Policy: Tacoma Public Utilities – Surplus Real Property Disposition Policy

1. Purpose

Provide direction to the City of Tacoma, Department of Public Utilities (“TPU”) and the TPU Real Property Services section (“Real Property Services”) for the disposition of TPU surplus real property.

2. Background

TPU owns a variety of properties to meet its utility-related needs. TPU should retain such properties and dispose of properties that do not meet these needs. Unless otherwise authorized in accordance with applicable laws, TPU must receive at least fair market value for the property.

TPU considerations for surplus real property dispositions include:

- Fair Market Value Requirement (except for Affordable Housing)
- City of Tacoma Affordable Housing and Equity Goals
- Tribal and Other Jurisdictional Interests
- TPU Board Strategic Directives

TPU properties are located both within the City of Tacoma (City) incorporated limits and within other towns, cities and counties in which TPU conducts business. TPU recognizes each jurisdiction has unique policies and values relating to the use of property within its boundaries.

TPU encourages continued public use of TPU surplus property, and will provide preference to a public agency when multiple buyers propose offers comparable in value and terms.

3. Pre-Disposition

TPU adopts the following guidelines for surplus real property dispositions. Each Division of TPU is responsible for developing procedures to ensure TPU retains properties that meet its utility-related needs.

Upon Declaration of Surplus by the Director of Utilities, the following steps shall be followed:

A. Prior to disposing of surplus real property, TPU shall provide notice to all City departments of TPU’s intent to dispose, and shall afford the departments the opportunity to acquire, for at least fair market value, the property via a TPU Board and City Council-approved transfer in accordance with all applicable laws. If no interest is expressed by any City Department, the process shall proceed as outlined in Step B below and then Section 4 below.

B. Following Step A above, TPU shall provide notice to the following parties:
a) The governing land use authority (except City) in which the property is located (“Governing Authority”); and

b) Federally-recognized tribes (“Tribes”) located within areas TPU provides utility services and/or owns real property.

Further, TPU shall afford the Governing Authority and Tribes (each hereinafter referred to as “Offeree”) the opportunity to submit a bona fide written offer (the “Offer”) to acquire the property in accordance with all applicable laws.

Any Offeree will be required to pay fair market value, unless the property is acquired for public benefit as defined by RCW 39.33.015 (hereinafter referred to as “Affordable Housing”), and the Offeree has previously enacted rules pursuant to RCW 39.33.015.

If any Offeree declines the opportunity, or fails to submit an Offer within eight (8) calendar weeks after the date of the notice, said opportunity will automatically be deemed waived by such Offeree.

If multiple Offers are submitted, Offerees may be asked to submit final-and-best offers.

TPU, in its sole discretion, reserves the right to select the Offer and Offeree with whom to negotiate a purchase and sale agreement. If TPU and the selected Offeree are unable to consummate a mutually agreeable purchase and sale agreement, the process shall proceed as outlined in Section 4 below.

4. Disposition

If a transfer or sale is not agreed to pursuant to Section 3.A. or 3.B., subsequent to completion of the steps outlined in Section 3 above, surplus real property will be classified into three categories, as follows:

**Category 1** properties are within City limits and within a land use zone that permits use suitable for Affordable Housing pursuant to RCW 39.33.015.

**Category 1 Disposition:** TPU staff will work with the City’s Community and Economic Development Department to develop a fair and equitable approach to conveying surplus real property for Affordable Housing. The Request for Proposals approach, as outlined in the City of Tacoma Purchasing Manual, will be the required method of disposition, and the execution of a Development Agreement will be a requirement prior to conveyance. The baseline requirement of any conveyance is a minimum of twenty-five percent (25%) of proposed units at or below fifty percent (50%) Area Median Income (AMI). Scoring will be weighted in favor of proposals that include at least fifty percent (50%) Affordable Housing units at or below thirty percent (30%) AMI. If no responsive proposals are received, the process shall proceed as outlined in Category 2 Disposition below.

**Category 2** properties are developable parcels that have economic value or functional utility and are likely to appeal to a wide market, but do not meet the Category 1 criteria. The anticipation is that most surplus TPU properties will fall within this category.

**Category 2 Disposition:** Category 2 properties should have site-specific marketing strategies to prioritize maximizing ratepayer return and consistency with TPU Board strategic directives. Said
marketing strategies will be determined on a case-by-case basis, with recommendation by Real Property Services and approval by the Director of Utilities or designee.

**Category 3** properties are remnant parcels that have little or no economic value, functional utility or marketability.

**Category 3 Disposition:** Category 3 properties should be disposed by direct negotiation or via bid-sale process. If no responsive bids are received, the process shall proceed as outlined in Category 2 Disposition above.

5. **Minimum Affordable Housing Requirements**

Consistent with RCW 39.33.015, TPU requires, at a minimum, the following terms in the conveyance documents for any properties conveyed for Affordable Housing:

A. The conveyance documents must contain a covenant or other requirement that the property shall be used for Affordable Housing for a pre-determined period of time; and

B. The conveyance documents must contain remedies that apply if the recipient of the property fails to use it for Affordable Housing or ceases to use it for such purpose.

Notwithstanding the forgoing, nothing herein shall preclude TPU from including additional terms in the conveyance documents for any properties conveyed for Affordable Housing.

6. **Alternative Disposition Process**

Situations may arise where it is in the best interest of TPU to market or otherwise dispose of a surplus real property through processes not outlined above. In these situations, the process must be approved by the Director of Utilities and TPU Board prior to implementation and it must comply with all applicable laws.

<table>
<thead>
<tr>
<th>Reference:</th>
<th>PUB Res. U-8640, TMC 1.06.280, Charter Sec 9.1, RCW 35.94.040 &amp; RCW 39.33.015</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Contact Info:</strong></td>
<td>Tacoma Public Utilities – Real Property Services – (253) 396-3060</td>
</tr>
<tr>
<td><strong>Supersede and Replace:</strong></td>
<td>This policy cancels and supersedes all Tacoma Public Utilities and Division policies and operating procedures established prior to the Effective Date related to the Disposition of Surplus Real Property.</td>
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<tr>
<td><strong>Approval:</strong></td>
<td>Jackie Flowers, Director of Utilities</td>
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<td><strong>Effective Date:</strong></td>
<td>March 15, 2020 – This policy is not required to be applicable to any dispositions arising from negotiations initiated prior to the Effective Date. For such dispositions, policy applicability shall be at the discretion of the Director of Utilities or designee.</td>
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TPU Surplus Real Property Disposition Flowchart

1. Operating Division Recommends Surplus
2. TPU Director Declares Surplus
3. Offered to Other City Departments and Notice Provided to PUB
4. Interest from Other City Department(s)?
   - Yes: Proceed to the next step
   - No: Offered to Governmental Authority (Outside Tacoma) & Federally Recognized Tribes
5. Interest from Governmental Authority (Outside Tacoma) and/or Federally Recognized Tribes?
   - Yes: Proceed to the next step
   - No: Proceed to the next step
6. Determine Category
   - Category One: TPU-CED Partnership
   - Category Two: Affordable Housing RFP
   - Category Three: Interested Party?
5. TPU-CED Partnership
   - Yes: Proceed to the next step
   - No: Affordable Housing RFP
4. Response?
   - Yes: Score and Award RFP
   - No: Proceed to the next step
3. Develop Strategy and Market
   - Yes: Proceed to the next step
   - No: Proceed to the next step
2. Formalize Sale/Transfer
1. TPU Board Action
2. Public Hearing
3. City Council Action
4. Complete Sale/Transfer