

Treasurer

In the Rooms of the Board of Supervisors

County of Inyo, State of California

I, HEREBY CERTIFY, that at a meeting of the Board of Supervisor of the County of Inyo, State of California, held in their rooms at the County Administrative Center in Independence on the Xth day of AUGUST, 2007 an order was duly made and entered as follows:

14th

CAO/Surplus Land Policy

The County Administrator noted that County Counsel had entitled the policy the Real Property Management Policy and the Agenda referenced the working title of Surplus Land Policy, and asked that if adopted the policy be titled the "Real Property Management Policy." The County Administrator briefly described the procedure and noted that if adopted the Policy would require an inventory of County owned property, which he intends to conduct as soon as possible. Moved by Supervisor Brown and seconded by Supervisor Cash to approve the "Real Property Management Policy." Motion carried unanimously.

WITNESS my hand and the seal of said Board this Xth

Days of AUGUST 2007



RONALD JULIFF
Clerk of the Board of Supervisors

By

Patricia Gunsolley
Patricia Gunsolley, Assistant

Routing
CC <u>X</u>
Purchasing _____
Personnel _____
Auditor _____
CAO <u>X</u>
Other Dept. Heads _____
DATE: August 22, 2007



AGENDA REQUEST FORM
BOARD OF SUPERVISORS
COUNTY OF INYO

For Clerk's Use Only:
AGENDA NUMBER
 10

- Consent Departmental Correspondence Action Public Hearing
 Scheduled Time for Closed Session Informational

FROM: Ron Juliff, County Administrator

FOR THE BOARD MEETING OF: August 14, 1007

SUBJECT: Approval of the

DEPARTMENTAL RECOMMENDATION: - Request approval of the Surplus Land Policy.

SUMMARY DISCUSSION: Your Board tasked the Financial Advisory Committee (FAC) with the development of a policy whereby the County would manage its land holdings. This policy provides the mechanism whereby the County owned lands are reviewed to determine whether there is any public benefit/policy reason to continue to hold land and/or dispose of property. In earlier discussions your Board expressed a desire to have the Surplus Land Policy identify County owned property and where it is located, provide a process to assess the cost of developing the property, identify the short and long-term uses of the property, and ascertain the potential marketability of the property. This policy calls for such an inventory to be conducted every three years by the CAO. However, it does not preclude the County from identifying a sale/lease or exchange candidate as the need arises outside of the tri-annual inventory. The policy establishes the process whereby land would be retained or disposed of once the appropriate appraisals and assessments have been concluded. This policy provides a consistent method of evaluating County owned lands and provides the process of determining the benefit to the County of holding, trading and/or selling County owned lands. .

ALTERNATIVES: - Your Board could change the policy. Staff awaits your Board's direction.

OTHER AGENCY INVOLVEMENT: - N/A

FINANCING: There is no fiscal impact associated with adopting this policy. The fiscal benefit is associated with the identification and assessment of County owned lands.

APPROVALS	
COUNTY COUNSEL:	AGREEMENTS, CONTRACTS AND ORDINANCES AND CLOSED SESSION AND RELATED ITEMS <i>(Must be reviewed and approved by county counsel prior to submission to the board clerk.)</i> Approved: _____ Date _____
AUDITOR/CONTROLLER:	ACCOUNTING/FINANCE AND RELATED ITEMS <i>(Must be reviewed and approved by the auditor-controller prior to submission to the board clerk.)</i> Approved: _____ Date _____
PERSONNEL DIRECTOR:	PERSONNEL AND RELATED ITEMS <i>(Must be reviewed and approved by the director of personnel services prior to submission to the board clerk.)</i> Approved: _____ Date _____

DEPARTMENT HEAD SIGNATURE:

(Not to be signed until all approvals are received)
 (The Original plus 20 copies of this document are required)

R. G. Juliff

Date: 08-14-07

INYO COUNTY
REAL PROPERTY MANAGEMENT POLICY

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**INYO COUNTY
REAL PROPERTY MANAGEMENT POLICY**

I. GENERAL PROVISIONS

A. Purpose

The intent and purpose of this Policy ("Policy") is to establish uniform principles to guide actions by the Inyo County Board of Supervisors ("Board") related to the management, disposition and sale of County-owned Real Property, and the acquisition thereof. The Policy sets forth the process to be used in determining whether County-owned Real Property is surplus to County needs and whether such property should be sold, exchanged, leased, or developed through a Request For Proposal (RFP) process. The Policy also establishes the procedures to be used in the process of selling, exchanging, developing through RFP, or leasing of County-owned Real Property.

B. Prohibition of Interest in the Disposition of Surplus Property

Inyo County employees, representatives, consultants, and agents shall comply with all applicable County and State conflict of interest laws and policies in the disposition of surplus property.

II. POLICY STATEMENT

Over many years the County of Inyo (County) has obtained various parcels of land that may not be required or suitable for the public's benefit. If the County subsequently determines that a property/properties are no longer required for a public purpose, it may sell, exchange, develop using the RFP-process provided for by law, or lease such real property or interest therein in the manner and upon the terms, standards, and conditions established herein and approved by the Inyo County Board of Supervisors. All sales of property will be made in exchange for payment in cash; exchange for other lands that may be used for a public purpose; or, other value as determined by the Board. The Board will obtain appraised fair market value for any surplus real property offered for sale, except that less than fair market value may be accepted if it is determined to be in the County's best interest by the Board to sell the property for a negotiated amount that is subsequently approved by the Board by 4/5's vote.

III. COMPLIANCE WITH LAW

A. The disposal of surplus property, and the acquisition of real property shall be in accordance with all laws that are in existence at the time of disposal or acquisition.

B. Properties that have been determined to be surplus to the County by the Board may be disposed of according to state law, which is summarized in Attachment A.

C. Sale to Public Entity

First consideration for properties determined to be surplus to the County shall be sold or traded to another public entity for public purposes in accordance with Government Code §§ 54220 et seq. Prior to disposing of any potential surplus real property, a written offer will be made to sell or lease the property to public agencies for the purpose of developing low and moderate income housing, parks and recreational facilities, schools, or other public purposes. The offer to sell or lease the property to a public entity will be exclusive for a period of sixty (60) days. In the event more than one public entity responds, first priority shall be given to the public entity which agrees to use the site for low to moderate income housing, except that first priority shall be given to a public entity which agrees to use the site for park or recreational purposes if the surplus property is already being used and will continue to be used for park or recreational purposes, or if the surplus property is designated for park and recreational use in the local general plan and will be developed for that purpose. The next priority will be given to the public entity that makes the first offer to purchase the property for fair market value as established by the Board.

D. Sale by Competitive Sealed Bid

If no public entity accepts the County's offer to sell or lease the surplus property within sixty (60) days, then the County may, at its sole discretion, dispose of the property to the general public by sealed bid in the manner prescribed in Government Code §§ 25520, 25521, 25528, 25530, 25531, 25533 and 25534 et seq. These sections provide for sealed bids, require the County to provide additional notice of the sale to the public through posting and advertising, allow the Board to reject any proposal and withdraw the property from sale, and allow for oral bids to be received at the public meeting provided that any oral bid be five percent higher than the highest written bid.

E. Sale by Public Auction

The County may also dispose of property to the general public by public auction and in the manner prescribed in Government Code § 25363 et seq. This method authorizes the sale of property and requires that the sale be made at the courthouse door or such other place as the Board directs by four-fifths vote, with notice of the sale given five days prior, and published in a newspaper in the County or posted in three public places, and provided that notification has been made to those public agencies identified in Government Code § 54220 et seq.

Each person submitting a proposal to purchase a property by sealed bid or public auction must submit a deposit of ten percent (10%) of the offered price at the time his or her proposal is submitted.

F. Sale or Lease by Request for Proposals

The Board may elect to sell surplus property via the Request for Proposals (RFP) method as prescribed in Article 7.5, commencing within § 25515 of Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code.

The Board would direct the County staff to prepare an RFP for sale and development of surplus property in a manner consistent with the County Zoning Ordinance and the County's General Plan.

Upon expiration of the time during which public entities may offer to purchase the property, and assuming no sale of the property to any such entity is made, County staff will return to the Board with the proposed RFP for its consideration. If approved, the Board will, by a 4/5ths vote, approve the issuance of the RFP.

The Board will adopt a resolution which, in addition to describing the particulars of the property and the County's vision for its development, will set a place, time and date for a hearing, to be held at least 60 days later, at which the Board will consider all timely responses to the RFP. That resolution, containing the directions on how interested persons could respond to the RFP, must be published in the newspaper once a week for three successive weeks.

After the mandatory 60-day period for receiving responses to the RFP expires, County staff will review all timely responses to the RFP and prepare a recommendation for consideration by the County Financial Advisory Committee ("Committee") and/or the Board.

At the place, date and at the time set forth in the above-described resolution for the Board's consideration of them, the Board will review the responses to the RFP and staff's recommendations. The Board will then select a successful respondent and direct staff and the successful respondent to meet and negotiate a final arrangement for the sale of the property and its subsequent development by that respondent.

Additionally, the Board will direct the preparation of a California Environmental Quality Act (CEQA) analysis of any necessary general plan amendment and zone change that, if approved, would allow the uses on the property contemplated in the RFP. The Inyo County Planning Department will, as directed by the Board, commence the CEQA review process for the above-described general plan amendment and zone change.

Following the CEQA process and review period, the Inyo County Planning Commission ("Commission") will consider the CEQA document concerning the

proposed general plan amendment and zone change, and will consider recommending approval of those amendments and consider recommending certification of the CEQA document. The Commission will also consider making the finding required by Government Code §§ 25515.1(a) and 65402 that the proposed development of the property is consistent with the County's general plan.

Once a final arrangement is worked out with the successful respondent, it must be memorialized in the form of an ordinance. The ordinance will be scheduled for consideration by the Board at the first reading noticed in accordance with Government Code § 6066, which requires the advertisement to run once a week for two weeks.

If the Board approves the proposed arrangement for the sale and development of property, it will adopt the ordinance at a subsequent public hearing. The ordinance and the agreement will not go into effect for 30 days, during which time it could be challenged via a citizen referendum. During this 30-day period, County staff will prepare all documents, and make the arrangements necessary to consummate the sale and ensure that the property will be used in accordance with the RFP and the approving ordinance; this will include retaining a title company to prepare a title report, opening escrow, and preparing the deed that will be used to transfer title to the property.

Once the 30 day referendum period expires, the sale of the property will be consummated (i.e./e.g. the purchase price will be paid to the County or deposited into the escrow, the deed will be signed and recorded, any agreements respecting the use/development of the property will be signed, etc.).

Thereafter, the Planning Director will monitor the development and use of the property to ensure that the terms of the sale and development agreement are adhered to. This would carry on indefinitely, or if the restrictions on the use of the property are of limited duration, until that time expires.

If the surplus property is not subsequently sold as a result of the sealed bid, public auction or RFP process, the property may be sold to the party who makes the highest reasonable offer to purchase the property that is acceptable to the Board.

IV. EXCHANGE, DISPOSAL, OR LEASE OF SURPLUS REAL PROPERTY

County property for which there is not an immediate or foreseeable public purpose should be made available for private ownership. For the purposes of this Policy, public purpose will be determined by the Board in accordance with the law.

A. Identification of Potential Surplus Property

1. To facilitate the identification of County property for which there is not an immediate or foreseeable public purpose, no less frequently than once every three years the County shall review its inventory of real property and identify holdings that could be designated as surplus property.
2. The review identified in Section IV.A.1. shall be initiated by the County Administrative Officer (CAO) in consultation with, and assistance from other County departments. The CAO shall prepare an inventory of all real property owned by the County, consistent with the requirement of Section IV.A.3., and present the inventory to the Committee for review and recommendation to the Board.
3. The inventory of County-owned property shall include the Assessor's Parcel Number, legal description and a map showing the location of the property and a description of its current use. If available, the most recent appraised fair market value of the property, as well any indication of the County's water and/or mineral rights, should be identified in the inventory. The inventory should identify those properties for which there is a current or foreseeable public purpose, and those properties recommended for consideration as surplus. In addition, the CAO may, in preparing the inventory, make recommendations relative to the manner in which the property should be disposed.
4. The Committee shall review the inventory and make recommendations to the Board regarding County-owned property that could be designated as surplus, whether mineral and water rights should be retained, and the manner in which the surplus property should be disposed. In the event the Committee does not reach a unanimous recommendation, both the majority and minority Committee recommendations may be forwarded to the Board. Any recommendation forwarded to the Board shall include with the list a checklist, developed by the Committee, which includes the reasons for the Committee's recommendation for exchange, sale or lease of County owned property. The checklist, at a minimum, will include access considerations, infrastructure availability, community need, financial return to the County, potential highest and best use, and land use designations.
5. The Board shall consider the inventory of County-owned property, and the Committee's recommendations for the designation of surplus property and the manner of disposal at a public meeting duly noticed by advertisement in a local newspaper once a week for two weeks.

6. The Board, Committee, or County staff may initiate the consideration of the designation of a specific County-owned property as surplus property independent of the inventory process described herein provided that all other provisions of this Policy are implemented.

B. Manner of Disposal of Surplus Property

In determining the manner in which surplus property might be disposed, the Committee and the Board shall consider the following:

1. The manner of disposal that will maximize the financial return to the County. In evaluating financial return to the County, the financial return generated from the outright sale of the property shall be weighed against the cost of acquiring land and/or facilities, using the methods described in Section IV. B. 2. and 3. below, to meet a public purpose.
2. The possibility of exchanging the County-owned property for real property owned by other public agencies and private parties for a public purpose.
3. Opportunities to use the Request For Proposal process, described in Section III. F., to meet a public purpose through the sale or lease of property to private interests.
4. County-owned real property for which there is a possible future public purpose should be leased in a manner that provides the highest and best use of the land and maximizes the financial return to the County. Any lease will include at a minimum a standard escalation clause pertaining to the lease payment and terms for renegotiations.

C. Use of Proceeds

Proceeds realized from the sale of County-owned property disposed in accordance with this Policy shall be used to fund one-time costs associated with the acquisition of real property for a public purpose, the construction or deferred maintenance of County property and facilities (including tenant improvements at leased properties), and other capital improvement projects. Proceeds realized from the sale of County-owned real property disposed in accordance with this Policy shall not be used to fund on-going County operating expense.

D. Property Research Prior to Exchange, Disposal or Lease

Subsequent to the Board's designation of County-owned real property as surplus, and prior to the disposal or lease of any County-owned surplus real property, the County shall do the following:

1. Determine actual title to the property/properties and whether the subject property/properties hold water and mineral rights;
2. Determine actual fair market value of the subject property/properties by independent appraisal;
3. Solicit other affected County Departments for comments to the exchange, sale, or lease of surplus property;
4. Identify the Zoning and determine General Plan conformance of the subject property/properties;
5. Identify whether subject property/properties are within an Alquist Priolo Study area, Flood Hazard Zone, Avalanche Zone, etc.

E. Other Provisions of Sale

In order to maximize the financial return to the County from the sale, exchange, disposal through RFP-process, or lease of County-owned surplus land in a manner consistent with law:

1. Parcels will be exchanged, sold or leased on an "As Is Where Is" basis.
2. The minimum price established for a parcel shall include the appraised value plus all County costs to dispose of the property.
3. The Board will reserve the right to reject all offers at its sole discretion for the sale, exchange, purchase, development, or lease of any surplus property.
4. The Board will reserve the right to cancel, for any reason whatsoever, any exchange, sale or lease of any parcel prior to the conveyance of title.
5. The Board will reserve the right to place covenants, conditions, or restrictions on the deed for any parcel as allowed by law.
6. The Board reserves the right at its sole discretion to approve or reject such a transaction based upon its determination of the prospective transferee's ability, including but not limited to the

financial ability, to perform as contemplated under the terms of the transaction.

V. ACQUISITION OF REAL PROPERTY

- A. The County may acquire real property, consistent with the provisions of state law to meet an identified or foreseeable public need. This includes the acquisition of tax-defaulted property by Agreement of Sale as legally defined.
- B. The County may object to the sale of the tax-defaulted property and apply to purchase the property for the express purpose of facilitating a land exchange to meet a public need including, for the purpose of this section, increasing the amount of privately-owned property near existing communities and town sites. If the County acquires a tax-defaulted property for the purpose of facilitating a land exchange, and the land exchange process has not formally commenced within two-years of the date of the County taking title to the property, the Board shall take immediate steps to dispose of the property in accordance with this Policy unless a finding is made that the property serves an immediate public purpose or the initiation of a land exchange is imminent.
- C. The County shall not acquire real property for the sole purpose of land speculation (e.g., acquiring land for the sole purpose of selling it for a profit).

VI DEFINITION OF TERMS

- Appraised Value – The monetary value of the County owned property as determined by the County, which may be based on the fair market value of the property as determined by an MAI appraiser employed by the County to make such determination.
- “Cash” – U.S. currency, Bank Cashier’s Check in dollars, or Electronic Funds Transfer in dollars.
- “Fair Market Value” – The price that would be paid by a knowledgeable and informed buyer if the property was sold on the open market.
- “Proceeds of Sale” – The monetary amount received by the County from the disposition of a piece of real property net of the costs incurred by the County to dispose of the property.
- “Public Entity” - As referenced in Section 54222 of the Government Code and as further defined in Section 50079 of the California Health and Safety Code, includes any: county; city; duly constituted governing body of an Indian reservation; redevelopment agency or housing authority, as specifically defined; state agency; public district; other political subdivision of the state, or instrumentality thereof which is authorized to engage in or assist in the development or operation of housing for persons and families of low or moderate income.
- “Real Property” – County owned fee simple parcels of land, mineral and water rights and County owned improvements thereon.

ATTACHMENT A

Summary of State Laws Governing the Exchange, Disposal or Lease of Inyo County Property

The exchange, disposal or lease of those properties that have been determined to be surplus by the Inyo County Board of Supervisors (Board), or not needed for a public purpose or use, may be disposed of by any of the following means:

- a. Directly to a public entity at their request without providing notice to other agencies or calling for a competitive bid at a price representing fair market value and upon determination that the public entity's use shall be for low to moderate income housing purposes as described in Government Code § 54220 et seq.
- b. Directly to a public entity in accordance with Government Code § 25515.1 (a) et seq., which requires notification to those public agencies described in Government Code § 54220 et seq. offering the property for sale or trade.

California Government Code § 54220 et seq. requires surplus government land to be first made available for housing for persons and families of low and moderate income or recreational or open space purposes. Surplus government land means land owned by an entity of the state, or any local entity that is determined to be no longer necessary for the entity's use.

- c. Directly to the Public in the manner prescribed in Government Code § 25363 et seq., which authorizes the sale of property at public auction. Requiring that the sale be made at the courthouse door or such other place within the County as the Board directs by four-fifths vote, with notice of the sale given five days prior, and published in a newspaper in the County or posted in three public places, and provided that notification has been made to those public agencies identified in Government Code § 54220 et seq.
- d. Directly to the Public in the manner prescribed in Government Code §§ 25520, 25521, 25528, 25530, 25531, 25533 and 25534 et seq. These sections provide for sealed bids, require the County to provide additional notice of the sale to the public through posting and advertising, allow the Board to reject any proposal and withdraw the property from sale, and allow for oral bids to be received at the public meeting provided that any oral bid be five percent higher than the highest written bid.
- e. Directly to the Public through the preparation of an RFP for its sale and/or development in accordance with Article 7.5, commencing within § 25515 of Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code.

The sales price of any surplus real property will be based on the appraised fair market value. Less than appraised fair market value may be accepted if it is determined to be in

the County's best interest to sell the property for a negotiated amount that is subsequently approved by the Inyo County Board of Supervisors by 4/5's vote.

iC:RealPropertyManagementPolicy/LandHoldingPolicy.Final 50807