

RESOLUTION NO.

WHEREAS, the City of Austin is one of the largest owners of land within the Austin area, owning real property throughout its jurisdiction within each of the ten City Council districts;

WHEREAS, as the governing body of the City, the City Council is entrusted with the responsibility and authority to purchase, sell, and lease of real property on behalf of the City;

WHEREAS, decades of City plans and multiple City Council-approved policies have identified vacant or otherwise underutilized City-owned land and facilities as opportunities to expand community services and generate opportunities for basic necessities and City Council priorities, such as affordable and family-friendly housing;

WHEREAS, the City Council desires to establish a consistent, reliable, and transparent process that incorporates earlier City Council review, evaluation, consideration, and approval of real estate transactions and redevelopment proposals for City-owned land to ensure that the City's policies and goals are prioritized within the City's overall real estate management strategy;

WHEREAS, earlier City Council input into decisions related to the long-term use, acquisition, and disposition of real estate will ensure that City Council-approved policy and community benefits are incorporated into the negotiations of such transactions before significant staff time and resources are spent on a proposal;

WHEREAS, earlier City Council input into decisions can help improve efficiencies throughout a proposed real estate transaction by ensuring the transaction is consistent with City Council direction at the beginning and avoid delays at the end of the transaction, when delays can be more problematic;

WHEREAS, as the stewards of the City's real property, the City Council has a responsibility to its taxpayers to obtain the best value, both in terms of price and efficiency, of the use of the City's real estate interests;

WHEREAS, the current City Council seeks to share its institutional knowledge with future Councils and to formalize some of the process improvements taken by professional staff in recent years;

WHEREAS, the following policies are intended to provide a general framework for the use of City-owned properties, respect the primary functions of the various City departments, enterprises, and City-owned entities, provide flexibility when needed, and to align with any legal requirements pertaining to the funding sources related to the acquisition and/or management of the City facilities;

WHEREAS, several of the policies contained in this Resolution are restatements of existing policy or practice, such as favoring ownership over leasing; these policies are included to ensure that such policies and the progress made toward achieving them are prioritized in the ongoing management of the City's real estate portfolio; and

WHEREAS, the City Council acknowledges that every property or development may have unique characteristics, and this Resolution seeks to provide general guidance to the City Manager, future City Councils, City staff, and community members to facilitate the transparent, consistent, and efficient oversight of real estate assets; and

WHEREAS, the City Council reaffirms its direction in creating the Austin Economic Development Corporation (AEDC) to receive public property at no cost to the agency and to determine how best to use the property to provide public benefits. This Resolution does not apply to public property that has or will be transferred to the AEDC; **NOW, THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN

The City Manager shall manage the City's real estate interests according to the following City Council-approved policies, nearly all of which restate or build on previous City Council directives. These policies are intended to apply on a prospective basis to projects not currently in progress.

Purchases:

- **Notify City Council about offers.** Unless the City Manager has entered a purchase option contract, at the earliest available opportunity, the City Manager shall tell the City Council about an offer from another governmental entity or private party to sell property to the City.¹
- **Exercise due diligence.** Prior to presenting a proposal to purchase land or property, the City Manager shall assemble a broad-based team of staff to assess the applicable land use requirements, including the impacts of legal covenants, restrictions, or overlays (e.g., the Airport Overlay Zone).

Development/redevelopment of City-owned land:

- **Earlier City Council input.** The City Manager shall establish a consistent, transparent process that includes an early opportunity for City Council to set priorities, determine

¹ City Manager can share this information via executive session or correspondence. This provision only applies to good faith offers and does not apply to right of way and other property acquisitions made in the ordinary course of business. Existing City policy mandates that the Manager inform City Council within two days of any opportunities to purchase state land.

partners, and receive community input for the proposed development and redevelopment of City-owned land.

- **Discuss City Council priorities.** The City Council seeks to achieve the maximum value (community benefits and/or revenue) for the use of City-owned property. Early in the development/redevelopment process and before issuing a solicitation for the development or redevelopment of City-owned land, the City Manager and City Council should engage in conversation and potentially review staff's proposed ranking matrix to ensure alignment on priorities for that project. Solicitations should be drafted in a broad enough manner that additional priorities are included and could become more important if market conditions or other circumstances change. The following City Council priorities and values should be considered for inclusion:
 - **Better Builder or equivalent.** Any construction project with a total project valuation of more than one-million dollars (\$1,000,000) should be certified by a third-party to verify that the construction project either complies with or exceeds the City requirements under the Better Builder Certification program or complies with or exceeds a similar program, if approved by ordinance.
 - **Minority-Owned and Women-Owned Business Enterprise Procurement Program.** Any construction project with a total project valuation of more than one-million dollars (\$1,000,000) should comply with the requirements of the City's Minority-Owned and Women-Owned Business Enterprise Procurement Program in Chapters 2-9A, 2-9B, 2-9C, and 2-9D of the City Code.
 - **Living wages.** Commercial tenants on City-owned property should comply with the City's living wage standards. Staff may offer alternative strategies for consideration by the City Council for nonprofit organizations or other industries that might provide separate community benefits.
 - **Revenue sharing.** Where feasible, the City Manager should provide revenue sharing as an option for consideration, such as those leases in existence for tenants of certain park facilities.
 - **Affordable housing.** Public land presents an unmatched opportunity to create affordable housing in parts of town where land costs are high. Target percentages should match what the Austin Housing Finance Corporation sets as a goal (85%) and incorporate deep levels of affordability (usually 50% or below). A significant share of the income-restricted units should be family-sized units (2- and 3-bedrooms), with an affirmative marketing plan to match larger units with households that need them. The project should incorporate the City's standard source of income and tenant protections, as well as a preference policy for current and former residents with generational ties to the City.
 - **Family-friendly features.** Consistent with Resolution No. 20120301-051 and Resolution No. 20210826-108, all new City facilities and City-sponsored projects

oriented to the public should include family-friendly features, such as creative play spaces, nature-based play areas, and interactive art spaces.

- **Affordable, high quality child care.** Consistent with Resolution 20210826-108, new City facilities and City-sponsored projects, where appropriate, should include affordable, high-quality child care, especially child care facilities that serve infants and toddlers and accept vouchers. The City Manager shall work with United Way Success by Six and other professionals to articulate criteria for “affordable child care,” present this proposed definition to the Early Childhood City Council for recommendations, and then bring to City Council for approval by March 1, 2023.
- **Determine partners.** The City Manager shall recommend a lead department or entity, along with supporting documentation. If the recommendation does not include the Austin Economic Development Corporation or Austin Housing Finance Corporation, the Manager should explain why. The Manager should be prepared to address whether staff conducted outreach to AISD or other public entities.²
- **Check back with City Council before releasing solicitations.** The City Manager shall provide City Council with the opportunity to review draft solicitations or the staff’s proposed ranking of priorities with sufficient time to allow the City Council to take action as a body if a vote is necessary.³
- **Provide public with details.** The City Manager should structure RFPs, RFQs, and other solicitations so that project-specific details from proposals can be shared publicly prior to City Council making its selection.⁴
- **Allow City Council to review agreements before approval.** In most instances, the City Manager should separate “negotiation” and “execution” phases of real estate transactions so that the City Council is not approving a document that has not yet been written.

Small City-owned Tracts

- **Suggest options for smaller tracts.** The City Manager shall recommend policies for developing and using small tracts of City-owned land (e.g., less than 2 acres in size) that might help achieve the geographic dispersion of affordable housing and other City Council-adopted priorities. The City Manager shall report back to City Council on this issue by February 1, 2023.

² Multiple City reports and resolutions have directed the City Manager to pursue City/school district collaborations on facility use, including Resolution No. 20161103-045 and the Strategic Housing Blueprint.

³ Some possible options could include allowing individual Council Members to sign non-disclosure agreements or to facilitate the conversation in executive session.

⁴ For example, in a mixed-use development, details related to the number of units, bedroom mix, levels of affordability, revenue-sharing, proposed uses, and other community benefits should be made public prior to Council action. Nothing in this provision is meant to require the disclosure of proprietary information of a respondent.

Sales/Ground Lease of City-owned property:

- **Notify City Council.** Prior to beginning a solicitation process to sell or ground lease City-owned property, the City Manager shall notify the City Council, provide a rationale for the sale, and indicate which departments and public entities the staff have consulted with to determine their interest.⁵
- **Favor ground-leases.** As a general policy, the City should seek to retain its property. If the City Manager recommends selling a facility or property to a non-City entity, the Manager must provide a rationale and a financial analysis illustrating the benefits.
- **Ownership Favored Over Leasing.** As a general policy, the City should own its facilities and avoid becoming a tenant on long-term leases.⁶ Staff already operate toward this goal; by June 1, 2023, the City Manager shall present City Council with an inventory of spaces leased by the City of Austin and a plan on phasing out such leases.
- **Active Use of City facilities.** As a general policy, the City should avoid long-term vacancy and underutilization of the City's real estate resources. If a property will stand vacant for more than 6 months, the Manager should consider hosting short-term uses, such as pop-up retail, art spaces, or other community uses that would not affect the long-term plans. Beginning on June 1, 2023, the City Manager shall prepare an annual report on vacant City-owned facilities and those defined as "under-utilized" based on a metric that staff develop.

Austin Economic Development Corporation:

- **Leverage this City-created resource.** Prior to initiating a solicitation, the City Manager shall review all planned development, redevelopment, sales, and leases with the Austin Economic Development Corporation to determine the entity's level of interest in collaborating on those projects. On a semi-annual basis, the City Manager shall report to the City Council the progress of such partnership, including offering the Austin Economic Development Corporation the ability to provide their direct feedback to the City Council as part of the report or briefing.

If the City Manager proposes that a more limited array of projects be discussed with the AEDC, then the Manager shall present the City Council with a more narrow description and associated action by May 1, 2023. The AEDC shall also be invited to provide their recommendations.

⁵ The City Manager may find it most efficient to notify Council on a quarterly or semi-annual basis about contemplated sales. This provision is not intended to include right-of-way sales, license agreements, and other, similar transactions.

⁶ Council recognizes that the City Manager will need to enter into leases to meet immediate needs, to help improve basic services for Austin residents and customers of Austin's enterprise departments, and other reasons.

- **Explore partnering with the AEDC on specific, City Council-discussed redevelopment projects.** Prior to the posting deadline for the December 8, 2023, meeting, the City Manager shall report on the status of the following City properties, all of which have been identified for redevelopment opportunities: 505 Barton Springs Road (One Texas Center), 124 W. 8th Street, 3002 Guadalupe, and 411 Chicon.
- **Leases of City-owned property.** The City Manager shall establish a fair, transparent, and openly competitive process for leasing City-owned facilities at below-market rates.⁷ Such leases should identify expected community benefits and incorporate evaluation metrics. When appropriate, the lease should be short-term to provide opportunities for more organizations to access City resources and to help organizations build sustainable foundations without becoming reliant on long-term City support. The City Manager shall return to City Council with this recommended process by June 1, 2023.

Establishing Accurate Values:

- **Obtain recent appraisals.** The City Manager shall recommend policies to insert into the solicitation process that would make adjustments to the total valuation of a property for transactions that extend for long periods of time or which would help the Council identify the value of community benefits embedded within a proposed transaction.
- **Right of Way Vacation and Encroachment and License Agreements.** Consistent with Resolution 20140807-092, public spaces such as alleys can represent significant long-term value for a growing city with significant needs for infrastructure and place making. Current code limits how the City can assign value. The City Manager is thus directed to review best practices, analyze and recommend procedural modifications, fee alternatives, and valuation options, and return with recommendations for City Council no later than May 1, 2023.
- **Transfers Between City Departments and City-Affiliated Entities.** When transferring real estate from a City-affiliated entity such as Austin Energy to a City department or vice versa, the general policy should be that the value of the property should be set no greater than the initial purchase price plus the costs of the maintenance of the property after such acquisition. The City Manager should include a rationale when recommending an alternative valuation.
- **Rezoning City-Owned Land.** As part of its initial due diligence for the sale or ground lease of City-owned land, the City Manager should recommend to the City Council whether the property should be rezoned prior to entering into an agreement with a third party.

Partnerships:

⁷ This provision is not intended to impact approved long-term leases.

- **Joint Uses and Collaboration.** As a general policy, the City should maximize the value and use of its City-owned land by seeking to use it for multiple purposes (and with multiple City or non-City entities) whenever appropriate.
- **Develop Internal Policies.** The City Manager should develop policies and guidelines for internal use to help refine its assessment of the long-term real estate needs of the various departments and enterprises and to identify opportunities for joint use in future developments and redevelopments. As part of this policy framework, the City Manager should prepare an assessment of the various long-term real estate-related needs of the City, which should be updated on a quarterly basis.
- **Collaboration with Other Entities.** The City Manager should regularly consult with other public entities, such as Travis County, Central Health, and the various public school districts to develop parameters for the consideration of potential partnerships on joint use facilities to serve overall community needs and land swaps, when appropriate.
- **Single-Use Projects.** Prior to recommending to the City Council a project for the development or redevelopment of a single use on City-owned land, the City Manager should provide a memorandum to the City Council explaining the recommendation to proceed with a single use, including a general assessment of the unmet real estate needs of the City that were considered but not selected as a compatible joint use and whether any outreach efforts were made to Travis County and the applicable public school district for potential partnership.
- **City-Owned Parking.** The City Manager shall recommend a parking management strategy that deploys a centralized management system or strategy to support the overall financial health of our City departments and enterprises and to align with parking-related goals in the City Council-approved policies such as the Austin Climate Equity Plan and Austin Strategic Mobility Plan.⁸ The City Manager shall hire a consultant, if necessary, to study peer cities and to recommend the best mechanism to consolidate the City's parking facilities, parking garages, and assets into one entity with the authority to leverage untapped parking supply and to standardize parking rates based on applicable laws, the most current competitive market conditions, and the need to cover costs for providing these services. The City Manager should report back to the City Council by June 1, 2023, with the progress of this study.

⁸ This provision does not suggest that all parking must be treated identically; rather, the City should deploy its parking in strategic ways to achieve stated objectives and as consistent with bond and financing requirements and applicable law. For example, parking rates set at the airport might diverge dramatically from parking rates set in Downtown Austin, due to various bond requirements, applicable laws, or strategic objectives.