

**Policy: Tacoma Public Utilities – Surplus Real Property Disposition Policy**

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**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 real property that is no longer required for utility purposes (“Surplus Real Property”).

**2. Background**

TPU owns a variety of properties acquired for utility purposes. Whenever such property is determined to be no longer required for utility purposes, then TPU should dispose of such property. Unless otherwise authorized by applicable laws, TPU must receive fair market value for any disposition of Surplus Real Property.

TPU considerations for Surplus Real Property dispositions include:

- Fair Market Value Requirement (except for Affordable Housing per Sections 3 & 4 below)
- 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 Surplus Real 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 the disposition of Surplus Real Property. Each Division of TPU is responsible for developing procedures to ensure TPU retains or replaces properties that are necessary for utility purposes.

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 of the Surplus Real Property, and shall afford the departments the opportunity to acquire, for fair market value, the Surplus Real 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, if no City department has interest in the Surplus Real Property and when the Surplus Real Property can be sold to a Governing Authority or Tribe(s)\*, TPU shall then provide notice of the availability of the Surplus Real Property to::

- a) The governing land use authority (except City) in which the Surplus Real Property is located (“Governing Authority”); and
- b) Tribe(s) with tribal area(s) of interest in which the Surplus Real Property is located (“Tribe(s)”). For the purposes of this tribal notification, tribal area(s) of interest will be identified by utilizing the Tribe Specified Consultation Areas map as maintained by the Washington State Department of Archaeology and Historic Preservation.

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 Surplus Real Property in accordance with all applicable laws.

Any Offeree will be required to pay fair market value, unless the Surplus Real 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.

\*Examples of Surplus Real Property that is not available to be offered to a Governing Authority or Tribe(s) include, but are not limited to: sale for right-of-way purposes, boundary line adjustment, title clearing, legal settlement agreements, condemnation, and/or sale of a non-legal lot, etc.

## 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, the Surplus Real Property will be classified into one of 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. Proposed conveyances will be evaluated

through baseline requirements concerning the number of proposed units and the income eligibility in relation to Area Median Income (AMI). AMI requirements and the required minimum number of proposed units will be consistent with the “Disposition Policy for General Government Real Property” approved by City Council Resolution No. 41126, and subsequent amendments thereto approved by Tacoma City Council (“GG Surplus Policy”). If no responsive proposals are received meeting the AMI requirements, 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 Real Property 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 their 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 may 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 Surplus Real Property conveyed for Affordable Housing:

- A. The conveyance documents must contain a covenant or other requirement that the Surplus Real Property shall be used for Affordable Housing for such period of time as referenced in the GG Surplus Policy; and
- B. The conveyance documents must contain remedies that apply if the recipient of the Surplus Real 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 Surplus Real Property 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.

<b>Reference:</b>	PUB Res. U-8640, TMC 1.06.280, Charter Sec 9.1, RCW 35.94.040 & RCW 39.33.015
<b>Contact Info:</b>	Tacoma Public Utilities Real Property Services – (253) 396-3060

<b>Supersede and Replace:</b>	This policy supersedes and replaces all Tacoma Public Utilities and Division policies and operating procedures established prior to the Effective Date related to the Disposition of Surplus Real Property.
<b>Approval:</b>	Jackie Flowers, Director of Utilities
<b>Original Effective Date:</b>	March 15, 2020 – This policy is not required to be applicable to any dispositions arising from negotiations initiated prior to the Original Effective Date. For such dispositions, policy applicability shall be at the discretion of the Director of Utilities or their designee.
<b>Revised Date:</b>	_____ – This policy is not required to be applicable to any dispositions arising from negotiations initiated prior to the Revised Date. For such dispositions, policy applicability shall be at the discretion of the Director of Utilities or their designee.

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