

Policy 1.2.7 Acquisition, Leasing, and Disposition of City-Owned Real Property

POLICY PURPOSE:

This policy addresses the City's need to acquire, lease, and dispose of land in order to provide services to the community now and in the future.

It is the purpose of this policy to provide guidance for the acquisition, lease, and disposition of City-owned real property. A cautious, deliberate, and flexible decision-making process is needed to manage the City's real property assets.

POLICY STATEMENT:

In all real property transactions, consideration must be given to the City's near and long-term goals and the public benefit derived from the use. Using an approach that will best accomplish the City's objectives given the circumstances at the time should be the guiding principle. It is the City's policy to manage its real property assets to further City goals.

1. Acquisition of Real Property for Municipal Purposes

Real property shall be acquired for current or future municipal purposes, and/or to benefit the community. The City shall acquire real property in accordance with Sunnyvale Municipal Code Section 2.07 and the following:

- A. Offers to purchase real property shall only be made after a budget appropriation has been approved by the City Council that identifies the amount of funds available and the purpose of the acquisition. Once a budget appropriation has been approved, authority to make offers to purchase real property is delegated to the City Manager up to the appropriation limit for the purposes identified when funds were appropriated.
- B. Prior to an offer being made, an estimated value shall be established with a final value determined by a qualified appraiser. The appraised value shall be provided to City Council prior to its final decision to purchase real property.
- C. Every effort shall be made to acquire real property through negotiations, reserving the use of eminent domain for those circumstances when immediate possession is required and the parties have reached impasse (property cannot be acquired through negotiation at a cost approximating current market value).
- D. A high priority will be given to acquiring undeveloped land needed to meet City goals. Developed land should be acquired in reasonable proximity to the time the property is desired for City purposes.

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- E. Prior to the acquisition of real property, a professional title search shall be completed.
- F. The City shall comply with the requirements of the California Environmental Quality Act.
- G. The City may choose to be represented by a broker or other third party professionals in acquiring real property due to the complexity of the transaction, market conditions and other circumstances at the time. The selection of a real estate broker to provide real estate services shall be subject to the City's adopted procurement procedures for professional services.

This policy shall not apply to acquisition of real property when accepted by donation, dedication via the development review process and/or in-lieu of fees, right-of-ways, easements, or by property exchange.

2. Lease of City-Owned Real Property

Real property held for future use may be leased for profit when deemed appropriate and favorable to the City and in accordance with Sunnyvale Municipal Code Chapter 2.07. Property leased to outside entities should be based on the current market rent except when Council finds there is a public purpose for leasing at a lower rate.

- A. Revenue from the leasing of City-owned property shall be deposited into the Fund in which the property was purchased, except when a fund no longer exists, it will be at the direction of the Awarding Authority as per Municipal Code 2.07

3. Disposition of Surplus Property

Real property that is no longer needed for current or future municipal purposes, which does not provide a direct benefit to the community, shall be considered surplus property. Disposing of surplus property shall be done in a manner to maximize the benefit to the community and should be done whenever real estate market conditions are favorable to the City. Disposition of City-owned real property shall be done as follows:

- A. The City Council, by resolution, shall declare City-owned property as surplus property and authorize sale/lease of property in compliance with the requirements of Government Code Section 54220 related to the sale of surplus land. The decision by City Council to declare City-owned property surplus shall be made during a public hearing. Public notice of the hearing shall include mailed notices to surrounding residents and/or property owners not less than 10 calendar days before the public hearing. Mailed notices shall be sent to a minimum of a 500 foot radius for properties of less than one acre and not less than 1,000 feet for properties greater than one acre.

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- B. Determination on Value of Land - The City shall evaluate the benefit of the sale of surplus property based on relevant factors including: (a) the value of the property based on an appraisal or broker's opinion of value, as appropriate, which is not more than six (6) months old at the time the property is presented to the City Council to complete the sale of a property, except that an appraisal will not be needed on property that does not exceed \$50,000 in value; (b) prevailing economic conditions and recent applicable trends, and (c) any special benefits to the community accrued from the sale, or exchange.
- C. The City shall comply with any applicable state or federal laws for disposal of certain types of properties (e.g., parks, roads, private deed restrictions, affordable housing).
- D. The City may use any of the following methods or combination thereof to maximize the benefit to the community. Methods of disposition should be determined on a case-by-case basis and may include:
- Auction
 - Negotiated Sale
 - Exchange
 - Lease
 - Request for Proposal

Discounts will not be negotiated unless an extraordinary need or circumstance is recognized by the City Council prior to negotiation, setting forth the amount of the discount and the justification for it. The purpose of this requirement is to demonstrate to the community that the City is not making a gift of public assets.

- E. Costs associated with the disposition of property shall come from proceeds of the sale or charged to the fund which owns the property. Unless otherwise directed by the City Council, net proceeds from disposition of surplus property owned by the General Fund shall be placed into the General Fund Reserve for Capital Improvements. Proceeds from the sale of land or facilities originally purchased with monies from a specific fund shall be returned to that fund, except when a fund no longer exists, it will be at the direction of City Council.
- F. Sales of real property shall be on an all-cash basis or on other terms at the discretion of the City Council and in the best interest of the City.
- G. Broker Representation - The City may represent itself in real estate transactions; however, the City may from time to time authorize a brokerage agreement for the disposition of property. In such cases, the brokerage fee shall be as specified in the agreement between the City and the broker. The selection of a real estate broker to provide real estate services shall be subject to the City's adopted procurement procedures for professional services.

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((Adopted: RTC #14-0205 (April 29, 2014))

Lead Department: Department of Public Works

For reference, see also: Sunnyvale Municipal Code Title 2 Chapter 2.07