

RESOLUTION NO. R-252266

(R.80-2562)

JUL 14 1980

RESOLUTION AMENDING COUNCIL POLICY 700-10
REGARDING DISPOSITION OF SURPLUS CITY-OWNED
REAL PROPERTY.

BE IT RESOLVED, by the Council of The City of San Diego,
as follows:

That Council Policy 700-10 regarding disposition of
surplus City-owned real property be, and it is hereby amended
as set forth in the form of Council Policy filed in the office
of the City Clerk as Document No. RR-252266.

BE IT FURTHER RESOLVED, that the City Clerk is hereby
instructed to add the aforesaid to the Council Policy Manual.

APPROVED: JOHN W. WITT, City Attorney

By 
Harold O. Valderhaug, Deputy

HOV:ps:011.1
6/27/80
Or.Dept. Property

02046

Passed and adopted by the Council of The City of San Diego on JUL 14 1980
 by the following vote:

| Councilmen | Yeas | Nays | Not Present | Ineligible |
|-------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|
| Bill Mitchell | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Bill Cleator | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Bill Lowery | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Leon L. Williams | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Fred Schnaubelt | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mike Gotch | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Larry Stirling | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Lucy Killea | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Mayor Pete Wilson | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

AUTHENTICATED BY:

PETE WILSON
 Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
 City Clerk of The City of San Diego, California.

By Ellen Bovard Deputy.

(Seal)

Office of the City Clerk, San Diego, California

Resolution Number R-252266 Adopted JUL 14 1980

COUNCIL POLICY

| SUBJECT | POLICY NUMBER | EFFECTIVE DATE | PAGE |
|---|---------------|----------------|--------|
| DISPOSITION OF SURPLUS CITY-OWNED REAL PROPERTY | 700-10 | 2-11-80 | 1 OF 6 |

BACKGROUND

The City of San Diego has historically disposed of its surplus real estate holdings after the City Council has determined that City-owned property is not needed for present or future operating purposes. The disposition of these surplus parcels has been consummated through public auction sales, negotiated transactions and leasing.

Leasing of City-owned property is an effective vehicle for developing a sustained flow of revenue; providing beneficial capital improvements; and preserving the integrity of the City's land resources. It may be desirable to lease both surplus and non-surplus City property which has marketable leasehold development potential.

City property determined to be surplus and which is not economically suitable for leasing, may be sold either by negotiation or auction.

The proceeds from the sales of City-owned lands are utilized for Capital Improvements Program project as required by the City Charter, Section 77, and the revenues generated from leases are utilized for General Fund purposes.

PURPOSE

To provide maximum marketing and public exposure in order to assure that the City receives (1) the best possible offer to purchase and the highest price commensurate with the highest and best use, (2) the best possible proposal for leasehold development/operations at the maximum economic return, and (3) to establish a procedure by which City-owned real estate is declared surplus.

POLICY

The City Council will review all City-owned real estate not used for municipal purposes and determine the appropriate disposition of surplus real estate through public auction sale, negotiated transaction or lease.

The sale or lease of City-owned real estate shall be based upon the Fair Market Value estimate of the highest and best use or Council designated use as determined by a qualified real estate appraiser. Any transaction must be approved by City Council within six months of the date of value of the appraisal.

Discounts will not be negotiated unless an extraordinary need or circumstance is recognized by Council Resolution prior to negotiation setting forth the amount of the discount and the justification for it.

The City Council shall at its sole discretion either approve, disapprove, or return for further study any recommendation of the staff regarding the disposition of city property.

DOCUMENT NO. RR-252266
 FILED JUL 1 1980
 CLERK OF THE CITY CLERK
 SAN DIEGO, CALIFORNIA

COUNCIL POLICY

Rev.

| SUBJECT | POLICY NUMBER | EFFECTIVE DATE | PAGE |
|---------|---|----------------|---------|
| | DISPOSITION OF SURPLUS CITY-OWNED REAL PROPERTY | 700-10 | 2-11-80 |

GUIDELINESA. Surplus Review Policies

1. All unused City-owned real estate shall be reviewed to determine public facility needs and general plan element support needs. Those parcels which fall outside of the needs requirements shall be considered surplus and available for lease or sale.
2. The unused City-owned real estate shall be reviewed as follows:
 - a. Processed in order of size/usability.
 - b. Staff/agency review.
 - c. Comments forwarded to Transportation and Land Use Committee.
 - d. Transportation and Land Use Committee recommends to Council the disposition of said parcels, i.e., hold, sale, lease, rezone, subdivide, etc.

B. Sale of Surplus Real Estate

1. Public Auction Sale shall be conducted in accordance with Municipal Code Section 22.0902.1. City Council reserves the right to reject any and all bids.
2. Negotiated Transactions shall comply with the requirements of Municipal Code Sections 22.0902 and 22.0902.2 and may be approved under one of the following conditions:
 - a. When a parcel is land-locked as a result of right-of-way acquisition.
 - b. When the Planning Department recommends the sale to a contiguous property owner to correct a marginal site deficiency.
 - c. When a fee vesting interest in a pipeline or other right-of-way is no longer required, it may be sold to a contiguous land owner. A restrictive pipeline easement of adequate width or other required easements will be reserved from said sale.
 - d. When other governmental, quasi-public agencies and regulated utility companies submit acquisition proposals, a sale may be consummated per Municipal Code Section 22.0907. These agencies shall include but not be limited to: Federal, State, County, school districts, special districts and regulated utility companies.

COUNCIL POLICY

Rev.

| SUBJECT | POLICY NUMBER | EFFECTIVE DATE | PAGE |
|---|---------------|----------------|--------|
| DISPOSITION OF SURPLUS CITY-OWNED REAL PROPERTY | 700-10 | -2-11-80 | 3 OF 6 |

REV.

GUIDELINES (Continued)B. Sale of Surplus Real Estate (Continued)

- e. When qualified non-profit institutional organizations offer to purchase City-owned land, a negotiated sale may be consummated at fair market value providing there is a development commitment, right to repurchase or reversion upon a condition subsequent. Institutional organizations such as churches, hospitals, extended care facilities, private schools and community service organizations are required to develop under the City's conditional use permit procedure.
 - f. Industrially zoned parcels - the negotiated sale of industrial property must comply with Council Policy No. 900-3.
 - g. Real property exchanges may be consummated by direct negotiation per Municipal Code Section 22.0902.2.
3. Prior to completion of the sales transaction:
- a. Excess City land(s) shall be rezoned in accordance with the General Plan, existing community plans or other City Council direction.
 - b. All unnecessary easements affecting title to said excess land(s) shall be removed.
4. The applicant for the removal of restrictive easement(s) or access rights (previously paid for by the City or other governmental agency or reserved in a sale of City property) shall pay current Fair Market Value for same.

COUNCIL POLICY

Rev.

| SUBJECT | POLICY NUMBER | EFFECTIVE DATE | PAGE |
|---------|---|----------------|----------|
| | DISPOSITION OF SURPLUS CITY-OWNED REAL PROPERTY | 700-10 | .2-11-80 |

GUIDELINES (Continued)B. Sale of Surplus Real Estate (Continued)

- e. When qualified non-profit institutional organizations offer to purchase City-owned land, a negotiated sale may be consummated at fair market value providing there is a development commitment, right to repurchase or reversion upon a condition subsequent. Institutional organizations such as churches, hospitals, extended care facilities, private schools and community service organizations are required to develop under the City's conditional use permit procedure.
- f. Industrially zoned parcels - the negotiated sale of industrial property must comply with Council Policy No. 900-3.
- g. Real property exchanges may be consummated by direct negotiation per Municipal Code Section 22.0902.2.

C. Leasing

- 1. Obtain a fair rate of return on City-owned property being considered for lease and negotiate terms and conditions which will continue to sustain a fair rate of return through rent review, consumer price index adjustments or the application of percentage rents to gross income. The rate of return shall be based upon the highest rate commensurate with the highest and best use of subject property or a fair rate of return commensurate with the designated public use.
- 2. Long-Term Lease - a lease in excess of two (2) years requires Council approval by Resolution.
- 3. Short-Term Lease - a lease term of two (2) years or less may be executed by the City Manager without Council Resolution.
- 4. Selection of Lessee - Leasehold proposals shall be evaluated on the basis of:
 - (a) Consideration offered in the form of rent; (b) financial capability; and (c) management expertise in regard to the proposed leasehold development and operation.
- 5. Leasehold Assignments - Requests for assignment of leasehold interest shall be evaluated on the same basis as the criteria used in evaluating a leasehold proposal. The City Manager may authorize assignments which meet this criteria and which do not otherwise revise the master lease provisions.

CITY OF SAN DIEGO, CALIFORNIA

COUNCIL POLICY

Rev.

| SUBJECT | POLICY NUMBER | EFFECTIVE DATE | PAGE |
|---|---------------|----------------|--------|
| DISPOSITION OF SURPLUS CITY-OWNED REAL PROPERTY | 700-10 | 2-11-80 | 4 OF 6 |

GUIDELINES (Continued)C. Leasing (Continued)

6. Subleases - Requests for sublease approval will be considered on the merits of each individual transaction. The City recognizes the right of the master lessee to receive a fair return on any sublease operation. No sublease shall be approved which would be detrimental to the City's rights under the master lease. The City Manager may authorize subleases which meet this condition and which do not require amendment of the master lease.
7. Amendments of long-term leases require Council approval by Resolution.
8. Rental Terms - Rental terms may be negotiated on the basis of fixed rates, percentages of gross income or combinations thereof, whichever is commensurate with the market place.
 - a. Fair Market Rental - shall reflect a fair rate of return on the highest and best use value of the property.
 - b. Fair Rental Rate - shall reflect the highest rate of return available on those lease operations which are designated for public service operations, e.g., airport, housing, and park and recreation service facilities.
 - c. Rental Adjustments - rent shall be periodically reviewed and adjusted to insure that the City will receive fair market rental or fair rental rate throughout the lease term.
 - d. Minimum Rents - Percentage leases will provide a minimum rent which shall be adjusted every three years to reflect 80% of the average annual rent actually paid during the preceding three years. In no event shall the adjusted minimum rent be less than the minimum rent in existence preceding the adjustment.
9. Audits - All new and renegotiated leases shall contain a provision whereby the lessee shall cause to be provided, at no cost to the City, an annual audit by a certified public accountant. Such audit shall include a certification to the City that the lessee has complied with all the provisions of the lease, and that the rent due and payable to the City has been paid. The City Auditor and Comptroller shall provide the certified public accountant with the audit guidelines necessary to perform the audit.

The City Auditor and Comptroller may waive the requirement for an audit if in his judgment there are circumstances that may create an undue hardship on the lessee.

The City reserves the right to audit the lessee's records if deemed warranted by the City Auditor and Comptroller.

COUNCIL POLICY

| SUBJECT | POLICY NUMBER | EFFECTIVE DATE | PAGE |
|---|---------------|----------------|--------|
| DISPOSITION OF SURPLUS CITY-OWNED REAL PROPERTY | 700-10 | 2-11-80 | 5 OF 6 |

(Continued)

GUIDELINESD. Marketing

Competitive offers for lease or sale shall be solicited from the open market place. This may be accomplished through a number of marketing techniques such as requests for proposals (RFP), a marketing subscription system, direct advertising, exposure through the real estate media, such as the multiple listing service, posting the property and any other appropriate means.

E. Real Estate Broker's Fee

Real estate brokerage participation shall be encouraged to attract bona fide offers to lease or purchase City-owned property. The real estate broker's fee shall be paid in accordance with Municipal Code Section 22.0905. The City Council has the discretion to pay brokers' fees of up to 6%.

F. Since time is of essence in land transactions, all such actions by Council and Committee shall be given the highest priority and special handling. Such action which must first go before a Council Committee will be placed on an early portion of the Committee agenda in order to assure prompt action. Subsequent to the Committee action, the item shall be placed on the docket of the next regular City Council meeting as a Supplementary Item.

IMPLEMENTATION

Specific or detailed processing procedures necessary to implement and amplify the above policy guidelines shall be appropriately addressed in the City of San Diego Administrative Regulations Manual (AR 25.10).

Adopted by Resolution No. 169946 3-15-62
 Amended by Resolution No. 212957 4-4-75
 Amended by Resolution No. 217309 12-21-76
 Amended by Resolution No. 218125 4-12-77
 Amended by Resolution No. 219507 10-19-77
 Amended by Resolution No. 220842 5-9-78 with a new title.
 Amended by Resolution No. 224022 7-16-79
 Amended by Resolution No. 250319 10-1-79 (Assigned Department-
 Amended by Resolution No. 251154 2-11-80 Property)

References:

Council Policy 700-4, Balboa Park Leases and Agreements
 Council Policy 700-9, Leases to Non-Commercial, Non-Profit

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

| SUBJECT | POLICY NUMBER | EFFECTIVE DATE | PAGE |
|---|---------------|----------------|--------|
| DISPOSITION OF SURPLUS CITY-OWNED REAL PROPERTY | 700-10 | 2-11-80 | 6 of 6 |

(Continued)

Organizations in Mission Bay Park.
Council Policy 700-11, Political Activities on Certain Properties
Leased to Non-Commercial, Non-Profit Organizations.
Council Policy (New Policy Recommended by PF&R on 1/10/80), Use of
the RFP Process for Lease of City-Owned Land.
San Diego Municipal Code, Chapter II, Article II, Division 9 .
(Assigned Responsibility - Property Department)