



## RESOLUTION NO. U-11447

1 A RESOLUTION related to revisions to the Tacoma Public Utilities Department;  
2 adopting certain revisions to the Tacoma Public Utilities – Surplus Real  
Property Disposition Policy.

3 WHEREAS on March 31, 2020, through Public Utility Board Resolution  
4 No. U-11144, the Board approved the current Tacoma Public Utilities – Surplus  
5 Real Property Disposition Policy (the “Policy”), and  
6

7 WHEREAS since its adoption, certain policy provisions have been  
8 identified as needing more clarification, as follows:

- 9 • Align in-City affordable housing requirements with the General  
10 Government Policy and future amendments; and
- 11 • Provide Tribal Notifications based on State Department of  
12 Historical and Archeological Maps; and
- 13 • Application of the Policy only to properties not necessary for utility  
14 operations/projects; and
- 15 • Offer properties to Tribes and other Governments only when such  
16 conveyance is feasible; Now, therefore,

17 BE IT RESOLVED BY THE PUBLIC UTILITY BOARD OF THE CITY OF TACOMA:

18 That the revised Tacoma Public Utilities – Surplus Real Property  
19 Disposition Policy, in the form as on file with the Clerk, is adopted and  
20 approved.  
21

22 Approved as to form:

23 \_\_\_\_\_  
24 /s/  
Chief Deputy City Attorney

\_\_\_\_\_

\_\_\_\_\_

Adopted \_\_\_\_\_

25 \_\_\_\_\_  
26 Clerk



## Board Action Memorandum

**TO:** Jackie Flowers, Director of Utilities  
**COPY:** Charleen Jacobs, Director and Board Offices  
**FROM:** Dylan Harrison, Principal Real Property Officer, Public Works  
**MEETING DATE:** March 13, 2024  
**DATE:** March 1, 2024

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### **STRATEGIC DIRECTIVE ALIGNMENT (select as many that apply):**

Please indicate which of the Public Utility Board's Strategic Directives is supported by this action.

- |                                                                        |                                                                   |
|------------------------------------------------------------------------|-------------------------------------------------------------------|
| <input type="checkbox"/> GP1 – Diversity, Equity, Inclusion, Belonging | <input type="checkbox"/> GP8 – Telecom                            |
| <input checked="" type="checkbox"/> GP2 – Financial Sustainability     | <input checked="" type="checkbox"/> GP9 – Economic Development    |
| <input type="checkbox"/> GP3 – Rates                                   | <input checked="" type="checkbox"/> GP10 – Government Relations   |
| <input type="checkbox"/> GP4 – Stakeholder Engagement                  | <input type="checkbox"/> GP11 – Decarbonization/Electric Vehicles |
| <input type="checkbox"/> GP5 – Environmental Leadership                | <input type="checkbox"/> GP12 – Employee Relations                |
| <input type="checkbox"/> GP6 – Innovation                              | <input type="checkbox"/> GP13 – Customer Service                  |
| <input type="checkbox"/> GP7 – Reliability & Resiliency                | <input type="checkbox"/> GP14 – Resource Planning                 |

**SUMMARY:** A resolution adopting revisions to the Tacoma Public Utilities - Surplus Real Property Disposition Policy to better align TPU in-City affordable housing dispositions with the Policy for the Sale/Disposition of City-owned General Government Real Property and to clarify various provisions related to Tribal and other Government offerings.

### **BACKGROUND:**

On March 31, 2020, TPU Board adopted Resolution U-11144 approving the current Tacoma Public Utilities – Surplus Real Property Disposition. Since adoption, certain policy provisions have been identified as needing clarifications, which are generally outlined as follows:

- Align In-City affordable housing requirements to the GG Policy and future amendments thereto.
- Provide Tribal Notifications based on State Department of Historical and Archeological Maps.
- Apply the Policy only to properties not necessary for utility operations/projects.
- Offer properties to Tribes and other Governments only when such conveyance is feasible.

On September 13, 2023, Real Property Services presented a draft revised Tacoma Public Utilities - Surplus Real Property Disposition Policy Revisions to the Public Utility Board in Study Session and received feedback regarding tribal notifications, which was subsequently addressed with additional information to the individual board members.

Tacoma Public Utilities and Real Property Services now recommends the adoption of the herein enclosed revised Tacoma Public Utilities - Surplus Real Property Disposition Policy with the changes outlined above.



## Board Action Memorandum

**ARE THE EXPENDITURES AND REVENUES PLANNED AND BUDGETED? No**

**IF THE EXPENSE IS NOT BUDGETED, PLEASE EXPLAIN HOW IT IS TO BE COVERED.**

N/A

**IF THE ACTION REQUESTED IS APPROVAL OF A CONTRACT, INCLUDE LANGUAGE IN RESOLUTION AUTHORIZING \$200,000 INCREASE IN ADMINISTRATIVE AUTHORITY TO DIRECTOR? No**

**ATTACHMENTS:**

Draft Revised Tacoma Public Utilities - Surplus Real Property Disposition Policy

Public Utility Board Resolution No. U-11144

TPU Policy # 121 - Tacoma Public Utilities - Surplus Real Property Disposition Policy

Surplus Real Property Revisions - PowerPoint Presentation

**CONTACT:**

Primary Contact: Dylan Harrison, Principal Real Property Officer, (253) 502-8836

Supervisor's Name: Justin Davis, Fleet and Facilities Division Manager, (253) 591-5449

Department owner/sponsor:  
Tacoma Public Utilities

Original Effective Date:  
March 15, 2020  
Revised Date:  
March 13, 2024

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

**2. Background**

TPU owns a variety of properties ~~to meet its acquired for utility-related needs- purposes. Whenever such property is determined to be no longer required for utility purposes, then~~ TPU should ~~retain such properties and~~ dispose of ~~properties that do not meet these needs. such property.~~ Unless otherwise authorized ~~in accordance with~~ applicable laws, TPU must receive ~~at least~~ fair market value for ~~the property any disposition of~~ Surplus Real Property.

TPU considerations for ~~surplus real property~~ 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~~ Guiding Principals

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~~ 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 ~~surplus real property dispositions. the disposition of~~ Surplus Real Property. Each Division of TPU is responsible for developing procedures to ensure TPU retains or replaces properties that ~~meet its are necessary for~~ utility-related needs purposes.

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

- A. Prior to disposing of ~~surplus real property~~ 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 ~~at least~~ fair market value, the ~~property~~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 to the following parties of the availability of the Surplus Real Property to:

a) The governing land use authority (except City) in which the ~~property~~Surplus Real Property is located (“Governing Authority”); and

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

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 ~~property~~Surplus Real Property in accordance with all applicable laws.

Any Offeree will be required to pay fair market value, unless the ~~property~~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, ~~surplus real property~~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~~ Surplus Real Property for Affordable Housing. ~~A~~ 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~~ Proposed conveyances will be evaluated through ~~baseline requirement of any conveyance is a minimum of twenty-five percent (25%) requirements concerning the number of proposed units at or below fifty percent (50%) and the income eligibility in relation to~~ Area Median Income (AMI). ~~Scoring will be weighted in favor of proposals that include at least fifty percent (50%) Affordable Housing~~ AMI requirements and the required minimum number of proposed units at or below thirty percent (30%) AMI. ~~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 TPU properties~~ 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 ~~shall~~ 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 ~~properties~~ Surplus Real Property conveyed for Affordable Housing:

- A. The conveyance documents must contain a covenant or other requirement that the ~~property~~ Surplus Real Property shall be used for Affordable Housing for ~~a pre-determined~~ 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 ~~property~~ 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 ~~properties~~ 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~~ **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 <del>repeals and</del> supersedes <b>and replaces</b> 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><u>Original Effective Date:</u></b>	March <del>15</del> , 2020 – This policy is not required to be applicable to any dispositions arising from negotiations initiated prior to the <b>Original</b> Effective Date. For such dispositions, policy applicability shall be at the discretion of the Director of Utilities or <u>their</u> designee.
<b><u>Revised Date:</u></b>	<u>March 13, 2024 – 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.</u>

DRAFT

**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 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.

<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 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.
<b>Approval:</b>	Jackie Flowers, Director of Utilities
<b>Effective Date:</b>	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.



# Surplus Real Property Disposition Policy Revisions

Real Property Services  
March 13, 2024

GP3  
Financial  
Sustainability




GP9  
Economic  
Development/  
Undergrounding



GP10  
Government  
Relations

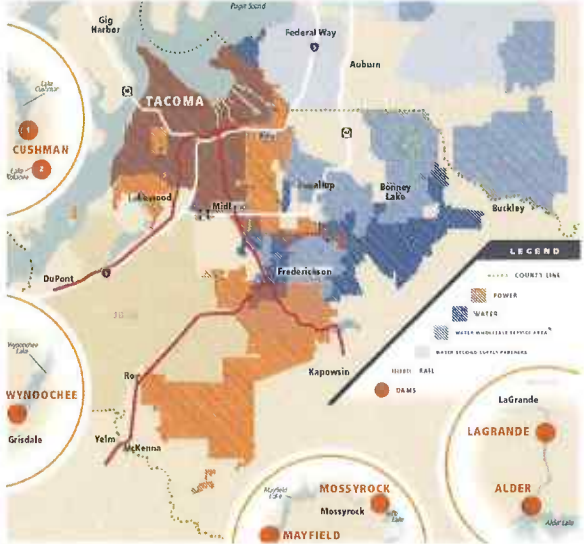


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## Current Policy Background

- 1,000+ parcels in 5 counties
- <10 are currently surplus
- Previous policy from 1991
- HB 2382 – RCW 39.33.015
- GG Policy Update – 9/17/19
  - Affordable Housing
  - Puyallup Tribe Offering




2

## Current Policy Highlights



- Fair Market Value, except as allowed by Law.
- Affordable housing on all In-City properties zoned for housing.
- Affordable housing options for other jurisdictions.
- Advance notice to Tribes and other Land Use Authorities.
- Continued public use when offers are comparable.



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## Recommended Revisions



- Align In-City affordable housing requirements to the GG Policy and future amendments thereto.
- Tribal Notifications based on State DAHP Maps.
- Apply only to properties not necessary for utility operations/projects.
- Tribal and other Government offerings only for properties that can be sold.



**4**

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# Surplus Real Property Disposition Policy Revisions

Real Property Services  
March 13, 2024





## RESOLUTION NO. U-11144

1  
2 A RESOLUTION related to the adoption of a Surplus Real Property Disposition  
3 Policy.

4 WHEREAS the City of Tacoma, Department of Public Works, Real  
5 Property Services Division, in collaboration with the Department of Public  
6 Utilities, has drafted a Tacoma Public Utilities – Surplus Real Property  
7 Disposition Policy to: a) provide direction for the disposition of Tacoma Public  
8 Utilities real property; b) better align with Council approved Policy for the  
9 Sale/Disposition of City-owned General Government Real Property; and c)  
10 enact affordable housing transfer rules consistent with RCW 39.33.015, and  
11

12 WHEREAS on September 12, 1990, the City of Tacoma's Public Utility  
13 Board ("TPU Board") adopted Resolution U-8459, to approve various policies,  
14 including Policy 2.2, which directed the department to continue to manage  
15 surplus property in a manner that is determined to be in the department's best  
16 interest, and

17 WHEREAS on November 6, 1991, the TPU Board adopted Resolution U-  
18 8640 revising Policy No. 2.2 to create additional guidelines regarding disposal  
19 of property, including compliance with City Code, Charter and State law,  
20 assuring equal opportunity and establishing limited disposition procedures, and  
21

22 WHEREAS on June 7, 2018, Washington House Bill 2382, went into  
23 effect authorizing public agencies to transfer real property for reduced cost for  
24 affordable housing, the Bill was codified as RCW 39.33.015, and was  
25 contingent upon the governing body or legislative authority of a municipality or  
26 political subdivision enacting rules to regulate the disposition, and



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WHEREAS on September 17, 2019, the City Council adopted a revised Disposition Policy for General Government Real Property, which places a high priority on dispositions which increase affordable housing, and adopts a policy concerning how General Government will coordinate with the Puyallup Tribe of Indians concerning general government surplus property, and

WHEREAS on October 9, 2019, Real Property Services presented a draft of the proposed policy for TPU surplus property to the Public Utility Board, and

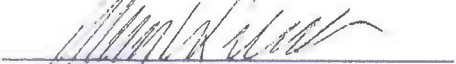
WHEREAS Real Property Services now recommends the adoption of the herein enclosed Tacoma Public Utilities - Surplus Real Property Disposition Policy, and


WHEREAS it is in the best interests of Tacoma Public Utilities and the ratepayers to adopt the proposed policy; Now, therefore,

BE IT RESOLVED BY THE PUBLIC UTILITY BOARD OF THE CITY OF TACOMA:

That the Tacoma Public Utilities – Surplus Real Property Disposition Policy, in the form as on file with the Clerk, is adopted and approved.

Approved as to form:

  
\_\_\_\_\_  
Chief Deputy City Attorney

  
\_\_\_\_\_  
Chair  
  
\_\_\_\_\_  
Secretary

  
\_\_\_\_\_  
Clerk

Adopted 3-11-2020