

DRAFT OF ADMINISTRATIVE MEMORANDUM 5B
DISPOSAL OF PROPERTY WITH SPECIAL CIRCUMSTANCES

The following procedures may be utilized when the City is disposing of surplus land and property with special circumstances attached to it. These procedures will create exceptions to the process outlined within our Administrative Memoranda 5 and 5A. Such special circumstances may include a requirement of restrictions to satisfy storm water, right-of-way, health, or funding source requirements and similar types of considerations. It may also include those situations where the cost of an appraisal and expenses of sale would negate any net return for the property. There are several categories that have been identified with respect to properties with special circumstances including: (a) strips of land that are 40 feet or less in width which would include any properties which are remnants from projects, (b) properties for which the City has no general public purpose, (c) properties which must be conveyed with restrictions to protect the adjacent property owners or the public-at-large (i.e. retaining stormwater easements), (d) properties for which the City may only issue a quit claim deed due to possible title issues, and (e) buildable tracts for which the City may issue title that is clear.

Properties which may be disposed of in accordance with this Administrative Memorandum must have already been declared to be surplus, properties which no other City agency may make use of, are not needed for future expansion of a current operation or project such as future right-of-way or building expansion, and approved by the Planning & Zoning Commission for disposal. All sales or contracts to dispose shall be approved by the City Council by special ordinance.

All properties to be disposed of under this Administrative Memorandum:

1. All applicable City, State, and federal laws, rules and regulations must be followed in the disposal of property including, but not limited to, antidiscrimination laws and environmental laws.
2. Public Works, the department having control of the property, and the Law Department shall determine an appropriate legal description to be used and the type of title the City may convey to private parties, governmental entities, or other third parties.
3. Public Works and Planning in consultation with the department having control of the property shall make a good faith determination as to the estimated minimum consideration the City would receive for the property using comparables and any other information available to the City, including restrictions which would be placed on the property or which impact the development or use of the property. Such consideration must be approved by the City Manager and the Director of Finance.
4. If, in the discretion of the City Manager, it is determined that it is in the best interests of the City to dispose of property with special circumstances through a contract with a third party, such party shall be procured in accordance with the procedure set forth in Administrative Memorandum #5A.
5. The City should also recognize that when it is determined to be in the best interests of the City to dispose of a large number of lots or parcels that may impact the sales of the City's properties or those of others, such sales may need to be phased to avoid influencing prices and the market.
6. Reasonable efforts shall be made to identify willing buyers for property. Such efforts to identify willing buyers may include posting the property, direct contact with neighboring property owners, advertising in daily or weekly publications, trade publications, local periodicals, website postings, direct mailings, and contacts with not-for-profit organizations whose purpose would lend itself to development and use of the land in a manner consistent

with the Codes, ordinances and policies of the City. Other methods may be explored as they are identified. An application to obtain title shall be completed by the willing buyer. The form shall be developed by the Purchasing Agent of the City and approved by the City Manager's Office.

7. At the discretion of the City Manager's office, an offer for a property that is less than the minimum consideration, as determined by staff, may be accepted if the restrictions on the future use or transferability of the property would justify acceptance of such a reduced consideration. A property may also be transferred to a willing party at no cost upon exhaustion of reasonable attempts to dispose of the property at its predetermined minimum consideration. A no-cost transfer is appropriate when the property would be placed back on the tax rolls; or the City would be relieved of future maintenance costs; or affordable housing would be provided for a reasonable period of time. The Planning and Development Department will establish criteria for transfers to provide affordable housing.

8. The successful applicant must demonstrate a use for the property which is consistent with or advances a Council priority, is consistent with the City's Comprehensive Plan, is an action step from a City strategic or comprehensive plan, neighborhood assessment need, requirement of a federal or state grant or other funding, or other appropriate purpose as identified by the applicant and verified by City staff. The determination of which applicant satisfies the policies and priorities of the City as enunciated in its policies, plans, ordinances, Codes and other public statements shall be made by the Administrative Review Committee (ARC). Any appeal from the decision of the ARC shall be made to the City Manager's Office. Such appeal shall be limited to whether or not the ARC properly weighed the different policies, plans, ordinances, Codes and other public statements. The Manager's decision shall be final.

9. The successful applicant may be required to pay expenses customarily paid by the seller of property, or accept a quit claim deed. Costs of obtaining a survey, processing lot combinations, or obtaining warrantable title may be the responsibility of the applicant/buyer.

10. Once an applicant is awarded the right to acquire the property, final approval shall be obtained from Council. Closing shall be in accordance with the agreement between the parties.

Strips of land:

1. The department having control of strips of land that consist of unbuildable lots, remnants from City projects, or with restrictions on use that restricts the ability of the buyer to construct a building or other useable structure in accordance with the Codes and Zoning Ordinance of the City shall work with the Manager's Office to identify willing buyers who will put such strips of land into constructive use that is consistent with the City's Comprehensive Plan for the area and the rights of neighboring property owners.

Properties for which the City has no general public purpose.

1. The department with control over the property shall report to the City Manager's Office that the property no longer serves a general public purpose after following the process outlined above for all properties. The City Manager's Office will be informed as to the original purpose for acquiring the property and the source(s) of funds used for acquisition of the property.

2. The department with control over the property shall work with the Law Department to determine which category of property the disposal should fall within (strips of land, convey with restrictions, convey with limited or good title) and follow that process to the greatest extent practical.

3. If the process for disposal should, in the opinion of the department and the Law Department, differ from that set forth in this Administrative Memorandum, the two departments shall work with the City Manager's Office to determine the best course of action to dispose of such property at the greatest benefit to the City. In making such determination, the decision shall not be guided only by the amount of revenue that may be generated, but other priorities and policies shall also be considered.

Properties which must be conveyed with restrictions

1. The department with control over the property shall identify special requirements or restrictions that should be placed on the property through covenants or other deed restrictions. Such department will work with the Law Department to develop appropriate language to be used in such restriction. Public Works will prepare the legal description of the area of the property on which such restriction is to be placed.

2. The consideration to be received by the City for such property should reflect the reduced future use due to restrictions placed on the property.

3. Restrictions shall include the ability of the City to enforce such restrictions or regain control of the property should the successful applicant fail to comply with restrictions.

Properties for which the City may only convey quit claim title

1. The department with control over the property shall identify special requirements or restrictions that should be placed on the property through covenants or other deed restrictions.

2. The department with control over the property shall work with the Law Department to determine the ability of the City to convey title to a potential purchaser and the quality of that title. Any contact with a potential purchaser with interest in property to be disposed of shall disclose the opinion on title.

Properties for which the City may title with no or limited restrictions

1. The department with control over the property shall identify special requirements or restrictions that should be placed on the property through covenants or other deed restrictions and work with the Law Department on appropriate language for such restriction. The department with control shall also work with the Department of Building Development Services to determine if the property constitutes a buildable lot for private party use.

2. The department with control over the property shall also communicate to the City Manager's office the reason why property that is buildable should be sold under this Memorandum rather than Administrative Memoranda #5 and #5A. By way of example, the cost of an appraisal (and or property description & survey) may be more than the City would receive after all expenses of sale, including the repayment of the sales revenue to earmarked revenue source funds, and would justify selling the property under this Memorandum.