click on Business Service on the Fulton County web site home page; then, Become a Vendor under Doing Business with FC; then click on [BIDNET](#) in the middle of the page.*

The **primary marketing vehicle** is the Fulton County web site, [www.fultoncountyga.gov/realestateforsale](http://www.fultoncountyga.gov/realestateforsale) which provides detailed information on the properties being offered for sale.

Scroll down to the links for the property you are interested in. A link to the BID PACKAGE is accessible from the SURPLUS REAL ESTATE FOR SALE page.

Going through the SURPLUS REAL ESTATE FOR SALE link gives you access to FAQs, the property’s Title Certificate (if available), and other information beyond what you will find within the Bid Package.

Ready to go?



## The Bid Package Explained

### Cover Page

- Identifies the property by ADDRESS and BID NUMBER
- Shows DATE, TIME and LOCATION that the BID is due. (Note that in the Covid environment, the “location” for delivery of the Bid is [www.bidnetdirect.com/georgia/fultoncounty](http://www.bidnetdirect.com/georgia/fultoncounty).)
- Shows DATE for the PROPERTY INSPECTION/OPEN HOUSE (if one is scheduled)
- Identifies the Contact Person in the Purchasing Department who will be managing the sales process for the County

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#### Instructions to Bidders

1. Description of the Real Property
  - Address
  - Brief narrative description
  - Legal description provided as Exhibit
2. General Information
  - Where to get the Bid Package
  - Purchasing Department contact information
  - How questions from the public are handled
  - Rules governing acceptable bidding practices
3. Terms and Conditions Applicable to the Sale
  - As Is, Where Is, With All Faults
  - Closing costs to be borne by Buyer
  - Conveyance by Quitclaim Deed
  - Requirement for evidence of availability of funds to close
  - Cash or cash equivalent required to close
  - Real estate commission paid to Buyers Agent
4. Property Inspection/Open House
  - A Property Inspection/Open House applies only to Properties where there is a building and/or other structure(s) with interior square footage or where there is a gate that is locked or access is otherwise barred or constrained.
  - The BID PACKAGE establishes the date and time set for the Open House
5. Questions and Answers
  - For answers to questions to be binding on the County, all questions, including those asked at the





Open House, must be in writing (as instructed in the Bid Package).

- Official answers will be provided in an ADDENDUM and will be posted on the web site at [www.bidnetdirect.com/georgia/fultoncounty](http://www.bidnetdirect.com/georgia/fultoncounty).
- Rely only on the BID PACKAGE and any ADDENDA in representing your client's best interests.

6. Preparation and Submission of Bids

- All BIDS must be made on the Bid Forms provided in the BID PACKAGE.
- A completed Bid consists of the
  - Bid Schedule,
  - Real Estate Sales Contract
  - Non-collusion Affidavit
  - Proof of Funds
  - Copy of Earnest Money Check
  - Evidence of Authority to Sign, if applicable
  - Fully executed Exclusive Buyers Brokerage Agreement
- The Bidder will submit a fully-executed Bid (including a copy of the Earnest Money check) by uploading it to [www.bidnetdirect.com/georgia/fultoncounty](http://www.bidnetdirect.com/georgia/fultoncounty).

7. Withdrawal of Bids

- Only upon receipt of a written request that is received prior to the stated due date and time can an offer be withdrawn.

8. No Contact Provision

- The County's No Contact Policy is clearly stated in the BID PACKAGE.
- It does not bar the Land Administrator from initiating contact after the Bid Opening with the apparent high bidder with the express purpose of closing the transaction.

9. Bid Opening

- Bids will be opened on the advertised date of the Bid Opening.
- Late bids will not be considered.
- It is the Bidder's responsibility to make sure that the actual earnest money check is delivered within five (5) business days to the Purchasing Department.



#### 10. Right to Reject Bids

- The County reserves the right to reject any and all bids and cancel the sale at any time prior to closing.
- Any and all bids may be rejected if they are deemed in the judgment of the County to be non-responsive to the Invitation for Sale by Sealed Bid.

#### 11. Applicable Laws

- All applicable laws and regulations of the State of Georgia and ordinances and regulations of Fulton County shall apply. Pursuant to the Revised Purchasing Code 11-1, the County's decision to reject a bid to purchase surplus real property is not subject to protest.

#### 12. Basis of Award

- Award will be made to the highest responsible bidder, provided that the price offered is deemed by the Land Administrator to be equal to or greater than the Fair Market Value of the property.

#### 13. Determination of Successful Bidder

- The bidder must be deemed to be both responsive and responsible to be awarded the bid. The definitions are spelled out in the BID PACKAGE.

#### 14. Return of Earnest Money to Unsuccessful Bidders

- The Bid Opening is followed by the Evaluation period. Then, upon the selection of the Successful Bidder, all bidders will be notified.
- Immediately at that time, return of earnest money shall be made to all unsuccessful bidders.

#### 15. Notice of Award and Closing

- When the bid evaluation has been completed and the Land Administrator's recommendation has been accepted by the County Manager, the County will execute the Real Estate Sales Contract.
- The Land Administrator will send the Successful Bidder a Notice of Award, the duly executed Real Estate Sales Contract, and any other necessary pre-closing documents.
- The Land Administrator will direct the Closing Attorney to coordinate with the Successful Bidder all matters relating to the closing, including time and date of the closing and the type and amount of funds to be collected at the closing.



16. County's Rights upon Failure of Successful Bidder to Close.
  - If for any reason the Successful Bidder fails to close within 30 days of the Notice of Award, such failure may be construed as a refusal to pay the consideration due the County under the terms of the Real Estate Sales Contract and Invitation for Sale by Sealed Bid. The County may retain the earnest money deposit and possibly pursue its right for specific performance.
  
17. Successful Bidder's Rights upon Failure of County to Close.
  - Subject to the County's rights to reject any and all bids, the County shall tender a duly executed Quit Claim deed conveying the land or interest in real property offered by it for sale within 120 days after Notice of Award to the Successful Bidder. Failure by the County to close and deliver such Quit Claim Deed within the 120-day period shall entitle the Successful Bidder to refuse to close the transaction. The County would then be required to return the Earnest Money to the Successful Bidder. Neither the County nor the Successful Bidder will be liable to any party in any respect as a result of such refusal to close the transaction under this circumstance.

Exhibits to the BID PACKAGE

- Exhibit 1: Bid Schedule
- Exhibit 2: Real Estate Sales Contract
- Exhibit 3: Non-Collusion Affidavit of Bidder/Offeror
- Exhibit 4: Legal Description
- Other Exhibits may be appended as may be needed



Notes



# FAQS



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**Q: Do you sell any properties for \$1?**

A: According to State law and the Real Property Disposition Policy of the Fulton County Board of Commissioners, the price of each property is based on its fair market value, which is determined by a qualified appraisal. We would only sell a property for \$1 if its appraisal came back at \$1.

**Q: Will I have time to arrange financing if I want to make a purchase?**

A: All sales must be cash to the Seller (the County). Any financing must be done prior to the closing and not depend on the County as an active participant in the lending process. Keep in mind that the County's policy requires the Buyer to close within 30 days of the Notice of Award. A mortgage commitment is not sufficient to qualify a bid as RESPONSIVE.

**Q: How often do you schedule your sales?**

A: Sales are scheduled once properties have been declared surplus by the Board of Commissioners. There is no particular schedule. A sale may occur once or twice a year or more or less frequently.

**Q: What is the starting bid amount? What is the minimum bid?**

A: As a general rule, the County does not publish a starting bid amount or a minimum bid. Instead, the County expects that the buyer's representative will conduct research and will assist the buyer in setting the amount of his or her bid based on his or her opinion of its fair market value. In an instance where a minimum bid may be established, it will be set out in the Bid Package.

**Q: Do you have any houses for sale?**

A: Whereas we may have a house for sale from time to time, most of the real estate that the County owns is commercial or institutional or vacant land. However, the inventory of available surplus properties for sale continues to change. You are encouraged to check the web site to see when a sale is scheduled and what new properties may be available.

**Q: Do you donate properties to non-profit organizations? If not, is there a discount for non-profit organizations?**

A: No. The County is prohibited from granting any donation or gratuity regardless of the worthiness of the purpose or the recipient. Where the public receives no substantial benefit in return, the donation or free use of county-owned property would violate this constitutional prohibition.

According to State law and the Real Property Disposition Policy of the Fulton County Board of Commissioners, the price of each property is based on its fair market value, which is determined by a qualified appraisal. Neither State Law nor County policy sets out an exception for non-profit buyers.

**Q: Can I give my property in exchange for one you have for sale?**

A: No. Neither State law nor the Real Property Disposition Policy of the Fulton County Board of Commissioners allow for the exchange of real property.



**Q: Do you give tax incentives or tax breaks if I buy your property?**

A: The State law on the disposition of county-owned real estate does not address tax incentives or tax breaks. The Real Property Disposition Policy of the Fulton County Board of Commissioners does not provide for either tax incentives or tax breaks. You are encouraged to consult a CPA or attorney for tax advice.

**Q: Do you pay closing costs?**

A: No. All closing costs must be paid at the closing table by the Buyer.

**Q: Do you pay real estate commissions?**

A: We may. Under the current Real Property Disposition Policy of Fulton County, approved by the Board of Commissioners on August 1, 2012, the Land Administrator is empowered to list a property with a Georgia state-licensed real estate brokerage and pay a commission at closing. Or, the County may pay a real estate commission to the Buyer's Agent. Any decision regarding the payment of a commission will always be included in the Bid Package and marketing materials for each property offered for sale.

Under certain circumstances, the County may choose to engage an auctioneer to offer surplus properties to the public and pay certain costs of sale that may include a commission.

**Q: How do you decide which properties are placed on the market for sale?**

A: There is a process prescribed by the County's Real Property Disposition Policy. It requires the Land Administrator to assess a property's current use and any plans for its possible future use and to conduct other *due diligence* research related to the property. In cases where the Land Administrator, supported by the County Manager, determines that it makes sense to dispose of the property, a recommendation is then made to the Board of Commissioners to declare the property surplus. Only if the recommendation is approved by the Board of Commissioners would the Land Division proceed to sell the property. The property would then be offered to the general public via sealed bid or public auction, according State law and the County's Real Property Disposition Policy.

**Q: Can I do a lease purchase?**

A: No. Currently the Real Property Disposition Policy of the Fulton County Board of Commissioners does not provide for us to finance a sale using a lease purchase arrangement.

**Q: Can I view the properties online?**

A: Yes and no. We have made an effort to provide as much information as possible on the Fulton County web site, including a photograph of each property. Still, you are encouraged to make a site visit to each property for yourself. For properties that have locked structures or that are gated, the Land Division will make arrangements for an "Open House" when a staff person will meet the public at the property for an inspection opportunity. The date and time of the Open House will be provided in the Bid Package for each property offered for sale.





Q:  
A:

**What are the required steps for purchasing a County owned property?**

So glad you asked! Unlike the purchase and sale of real property in the private sector, governments are regulated by State law and local policies regarding the disposition of publicly-owned real property. By law in the State of Georgia, we are permitted to sell surplus real property by sealed bid or auction. There is a specific set of rules that govern how the real estate is offered and how you must present your offer. This information is provided in the Bid Package.

**Q: Are nonprofit organizations given a preference when purchasing a property?**

A: No. According to State law and the Real Property Disposition Policy of the Fulton County Board of Commissioners, the price of each property is based on its fair market value, which is determined by appraisal. Neither State Law nor County policy set out an exception that would give non-profit buyers a preference of any kind.

**Q: Do County employees receive a discount?**

A: No. According to Georgia State law and the Real Property Disposition Policy of the Fulton County Board of Commissioners, there is no provision for selling property at a discount to employees of the County.

**Q: Will the County make repairs?**

A: That's a good question: No. According to the Real Property Disposition Policy of the Fulton County Board of Commissioners, County-owned real property is sold "as-is", "where-is", and "with all faults" and transferred by QUITCLAIM DEED only.

**Q: I understand that sometimes you may require the Buyer to be represented by a real estate broker. Why?**

A: The real estate market is ever-changing. It can be very exciting and also very challenging. We have learned from experience that in the sale of surplus, distressed, and other government-owned real estate where Buyer and Seller alike are required to adhere to a unique set of rules, regulations and policies, it is prudent that each party have professional representation in order that their interests may reliably be represented.