

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
AMENDING SECTIONS 4-203 and 4-204 OF THE FRESNO
MUNICIPAL CODE, DISPOSITION OF REAL PROPERTY

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 4-203 of the Fresno Municipal Code is amended to read:

SEC. 4-203. - SURPLUS REAL PROPERTY.

(a) "Surplus land" shall mean real property owned by the City that is determined to be no longer necessary for the City's use, except property being held for the purpose of exchange. Property is not surplus if the City has some purpose in mind for its use.

(b) Prior to disposing of real property, Council shall make a determination whether such property is surplus land pursuant to Government Code sections 54220 et seq. (the "Surplus Land Act"). In the case of property valued at \$50,000 or less, City Manager shall determine whether property is surplus land.

(c) Prior to disposing of surplus land, City shall comply with the requirements of the Surplus Land Act~~[, as well as 4-204.] If surplus land is not transferred pursuant to the Surplus Land Act, the property shall be subject to Section 4-204.~~

Date Adopted:
Date Approved
Effective Date:
City Attorney Approval: _____

Ordinance No.

Section 2. Section 4-204 of the Fresno Municipal Code is amended to read:

SECTION 4-204. - DISPOSITION OF REAL PROPERTY.

(a) ~~Except for sales made pursuant to Section 4-203 or Subsection (b) below,~~ Real property may be sold [, encumbered by an option, or leased for period exceeding five years] only after an open and competitive request for proposals (RFP) process initiated by Council action [and in compliance with state law concerning disposition of surplus land; exclusive negotiating agreements shall not be permitted].

(1) An evaluation committee, to be selected prior to publication of the RFP, shall interview ~~potential purchasers~~ [proposers], review and rank all ~~purchase~~ proposals based on a predetermined set of criteria as set forth in the RFP, and make recommendations for selection ~~of a purchaser~~ [to present to Council for approval]. The committee at a minimum shall consist of two employees from the affected department as well as at least two employees and/or members of the public. The composition of the committee shall be at the discretion of the City Manager. Information provided to and prepared by the committee shall not be deemed a public record until such time as a contract shall be placed on the agenda for Council consideration.

(2) Once an RFP has been finalized, the affected department shall advertise the Notice Inviting Proposals ~~for~~

~~Purchase of City Property~~ in a local newspaper of general circulation and on the city website. Property owners within 1,000 feet of the subject property shall be provided specific notice of the RFP.

(3) Contracts for the sale [or lease] of real property are determined on a "best value" basis, not solely price. In determining best value, the factors to be considered may include, without limitation: price; community benefits; record of business with the City and others; credit record; local employment; experience; qualifications; local tax contribution; and any other legal factor the Council expressly finds is applicable to sale of the property.

(4) After proposals are tendered, the full text of all proposals shall be made available to the committee. The committee shall convene, when applicable, and interview no fewer than the top three ranked proposers, request a proposer's "Last, Best and Final" offer based on information and/or clarification provided during the interview, which will be used to support a recommendation to the Council as to which proposer should be selected to purchase [or lease] the property, or to reject all proposals, including rankings of the top three proposers, along with a written explanation for the rankings, and/or rejection of the proposals.

(5) All documents, ranking criteria, and scores provided to or produced by the committee shall be made available to all

Councilmembers no later than the time the contract is placed on the agenda for Council consideration.

(6) Any potential purchaser who does not submit a response to the RFP shall be ineligible to purchase [or lease] the property for one year following the close of the RFP, except pursuant to a subsequent RFP process.

(b) The competitive ~~sale~~ process set forth in Subsection (a) shall not be required for the following:

(1) Sale of property to an adjacent property owner who is assembling property for a project;

(2) Sale of property less than 20,000 square feet in size;

~~(3) Where Council determines good cause exists to dispose of the property in another manner.~~

[(c) The City shall not approve any option to purchase or option to lease, or any similar agreement, except upon the following terms and conditions:

(1) The term of the agreement shall not exceed 12 months from the date of Council approval;

(2) The agreement shall not be extended, except upon a showing of extraordinary good cause, compliance with all terms of the agreement, due diligence, and meeting all performance standards and target dates in the agreement; all extensions must be

approved by Council, at the discretion of Council, in open session, and any extension may not exceed 180 days from the date of Council approval. Any agreement that lapses without a Council approved extension prior to expiration may not be extended.

(d) The City shall not approve any purchase and sale agreement, disposition and development agreement, or any other agreement that would cause or allow City owned real property to be conveyed, except upon the following terms and conditions:

(1) The agreement shall require closing of escrow no later than 12 months from Council approval.

(2) The agreement shall not be extended, except upon a showing of extraordinary good cause, compliance with all terms of the agreement, due diligence, and meeting all performance standards and target dates in the agreement; all extensions must be approved by Council, at the discretion of Council, in open session, and any extension may not exceed 180 days from the date of Council approval. Any agreement that lapses without a Council approved extension prior to expiration may not be extended.

(3) To be effective, the agreement shall require a deposit paid to the City in the amount of at least 10 percent of the purchase price, which shall not be refundable, unless the City is in breach of the agreement; the failure of the City to approve an extension of the

agreement shall not be deemed cause to refund a deposit.

(4) Purchase prices shall be at fair market appraised value, unless the Council makes findings there are substantial community benefits resulting from the sales agreement that justify a price less than market value.

(e) The Council may not vary from the provisions of this Section, except upon making findings of good cause and clear and convincing benefits to the public, and by a supermajority approval of at least five votes.]

SECTION 2. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____ 2021.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2021
Mayor Approval/No Return: _____, 2021
Mayor Veto: _____, 2021
Council Override Vote: _____, 2021

YVONNE SPENCE, MMC CRM
City Clerk

By: _____
Deputy Date

APPROVED AS TO FORM:

DOUGLAS T. SLOAN
City Attorney

By: _____
Douglas T. Sloan Date
City Attorney