

## COUNCIL/ADMINISTRATIVE POLICY

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|------------------------------------------------------------------|------------------------|------------------|
| <b>Subject:</b><br><b>Disposition of City/Agency Real Estate</b> | Policy No: 10-20       | Date: 05/23/2023 |
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### 1. **PURPOSE**

It is the purpose of this policy to provide guidance for the disposition of excess or surplus real estate owned in fee title by the City of Brentwood (“City”) or the City of Brentwood Successor Agency (“Agency”). The City disposition procedures are governed by the California Surplus Lands Act (California Government Code section 542200 et seq.) (the “SLA”) and the Agency disposition procedures are governed by both the SLA and the California Redevelopment Dissolution Law, California Health & Safety Code section 34170 et. seq. (the “Dissolution Law”)

### 2. **POLICY**

This policy provides guidance on the disposition of real estate. Real Estate is defined as any parcel owned in fee title by the City or Agency. All final decisions on the disposition of City and Agency-owned real estate is reserved for the City Council. For Successor Agency-owned parcels, the County-wide Oversight Board makes all final decisions, subject to review by the State Department of Finance. All other non-real estate assets are governed by the Council / Administrative Policy 10-07, Purchasing.

### 3. **CITY REAL ESTATE**

#### 3.1 **GENERAL GUIDELINES**

- 3.1.1 In accordance with Section 54221(b)1) of the SLA, prior to the disposition of City owned real estate, the property must be declared surplus or exempt surplus land by the City Council of the City of Brentwood, during a regular public meeting.
- 3.1.2 The City will comply with the requirements of the SLA as they may be amended from time to time, in seeking to dispose of City owned real estate.
- 3.1.3 In the event the City complies with the requirements of the SLA and the SLA Guidelines, but does not dispose of the property, the City may pursue alternative means of disposition as set forth in this policy.
- 3.1.4 Disposition methods following completion of the SLA process may include: Requests for Proposals (RFPs), Auction, Negotiated Sale or Exchange in order to maximize the benefit to the taxpayers.
- 3.1.5 The City shall optimize the benefit of the disposition of City-owned excess or surplus real estate based on relevant factors including:
  - 3.1.5.1 The value of the real estate based on an appraisal or brokers opinion of value, as appropriate, which is no more than 12 months old at the time the sales agreement is presented to the City Council, except that an appraisal will not be needed on real estate that does not exceed \$200,000 in value based on fair market value supported by a written report from staff.
  - 3.1.5.2 The City is required to follow applicable State laws related to disposition of surplus property at the same time of disposition. Any

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special benefits to accrue from the sale or exchange.

- 3.1.6 Generally, the City shall represent itself in real estate transactions; however, the City may from time to time authorize a brokerage agreement for the disposition of real estate. 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 Council / Administrative Policy 10-07, Purchasing.

In certain circumstances when a broker is not under contract with the City, the City, in its sole discretion, may negotiate and pay a real estate brokerage fee for qualified representation of a party purchasing City real estate ("broker participation"). In no case shall the broker participation exceed one-half of the generally accepted local brokerage fee for the type of real estate being sold. When the amount of purchase price offered is a criterion for selecting a purchaser in competitive situations, the selection will be based on the highest net purchase price, without taking into account any brokerage fees involved in the competition/evaluation. When such broker participation is contracted by the City, it shall be subject to all of the following:

- 3.1.6.1 The party represented by the broker shall provide written certification that the broker represents said party; and
- 3.1.6.2 The broker shall provide written certification that broker is not an employee of said party; and
- 3.1.6.3 The broker shall possess a valid California real estate broker license.

### 3.2 **PROCESS**

- 3.2.1 Staff will prepare a report for the City Council's or Agency' consideration recommending the declaration of certain stated real estate as surplus real estate.
- 3.2.2 The City will comply with the SLA and any other applicable guidelines or regulations as determined with the City Attorney's office.
- 3.2.3 Since it is generally not in the City's best interest for a real estate transaction to be negotiated in open session, pursuant to Section 54956.8 of the Government Code, the City Council may discuss either approval, disapproval, or continuation for further negotiation or study any recommendation regarding the disposition of City real estate in closed session. Any final action, however, shall occur in open session and comply with the California Environmental Quality Act and shall disclose the revenue from any sale and the appraised value of the real estate involved in accordance with the Ralph M. Brown Act, California Government Code section 54950 et seq.

### 3.3 **PAYMENT FOR CITY SURPLUS REAL ESTATE**

Sales of real estate shall be on an all cash basis, or on such other terms that in the

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discretion of the City Council results in the optimum public benefit.

### 3.4 **USE OF PROCEEDS**

Proceeds from sales shall be assigned to the appropriate fund, as follows:

- To enterprise accounts if the real estate was purchased using these funds.
- To the General Fund, or other funds, if required by law.
- As directed by the City Council.

### 3.5 **COSTS ASSOCIATED WITH THE DISPOSITION OF REAL ESTATE**

Unless otherwise directed, the costs associated with the disposition of surplus real estate shall be charged to the appropriate fund(s). Expenditures for this purpose will be budgeted as part of the normal budgeting cycle or budget amendment process if needed. If the real estate is owned by a fund other than the General Fund, the fund may be reimbursed for the costs associated with purchasing, managing, maintaining and disposing of surplus or excess real estate.

## 4. **AGENCY OWNED REAL ESTATE**

With the passage of the 2011 Budget Act (AB x1 26), the State of California eliminated Redevelopment Agencies (RDAs) and RDAs were officially dissolved as of February 1, 2012. As part of the dissolution law former RDAs are required to sell their assets “as is” and “expeditiously and in a manner aimed at maximizing value.” The County-wide Oversight Board is required to approve disposition of Agency-owned properties, with all Oversight Board decisions being subject to review and approval by the State of California’s Department of Finance. The Successor Agency must also comply with the SLA prior to disposition of former RDA property.

Once the Successor Agency Board takes action in support of the disposition of a property, a resolution is forwarded to the County Oversight Board for consideration and approval prior to Department of Finance ultimately approving or denying the transaction.