



**Request for City Council Committee Action
From the Departments of CPED, Finance and Public Works**

Date **April 6, 2004**
To **Council Member Lisa Goodman, Chair CD Committee**
Subject **Real Estate Transaction Policies and Public Hearing on Related Ordinance Revisions**

Recommendation

1. Approve attached real estate transaction policies on leases, disposition and acquisition to be effective on June 4, 2004, the expected effective date of the charter changes related to contracts.
2. Revise Procedure Manual for Professional Services Procurement & Real Estate Transactions by removing sections on real estate transactions, to be effective on June 4, 2004.
3. Revise Space and Asset Management Procedure Manual by removing sections on real estate transactions, to be effective on June 4, 2004.
4. Approve passage of the accompanying ordinance changes to allow for incorporating CPED functions into the City's real estate transaction policies and procedures.
5. Direct CPED, Finance and Public Works Directors to develop and approve procedures in compliance with the attached policies by June 2004.
6. Direct CPED Director to return to Council by June 2004 to formally request the transfer of MCDA real estate to the City.

Previous Directives

- City real estate transaction procedures approved 12/01
- City space and asset management procedures approved 10/01
- Through the 11/21/03 Council/Mayor action related to the transitioning of administrative and operational processes from MCDA to CPED, staff from the City Attorney's Office, Finance Department, CPED and Public Works were directed to return to Council by 4/1/04 with updated City real estate transaction policies that incorporated CPED activities

Prepared by Lee Larson, Finance and Nikki Newman, City Attorney's Office

Approved by

_____ Patrick Born (Finance Officer)
_____ John Moir (City Coordinator)
_____ Klara Fabry (City Engineer)
_____ Lee Sheehy (CPED Director)

Presenters in Committee: Jeff Schneider, Rebecca Law and Lee Larson

Financial Impact (Check those that apply)

No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)

- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain):

Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact (use any categories that apply)

- Neighborhood Notification
- City Goals
- Comprehensive Plan
- Zoning Code
- Other

Background/Supporting Information Attached

Current City real estate transaction policies and procedures, along with the related ordinances, do not contemplate the development activities conducted by CPED. Therefore, the CPED real estate asset transfer was postponed until the policies and procedures were updated. A team of staff from Finance, Public Works, CPED and the City Attorney's Office have been meeting to develop consensus on updated policies. The recommended ordinance amendments and policies are attached for your review and approval. The team plans to continue meeting to develop related procedures and forms. The team believes this work can be completed within six weeks. Once the procedures and forms are developed, approvals will be obtained from the CPED Director, Finance Officer and Public Works Engineer. Then, Council approval of a resolution transferring the real estate assets of the MCDA to the City will be requested. We also intend to ask the Council to approve one or more resolutions delegating authority to make and execute certain real estate and other contracts per charter chapter 4, section 25.

It may be desirable for a real estate policy group of staff from CPED, Finance-Contract Management, Public Works and the City Attorney's Office to continue to meet as needed to address changes to policies and procedures. Policy changes will be forwarded to the City Council for final approval. Procedure changes will be recommended to the CPED Director, Finance Officer and Public Works Engineer for final approval. The group will continue to be facilitated by Finance (Contract Management).

Please see the attachment for a summary of changes involved with this request.

Date: April 6, 2004
To: Council Members
From: Real Estate Policies & Procedures Team
Re: Summary of Requested Changes to Real Estate Policy

Summary of Requested Changes Proposed Policy and Ordinance Revisions for City of Minneapolis Real Estate Transactions

Goal:

Approval of proposed City real estate transaction policies and related ordinance revisions that accommodate the addition of community development functions into the City's policy and ordinance framework.

Background:

- Before MCDA real estate can be transferred to the City, the City real estate transaction policies and procedures need to be updated to allow for CPED business activities.
- Through the 11/21/03 Council/Mayor action related to the transitioning of administrative and operational processes from MCDA to CPED, staff from the City Attorney's Office, Finance Department, CPED and Public Works were directed to return to Council by 4/1/04 with updated City real estate transaction policies that incorporate CPED activities.
- The staff team involved with drafting the proposed policy and ordinance changes includes Lee Larson (Finance), Nikki Newman (City Attorney), Rebecca Law (Public Works), Ruben Acosta (CPED), Mike Schwab (CPED), Bill Tetzlaff (CPED), and Earl Pettiford (CPED).
- The new policy framework developed by a team led by the City Clerk was used to develop the draft policies. This framework allows for policy decisions by elected officials and procedure decisions by department heads.
- The proposed policies allow for the continuation of City and CPED activities without policy changes. CPED staff will be returning to Council by June 2004 to formally request the transfer of MCDA real estate to the City. A related Council approval of a resolution providing delegation authority for executing real estate and other contracts will also be requested. The real estate

transaction procedures and the charter changes related to contracts are expected to be in place at that time.

- The proposed ordinance changes allow for CPED business activities. They also include changes that clarify current requirements and eliminate unnecessary verbiage and references to obsolete practices.

Proposed Policies

Real Estate Acquisition, Disposition and Lease Policies

Proposed Ordinance Revisions

~~14.40 Responsibility to city for city property.~~

[Recommend deletion – not needed in Ordinance format and content already covered through City contracts.]

~~14.50 Recovery by city on liability for city property.~~

[Recommend deletion – obsolete procedures and content is already covered through City contracts and other ordinances.]

14.120. Sale of city lands and buildings used for municipal operations.

[Recommend changes to reflect current practices, clarify vague language, and improve readability by eliminating excess language.]

14.125. Fund Designations for Certain Types of Real Estate Dispositions.

~~14.130. Leasing of private property. Sale of development property.~~

[Recommend deletion of existing language as it describes an obsolete practice for proof of payment and is not needed in ordinance format. The City Finance Officer has agreed to the deletion of the existing language. Also recommend inserting new provision for CPED properties similar to the above Ordinance section 14.120.]

~~22.70 Control of equipment and public buildings.~~

[Recommend language changes to clarify intent]

~~22.140. Care Control of public lands and buildings used for municipal operations.~~

[Recommend language changes to clarify intent]

~~22.150. Rental of lands and buildings. Control of development property.~~

[Recommend deletion of existing language as the topic is already covered by other policies and contract terms. Also recommend inserting new provision for CPED properties similar to the above Ordinance section 22.140.]

~~22.160. Lands and buildings fund.~~

[Recommend deletion – describes obsolete practices and not needed in Ordinance format. The City Finance Officer has agreed to the deletion of the existing language.]

~~22.170. Lands and buildings rent to be credited to fund- Lease revenue.~~

[Recommend language changes to clarify intent and delete obsolete references. The City Finance Officer has agreed to the proposed changes.]

~~22.180. Sale of lands and buildings.~~

[Recommend deletion - this ordinance just repeats Ordinance section 14.120.]

~~22.190. Purchase of lands and buildings.~~

[Recommend deletion – financing methods do not need to be dictated by Ordinance. The City Finance Officer has agreed to the deletion of the existing language.]

~~22.200. Accounting procedures.~~

[Recommend deletion – this is standard business practice and does not have to be in Ordinance format.]

City of Minneapolis

REAL ESTATE ACQUISITION POLICY

Brief Description	The Real Estate Acquisition Policy governs a) acquisition of real estate for City operating purposes and b) acquisition of real estate for development purposes
Type (enterprise or departmental)	Enterprise
Applies to	All departments
Department responsible for the policy	This Policy is a joint effort of the City Engineer's Office, the City Attorney's Office, the Finance Department and CPED
Approval Authority	Council/Mayor
History: Approval date, effective date, revisions	Last approved: 12/2001 by Council action for City operating purposes and 1970 by MCDA Board action for development purposes
Related mandates	[insert link]
Links: procedures, forms	[insert link]
Questions to	Rebecca Law, Lee Larson, Mike Schwab

1.0 Policy Purpose

The City of Minneapolis (hereafter "City") recognizes the need for a policy guiding real estate acquisition transactions of the City. Real estate acquisitions typically occur because additional property is needed for operational purposes or to implement a public improvement or development strategy. Through this policy, the City assigns the responsibilities connected with real estate acquisitions and incorporates the development-related business lines of the newly created Community Planning & Economic Development (CPED) department into City policy.

2.0 Scope of Policy

2.1 Real Estate Acquisition. The City may acquire real estate for any public use or purpose authorized by statute, ordinance or charter. Acquisition methods include purchase, trade, gift or condemnation. Condemnation must be authorized by resolution of the Council. Except as provided in section 2.2 below, all other real estate acquisitions must be approved by Council action and signed as follows:

- A) A person in a position identified on the Positions Authorized to Sign Contracts list: (<http://insite/finance/purchasing/Authorized%20Signatures.htm>),
- B) The City Attorney or an Assistant City Attorney, and
- C) The Finance Officer or Assistant Finance Officer as required by the City Charter.

Acquisitions must undergo a citizen review process when required by City policy, state or federal law, or grant requirements. Relocation benefits and services must be provided when required by federal law (i.e., the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and the regulations promulgated thereunder (49 CFR Part 24)) or its state counterpart,

Minnesota Statutes, section 117.50-117.56, or by the City Relocation Policy. Proposed acquisitions shall be referred to the City Planning Commission for conformance with the comprehensive municipal plan, unless the acquisition is pursuant to a project plan that has already been reviewed by the City Planning Commission or the City Council determines by resolution with two-thirds vote that the proposed acquisition has no relationship to the comprehensive plan. Market value should be considered when determining the purchase price. For non-residential property, a phase 1 environmental assessment must be completed prior to acquisition.

2.2 Delegation. Pursuant to Laws 2003, chapter 127, article 12, section 32, and Minneapolis Code of Ordinances, section 415.40(c), the Council has delegated to the Director of the Department of Community Planning and Economic Development (“CPED”) the authority to make offers, execute purchase agreements and settle condemnation cases involving development property consistent with project plans, programs and budgets approved by the Council.

2.3 Tax Forfeited Property. To the extent it is inconsistent with state law and county procedures, this policy does not apply to the purchase of tax-forfeited property from the State of Minnesota through Hennepin County.

3.0 Policy Responsibilities

3.1 Mayor/City Council

The Mayor and City Council will establish any new real estate acquisition policies for the City and approve acquisitions as required by this policy.

3.2 City Engineer

The City Engineer will designate staff to:

- Provide acquisition coordination with respect to non-development property
- Coordinate the drafting of all acquisition contracts with respect to non-development property
- Serve as lead acquisition negotiator with respect to non-development property
- Approve forms and procedures for implementing this policy, as part of the Real Estate Transaction Policy Team
- Propose revisions to this policy, as part of the Real Estate Transaction Policy Team

3.3 CPED Director

The CPED Director will designate staff to:

- Undertake acquisition of development property
- Coordinate the drafting of all acquisition contracts with respect to development property
- Serve as lead acquisition negotiator with respect to development property
- Approve forms and procedures for implementing this policy, as part of the Real Estate Transaction Policy Team

- Propose revisions to this policy, as part of the Real Estate Transaction Policy Team

3.4 City Finance Officer

The City Finance Officer will designate staff to:

- Review all acquisition contracts for compliance with policy
- Assist with acquisition negotiation and financial analysis of acquisition components, upon request
- Approve forms and procedures for implementing this policy, as part of the Real Estate Transaction Policy Team
- Propose revisions to this policy, as part of the Real Estate Transaction Policy Team

3.5 City Attorney

The City Attorney will designate staff to:

- Review acquisition contracts for form
- Assist with acquisition negotiation when requested
- Approve forms and procedures for implementing this policy, as part of the Real Estate Transaction Policy Team
- Propose revisions to this policy, as part of the Real Estate Transaction Policy Team

3.6 City Department Heads

Department heads must determine operating property needs in conjunction with Public Works staff. Department heads are responsible for ensuring that acquisition practices are consistent with City policies and procedures.

4.0 Effect on Other Policies

This policy supercedes any and all previous City acquisition policies unless the exception is listed below.

- MCDA policy will govern MCDA property until and unless transferred to the City

City of Minneapolis
REAL ESTATE DISPOSITION POLICY

Brief Description	The Real Estate Disposition Policy governs a) disposition of City-owned real estate that is no longer needed for City operating purposes and b) disposition of real estate acquired or held by the City for development purposes
Type (enterprise or departmental)	Enterprise
Applies to	All departments
Department responsible for the policy	This Policy is a joint effort of the City Engineer's Office, the City Attorney's Office, the Finance Department and CPED
Approval Authority	Council/Mayor
History: Approval date, effective date, revisions	Last approved: 12/01 by Council action for City operating purposes and 9/03 by MCDA Board action for development purposes
Related mandates	[insert link]
Links: procedures, forms	[insert link]
Questions to	Rebecca Law, Lee Larson, Mike Schwab

1.0 Policy Purpose

The City of Minneapolis (hereafter "City") recognizes the need for a policy guiding real estate disposition transactions of the City. Real estate dispositions typically occur because a property is no longer needed for City operational purposes or to implement a development strategy. Through this policy, the City assigns the responsibilities connected with real estate dispositions and incorporates the development-related business lines of the newly created department of Community Planning & Economic Development (CPED) into City policy.

2.0 Scope of Policy

2.1 Disposition of Excess City Property. The City may dispose of real estate no longer needed for City operational purposes ("Excess Property or Properties"). From time to time, the Public Works Department shall recommend specific operational properties for disposition. The City Engineer shall determine whether a property is "Excess Property" because it is no longer needed for municipal operations.

The City Engineer shall also notify the CPED Director of any proposed dispositions and the CPED Director shall have thirty (30) calendar days to request the Excess Property for development purposes. If the CPED Director requests the Excess Property for development purposes, such request shall include a brief description of the proposed use and shall be communicated to the City Council as part of the disposition process described below. If no response is received within that time, it will be assumed that there is no development need for that property.

Proposed sales of Excess Property shall be referred to the City Planning Commission for conformance with the comprehensive plan, unless the City Council states by resolution with

two-thirds vote that the proposed disposition has no relationship to the comprehensive municipal plan.

The City Council shall approve the disposition strategy for each Excess Property. Suggested disposition strategies may include, but are not limited to, the following:

- (A) Disposition by CPED for development purposes in accordance with section 2.2 of this Disposition Policy;
- (B) Disposition by Public Works using one or more of the following marketing strategies;
 - (i) Sale to highest bidder;
 - (ii) Negotiated sale with an adjacent property owner;
 - (iii) Private sale, or
 - (iv) Broker sale.
- (C) Under no circumstances shall the Public Works Department conduct a disposition process that includes a development agreement between the City and the proposed buyer. Property dispositions that include development agreements shall be conducted solely by CPED staff.

If the Council determines that CPED should market a specific Excess Property for development purposes, Section 2.2 of this Disposition Policy would apply and such conveyance would be exempt from Sections 14.120 and 22.140 of the Minneapolis Code of Ordinances. CPED shall assume property management responsibility for an Excess Property to be sold for development purposes. If the specific Excess Property is not marketed for development purposes, the aforementioned code sections and this Section 2.1 of the Disposition Policy would apply. Public Works will retain property management responsibility for Excess Property not sold for development purposes.

Upon selection of a recommended buyer for an Excess Property, Public Works must publish notice of the proposed sale. The Council must hold a public hearing and the estimated market value of the property shall be reported to the Council. Upon approval by the Council and the Mayor in the manner provided by City Charter, Chapter 3, Section 1, the disposition must be documented by a written contract between the City and the approved buyer or an Affiliate, as defined in section 2.2.1 below, of the buyer acceptable to the Director of Public Works. The contract must be signed as follows:

- D) A person in a position identified on the Positions Authorized to Sign Contracts list: (<http://insite/finance/purchasing/Authorized%20Signatures.htm>),
- E) The City Attorney or an Assistant City Attorney, and
- F) The Finance Officer or the Assistant Finance Officer as required by the City Charter.

All disposition proceeds must be distributed as per the applicable City ordinance.

2.2 Disposition of Development Property. CPED is responsible for the disposition of real property acquired, held or sold by the City for development purposes (“Development Property or Properties”). CPED shall dispose of City Development Property in accordance with Minneapolis Code of Ordinances Chapter 415, applicable Federal and State laws, and this Disposition Policy.

2.2.1 Definitions.

“Affiliate” means any entity directly or indirectly controlling or controlled by or under direct or indirect common control with another entity and any purchaser of all or substantially all of the assets of such entity. For this purpose, “control” means the power to direct management and policies, directly or indirectly, whether through ownership of voting securities, by contract or otherwise, and the term “controlling” and “controlled” have correlative meanings.

“Building Code” means the building code for the City as set forth in Minneapolis Code of Ordinances Chapter 85, as amended.

“CPED Appraiser” means the CPED staff person with the title of “Appraiser” or a future equivalent position, whose duties are to provide appraisal services to CPED.

“Development Property or Properties” means all real property acquired, held or sold by the City for development purposes, including fixtures, improvements, appurtenances, air rights and below grade property rights.

“Fair Reuse Value” means an estimated Market Value for the Development Property based on the planned use of the Development Property as determined by the CPED Appraiser and approved by the CPED Director.

“Land Inventory” means the Development Properties owned by the City.

“Market Value” means the actual value in money for which a willing seller not compelled to sell will sell real property to a willing buyer not required to buy.

“Purchaser” means any person, corporation or other legal entity who (i) purchases, leases or acquires an interest in a Development Property; or (ii) has entered into a Redevelopment Contract with the City for the purchase, lease or other acquisition of an interest in a Development Property; or (iii) has actually purchased, leased or otherwise acquired an interest in a Development Property.

“Purchase Price” means the actual purchase price the Purchaser shall pay for the Development Property as required and approved by the Council.

“Recapture” means the amount of any Writedown given the Purchaser that the City intends to be repaid at a future date, usually not to exceed 20 years from the date of conveyance of the Development Property. The Recapture may be evidenced by a promissory note and secured by a mortgage or other collateral acceptable to the City.

“Redevelopment Contract” means the contract between the City and the Purchaser for the disposition and redevelopment of the Development Property consistent with Council approval.

“Soil Correction” means the site and engineering work necessary and required to clean, clear, remove, mitigate and/or remediate Unsuitable Soils from the Development Property.

“Soil Correction Allowance” means the amount by which the Purchase Price is reduced to reimburse the Purchaser for certain Soil Correction costs as approved by the CPED Director or Council.

“Unsuitable Soils” means abnormal, geotechnically substandard or contaminated soils, which in CPED staff’s professional opinion, qualify for Soil Correction. Such abnormal, substandard or contaminated soils shall include, but are not limited to, soils that contain substantive amounts of loose and/or organic soils; demolition debris and rubble; abandoned building foundations, pilings, underground utilities and storage tanks; illegally dumped and buried materials; and hazardous wastes, pollutants or contaminants as those terms are defined under any federal, state or local statute, ordinance, code or regulation.

“Writedown” means the amount by which the Purchase Price is reduced below the Fair Reuse Value based on public purpose considerations.

“Writeoff” means the difference between the City’s actual cost to assemble the Development Property for disposition, which costs include land acquisition, demolition and relocation costs, and the Fair Reuse Value.

“Zoning Ordinance” means Title 20 of the Minneapolis Code of Ordinances.

2.2.2 Disposition for Development Properties; Speculation Prohibited. The disposition of Development Properties shall be for development purposes that are consistent with the City’s development goals. The City shall not dispose of its Development Properties for speculation or land banking.

2.2.3 Establishing Reuse and Fair Reuse Value. Upon acquisition of Development Properties to be included in the Land Inventory, the CPED Director shall establish for each Development Property (i) the desired reuse for the Development Property to be offered for disposition; and (ii) its Fair Reuse Value. The Fair Reuse Value shall be periodically reviewed and may be increased or decreased based on appropriate valuation methods as approved by the CPED Appraiser.

2.2.4 Marketing Development Properties. Development Properties in the Land Inventory shall be offered for development, redevelopment or other public purposes and marketed by any of the following methods: (i) public bid by auction or sealed bid; (ii) request for proposals; (iii) direct negotiation and sale; (iv) through a broker as approved by the CPED Director; (v) pass-thru conduit sale of property

owned by another governmental entity to a Purchaser that pays all costs of transfer and conveyance, including an administrative fee of up to 10% of the purchase price to the City; and (vi) public-use donation by dedication, gift or exchange to another governmental entity. Direct negotiation with a single Purchaser is not appropriate where another Purchaser has already submitted an Offer to Purchase the same Development Property or the Development Property is being marketed by public bid or request for proposals or the Development Property has been approved for exclusive development rights or disposition by the Council to another Purchaser or the CPED Director determines that a direct sale is not in the best interest of the City.

2.2.5 Offer to Purchase. Purchasers who want to acquire Development Property must submit an Offer to Purchase in a form prescribed by CPED. The Offer to Purchase shall include a statement that it is not a legally binding agreement or contract and the acceptance of the Purchaser's offer is subject to CPED staff review and evaluation, neighborhood review, a public hearing, Council approval and the negotiation and full execution of a Redevelopment Contract.

2.2.6 Determining Purchase Price, Lease Rate and Writedowns. CPED staff may negotiate the proposed Purchase Price or lease rate for each Development Property. CPED shall not negotiate a Purchase Price or lease rate that is less than the current Fair Reuse Value for the Development Property, unless staff determines that a Writedown is justified. CPED staff may recommend a Writedown for the Development Property where there is a valid public purpose and the Writedown is necessary for the financial viability of the Purchaser's redevelopment proposal. The amount of the Writedown shall not exceed the value of the public benefit to be received as approved by the Council. A Writedown shall not reduce the Purchase Price or lease rate to less than \$1.00. The City may sell, transfer or lease any Development Property to another governmental entity for any public use by gift, exchange or Writedown. The Council must approve the Purchase Price, lease rate or Writedown for the disposition of each Development Property.

2.2.7 Soil Correction Allowance. Where it can be demonstrated that the Development Property contains substantial amounts of Unsuitable Soils, the Purchaser may be given a Soil Correction Allowance. The CPED Director may approve a Soil Correction Allowance of \$100,000 or less. The Council must approve any Soil Correction Allowance that exceeds \$100,000. The amount of the Soil Correction Allowance, along with any Writedowns and other City deductible costs, shall not reduce the Purchase Price to less than \$1.00. If the Purchase Price has already been adjusted for known Unsuitable Soils and the Development Property is being sold on an "as is" basis, the Purchaser shall not receive a Soil Correction Allowance.

2.2.8 CPED Staff and Neighborhood Review; Infill Housing. CPED staff shall review and evaluate all development proposals and Offers to Purchase and make recommendations to the CPED Director and the Council and Mayor. Neighborhood review shall be done when required by City policy, state or federal laws or grant requirements; provided, however, that the review of "infill housing"

shall be as follows. Affected neighborhood groups may review new infill single-family or duplex housing construction projects on Development Properties. The Purchaser and its representatives and CPED staff shall only be required to attend one neighborhood meeting to review the single-family or duplex housing proposal. The Council will only consider neighborhood comments that relate to building height and mass, front elevation, roof configuration, exterior materials, building setback and other similar design items. Neighborhood design guidelines should recommend what is desirable and not create an inflexible set of rules. Neighborhood recommendations that require any exterior or interior changes or upgrades that would have a significant cost impact on the project will only be considered by the Council if the Purchaser consents to such changes or upgrades and the neighborhood firmly commits to fund or finance for immediate payment, the changes or upgrades at no additional cost to the Purchaser. CPED staff will provide technical assistance to neighborhood groups to develop appropriate design guidelines or to review and revise existing design guidelines.

2.2.9 Public Hearing. The Council must hold a public hearing regarding the sale, lease or other disposition of Development Property prior to Council approval. Unless otherwise provided in state law, notice of the public hearing must be published in a newspaper of general circulation, at least once, not less than 10 days nor more than 30 days, prior to the date of the public hearing. The following types of Development Property dispositions do not require a public hearing: (i) public bidding; and (ii) public-use donation.

2.2.10 Council Approval. After the public hearing has been held, the Council will consider the Purchaser's development proposal or Offer to Purchase; CPED staff recommendations; neighborhood review, if any; and the testimony and written comments from the public hearing. The report to the Council must identify the recommended Purchase Price and the Writeoff, Writedown and/or Recapture, if any. The Council, in its discretion, may approve, reject or modify the terms of the proposed disposition of the Development Property to the Purchaser. The City may not dispose of any Development Property without the approval of the Council and the Mayor in the manner provided by City Charter, Chapter 3, Section 1.

2.2.11 Redevelopment Contract and Good Faith Deposit. Upon Council approval and Mayoral concurrence as provided above, the City and the approved Purchaser (or an Affiliate of the Purchaser acceptable to the CPED Director) must enter into a Redevelopment Contract containing the approved terms and conditions for the disposition of the Development Property. If a Redevelopment Contract is not fully executed within 6 months after the date of Council approval, the CPED Director may cease further negotiations with the Purchaser and declare the Development Property disposition terminated. At the time the Purchaser signs the Redevelopment Contract, the Purchaser must pay to the City a good faith deposit equal to 10% of the Purchase Price to secure construction/rehabilitation performance on the Development Property. The good faith deposit will not be returned to the Purchaser until the City issues a certificate of completion to the Purchaser.

2.2.12 Deferred Purchase Price Payment Option for Residential Projects. A Purchaser who is undertaking the construction or rehabilitation of a 1-10 unit housing project for sale to owner-occupant buyers may request deferral of the Purchase Price payment for the Development Property until the housing units are sold to owner-occupant buyer(s). This “Deferred Purchase Price Payment Option” must be described in the Offer to Purchase and approved by the CPED Director. If approved for the “Deferred Purchase Price Payment Option,” the Purchaser shall pay \$1.00 at closing, sign a promissory note for the balance of the Purchase Price and give the City a mortgage on the Development Property to secure the note. The Purchaser shall repay the deferred Purchase Price prorata upon the sale of each unit to an owner-occupant buyer in an amount equal to the amount of the deferred Purchase Price divided by the number of units comprising the project; provided, however, that the entire amount of the deferred Purchase Price must be repaid in full within 1 year from the date of conveyance of the Development Property.

2.2.13 Sideyard Sales.

- A. Many of the Development Properties are scattered residential sites that constitute “buildable lots” under the Zoning Ordinance and, therefore, are suitable for housing development. Because of the need to maintain the City’s housing density and residential tax base, any buildable scattered residential property in the Land Inventory should be marketed for housing development at its highest and best use. CPED staff can assist neighborhood groups to develop a plan to dispose of lots in accordance with neighborhood character and desire, but only if a plan does not already exist.
- B. Lots in the Land Inventory that have less frontage width and/or area than the Zoning Ordinance requires to accommodate the construction of new housing may be sold as sideyards. However, where a variance or other relief (e.g., Section 531.100, Minneapolis Code of Ordinances) may be obtained in order to make a property a “buildable lot” under the Zoning Ordinance, or where there is an opportunity for combination with an adjacent property to create a new “buildable lot,” CPED staff must first attempt to sell such lots for housing development. If such measures are unavailable or unsuccessful, the CPED staff may sell the lot to one or both of the adjacent property owners at a price based on the Fair Reuse Value of the nonbuildable lot as a sideyard.
- C. “Buildable lots” may be sold as sideyards only if one or more of the following criteria apply: (i) the shape of the “buildable lot” is irregular and not suitable for housing construction; (ii) construction of a new house on the “buildable lot” will not allow for the permitted setbacks under the Zoning Ordinance between the new house and the adjacent structures and variances are unobtainable; (iii) adjacent lots contain conflicting land uses that make the “buildable lot” unsuitable for housing construction; (iv) the “buildable lot” contains Unsuitable Soils, poor topography or other conditions that make Soil Correction expensive or construction infeasible; (v) the “buildable lot” can be used to provide needed off-street parking and/or open space to an

adjacent multi-unit residential building, licensed day care center or nonresidential land use in order to make the adjacent lot comply with the Zoning Ordinance; (vi) the “buildable lot” is not served by an alley, cannot accommodate access to off-street parking along a driveway from the frontage and would necessitate construction of a house plan inconsistent with the architecture of the block and neighborhood; and (vii) if one or both of the adjacent lots are nonconforming lots under the Zoning Ordinance, a portion of the “buildable lot” may be sold as a sideyard to either or both of the adjacent lot owners to correct the nonconforming use, as long as the remaining portion of the “buildable lot” is still a “buildable lot.” “Buildable lots” sold to adjacent property owners for use as sideyards shall be sold at a per square foot Fair Reuse Value equal to the amount the “buildable lot” would have sold for new housing construction.

- D. Where a “buildable lot” is sold in its entirety to an adjacent property owner, the Purchaser shall place a conservation easement pursuant to Minnesota Statutes Chapter 84C on the “buildable lot” in favor of the City to preserve the sideyard as open space and prevent construction of any improvements on the sideyard lot by the current or future owners which are not approved by the City.
- E. The City will not sell a buildable or nonbuildable sideyard lot to the owner of an adjacent lot that is not maintained in compliance with the Building Code or Zoning Ordinance.
- F. Where the adjacent lot is being sold by the fee owner to the occupants of the lot by a contract-for-deed sale and the fee owner does not want to take title to the City owned sideyard lot, the City may lease the sideyard lot to the occupants for future conveyance when the occupants acquire fee title to the adjacent lot through the contract-for-deed.
- G. Land Inventory properties sold for sideyards do not require an official notice of the proposed lot division be sent to property owners within 350 feet of the sideyard lot. Interested parties will have an opportunity for input through neighborhood review process and the public hearing before the Council.

2.2.14 Community Garden Sales.

- A. The City may make certain vacant nonbuildable lots, as described in Section 2.2.13 herein, in the Land Inventory available for purchase as a community garden to be used and enjoyed by City residents and other groups of people who desire an opportunity to garden for recreational and sustainable purposes (a “Community Garden Lot”).
- B. Any interested nonprofit corporation or public agency that wants to purchase a Community Garden Lot may submit an Offer to Purchase to CPED. The sale of a Community Garden Lot shall be done in accordance with the applicable provisions of this Disposition Policy, including neighborhood review, public hearing and Council approval. Community Garden Lots may be sold only to nonprofit corporations and public agencies that can

demonstrate financial viability and experience in owning and operating a community garden open and available to community members. Community Garden Lot sales require a favorable neighborhood recommendation and the approval of all adjoining property owners.

C.(i) "Buildable lots" may not be sold for community garden use if there are legal requirements prohibiting the sale of Development Properties for purposes other than development or in those neighborhoods of the City where residential lot widths are predominantly 50 feet or greater with a lot area greater than 6,000 square feet and there is an insufficient amount of "buildable lots" available for housing development; and (ii) "buildable lots" may be sold for community garden use in those neighborhoods of the City where the residential lot widths are predominantly less than 50 feet with a lot area less than 6,000 square feet and there is a surplus of "buildable lots" available for housing development unless there are legal requirements prohibiting the sale of Development Properties for purposes other than development.

D. Community Garden Lots shall be sold (i) for a Purchase Price equal to the Market Value of the lot; (ii) "as is" with no representations or warranties of any kind regarding soil condition or quality; (iii) with an environmental liability disclaimer by the City; and (iv) with an environmental indemnification and hold harmless from the Purchaser to the City. The Purchaser, at its sole cost and expense, shall be responsible for any and all soil tests, site investigation and Soil Correction.

E. Upon conveyance of a Community Garden Lot, the Purchaser shall place a conservation easement pursuant to Minnesota Statutes Chapter 84C on the Community Garden Lot in favor of the City. The conservation easement shall bind the Purchaser, its successors in interest and all future owners. The Purchaser may construct accessory buildings on the Community Garden Lot for tools, equipment and storage as permitted by the Building Code and Zoning Ordinance.

2.2.15 Options, Rights of First Refusal and Exclusive Development Rights.

The Council may grant an option, right of first refusal or exclusive development rights to a Purchaser for a Development Property and may require the Purchase to pay a reasonable fee for such rights. The City and the Purchaser may enter into a written agreement for any option, right of first refusal or exclusive development rights.

2.2.16 CDBG. Where the City has used federal funds such as CDBG program funds to acquire a Development Property, the City shall follow the applicable federal regulations, if any, governing the disposition of such acquired property.

3.0 Policy Responsibilities

3.1 Mayor/City Council

The Mayor and City Council will establish any new real estate disposition policies for the City and approve dispositions as required by this policy.

3.2 City Engineer

The City Engineer will designate staff to:

- Provide disposition coordination with respect to non-development property
- Coordinate the drafting of all disposition contracts with respect to non-development property
- Serve as lead disposition negotiator with respect to non-development property
- Approve forms and procedures for implementing this policy, as part of the Real Estate Transaction Policy Team
- Propose revisions to this policy, as part of the Real Estate Transaction Policy Team

3.7 CPED Director

The CPED Director will designate staff to:

- Provide disposition coordination with respect to development property
- Coordinate the drafting of all disposition contracts with respect to development property
- Serve as lead disposition negotiator with respect to development property
- Approve forms and procedures for implementing this policy, as part of the Real Estate Transaction Policy Team
- Propose revisions to this policy, as part of the Real Estate Transaction Policy Team

3.8 City Finance Officer

The City Finance Officer will designate staff to:

- Review all disposition contracts for compliance with policy
- Assist with disposition negotiation and financial analysis of disposition components when requested
- Approve forms and procedures for implementing this policy, as part of the Real Estate Transaction Policy Team
- Propose revisions to this policy, as part of the Real Estate Transaction Policy Team

3.9 City Attorney

The City Attorney will designate staff to:

- Review disposition contracts for form
- Assist with disposition negotiation when requested
- Approve forms and procedures for implementing this policy, as part of the Real Estate Transaction Policy Team
- Propose revisions to this policy, as part of the Real Estate Transaction Policy Team

3.10 City Department Heads

Department heads must determine operating property needs in conjunction with Public Works staff. Department heads are responsible for ensuring that disposition practices are consistent with City policies and procedures.

4.0 Effect on Other Policies

This policy supercedes any and all previous City disposition policies unless the exception is listed below.

- MCDA policy will govern MCDA property until and unless transferred to the City

City of Minneapolis

REAL ESTATE LEASE POLICY

Brief Description	The Lease Policy governs a) leasing of City-owned real estate, b) leasing real estate for the City from other parties, c) rights of entry, d) facilities use permits, and e) other real estate documents such as plats
Type (enterprise or departmental)	Enterprise
Applies to	All departments
Department responsible for the policy	This Policy is a joint effort of the City Engineer's Office, the Finance Department, the City Attorney's Office and CPED
Approval Authority	Council/Mayor
History: Approval date, effective date, revisions	Procedure Manual for Professional Services Procurement & Real Estate Transactions approved 12/2001 Space and Asset Management Procedure Manual approved 10/2001
Related mandates	[insert link]
Links: procedures, forms	[insert link]
Questions to	Rebecca Law, Lee Larson, Mike Schwab

1.0 Policy Purpose

The City of Minneapolis (hereafter "City") recognizes the need for a policy guiding the leasing transactions of the City. Leasing typically occurs due to the need for additional space or due to excess space that is available or intended for leasing usage. Through this policy, the City assigns the responsibilities connected with the leasing program and incorporates the development-related business lines of the newly created Community Planning & Economic Development (CPED) department into the City policy.

2.0 Scope of Policy

2.4 City as Landlord

2.4.1 Terms of over one year. Upon approval by the Council, and under the coordination of the CPED Director with respect to development property and the City Engineer with respect to other City property, or their designees, the City may lease City-owned real estate to government or non-governmental entities. Every such lease for a term of more than one year must be a written contract requiring formal Council approval. The contract must be signed as follows:

- G) By the CPED Director on development property or by the City Engineer on all other City property, or by their designees identified on the Positions Authorized to Sign Contracts list: (<http://insite/finance/purchasing/Authorized%20Signatures.htm>),
- H) The City Attorney or an Assistant City Attorney, and
- I) The Finance Officer or Assistant Finance Officer as required by the City Charter.

Each such lease must state the financial or other consideration involved with the lease. When appropriate as determined by the City Engineer, the CPED Director, or their designees, a competitive process must be used to identify the leasing arrangement that provides the best value for the City, considering the most important financial and non-financial factors. The City Engineer's staff or the CPED Director's staff, as appropriate, will serve as coordinator of the lease during the life of the lease. See 2.5 for short-term leases involving training purposes.

2.4.2 Leases with duration of up to one year. Subject to delegation of authority pursuant to City Charter chapter 4, section 25, the CPED Director with respect to development property and the City Engineer with respect to other City property, or their designees, may enter into leases of less than or up to one year using a standardized lease form. The standardized lease form for the City as a Short-Term Landlord will be developed by the City Attorney's Office, Public Works Property Services and the Contract Management Office. The financial or other consideration involved with the specific lease must be identified in the contract. If a non-standardized lease is used, formal Council approval and document execution as identified in 2.1.1 of this policy are required. The department that enters into the lease will provide all lease management activities. See 2.6 for very short-term facilities use permits. See 2.5 for short-term leases involving training purposes.

2.5 City as Tenant

2.5.1 Terms of over one year. Upon approval by the Council, and under the coordination of the City Engineer or designee, the City may lease real estate from government or non-governmental entities. The department with the need for additional space will be identified hereafter as the "leasing department". Every such lease for a term of more than one year must be a written contract requiring formal Council approval. The contract must be signed as follows:

- A) A person in the leasing department who is in a position identified on the Positions Authorized to Sign Contracts list:
(<http://insite/finance/purchasing/Authorized%20Signatures.htm>),
- B) The City Engineer or designee identified on the above list,
- C) The City Attorney or an Assistant City Attorney, and

D) The Finance Officer or Assistant Finance Officer as required by the City Charter.

Each such lease must state the financial or other consideration involved with the lease. When appropriate as determined by the City Engineer or designee, a competitive process must be used to identify the leasing arrangement that provides the best value for the City, considering the most important financial and non-financial factors. The City Engineer's staff will serve as coordinator of the lease during the life of the lease, with the leasing department providing day to day lease management activities.

2.5.2 Leases with duration of up to one year. Subject to delegation of authority pursuant to City Charter chapter 4, section 25, the City Engineer or designee(s) may enter into leases of less than or up to one year using a standardized lease form. The standardized lease form for the City as a Short-Term Tenant will be developed by the City Attorney's Office, Public Works Property Services and the Contract Management Office. The financial or other consideration involved with the specific lease must be identified in the contract. If a non-standardized lease is used, formal Council approval and document execution as required by 2.2.1 of this policy are required. The leasing department will provide all lease management activities. See 2.5 for short-term leases involving training purposes.

2.3 Right of entry. Occasionally, there may be service providers or other entities that need to have short-term access to City real property for appraisal, survey, testing, inspection or similar purposes. Alternatively, the City may occasionally require short-term access to non-City real property for appraisal, survey, testing, inspection or similar purposes. A standardized right of entry form as approved by the City Attorney's Office will be used in these situations and each right of entry is subject to approval by the CPED Director with respect to development property or activities or the City Engineer with respect to other property or activities, or their designees. All other access to City real property should be handled through the lease process in 2.1 and all other use of non-City real property should be handled through the lease process in 2.2, unless the circumstances fit one of the exceptions listed in sections 2.4, 2.5, 2.6 or 4.0.

2.4 Obstruction and encroachment permits. Obstruction permits, encroachment permits, special permits and other similar types of permits are not considered to be leases for the purposes of this policy. Those permits shall continue to be administered through ordinances, policies and procedures separate from this Lease Policy.

2.5 Other real estate documents. The CPED Director with respect to development property and the City Engineer with respect to other City property, or their designees, may sign temporary easements, plats, zoning applications and consents, and similar real estate documents that are not contractual in nature. Persons who are in positions identified on the Positions Authorized to Sign Contracts list: (<http://insite/finance/purchasing/Authorized%20Signatures.htm>) may sign documents as the department head for use of City facilities or non-City facilities for conference or training purposes as long as the period of use is two months per year or less.

2.6 Facilities and land use permits. A City-wide facilities and land use permit process will be established for private use of City facilities and/or land for up to one week. A fee schedule and procedures will be established and updated by the CPED Director, the Finance Officer and the City Engineer. Each facilities and land use permit must be approved by the CPED Director with respect to development property or the City Engineer with respect to other City property, or their designees.

3.1 Mayor/City Council

The Mayor and City Council will establish any new lease policies for the City and approve leasing arrangements as required by this policy.

3.2 City Engineer

The City Engineer will designate staff to:

- Provide overall leasing program coordination, except with respect to development property
- Coordinate the drafting of all long-term leasing contracts, except with respect to development property
- Serve as lead lease negotiator, except with respect to development property
- Approve forms and procedures for implementing this leasing policy, as part of the Real Estate Transaction Policy Team
- Propose revisions to this leasing policy, as part of the Real Estate Transaction Policy Team
- Approve right of entry and similar requests for non-development property

3.11 CPED Director

The CPED Director will designate staff to:

- Provide overall leasing program coordination with respect to development property
- Coordinate the drafting of all long-term leasing contracts with respect to development property
- Serve as lead lease negotiator with respect to development property
- Approve forms and procedures for implementing this leasing policy, as part of the Real Estate Transaction Policy Team
- Propose revisions to this leasing policy, as part of the Real Estate Transaction Policy Team
- Approve right of entry and similar requests for development property

3.4 City Finance Officer

The City Finance Officer will designate staff to:

- Review all leasing contracts for compliance with policy
- Assist with lease negotiation and financial analysis of lease components when requested
- Approve forms and procedures for implementing this leasing policy, as part of the Real Estate Transaction Policy Team
- Propose revisions to this leasing policy, as part of the Real Estate Transaction Policy Team

3.5 City Attorney

The City Attorney will designate staff to:

- *Review lease contracts for form*
- Assist with lease negotiation when requested

- Approve forms and procedures for implementing this policy, as part of the Real Estate Transaction Policy Team
- Propose revisions to this policy, as part of the Real Estate Transaction Policy Team

3.6 City Department Heads

Department heads must determine space availability or needs, provide direction on lease issues, and assign staff to provide day to day leasing management activities for their leased space. Department heads are responsible for ensuring that leasing practices are consistent with City policies and procedures.

4.0 Effect on Other Policies

This policy supercedes any and all previous City leasing policies. Further, the transactions listed below are not subject to this policy.

- Long-term air and ground leases and lease with purchase option arrangements (see City Disposition Policy) and using lease financing as a CPED development tool
- Holdover tenants may be added into the City leasing system when appropriate, with the new leasing policy used for future vacancies
- The leasing of parking spaces in the municipal parking system
- MCDA policies will govern MCDA properties unless and until they are transferred to the City.

PROPOSED REVISIONS TO CITY ORDINANCES

14.40. Responsibility to city for city property. ~~The person having the care or use of such public property, and the person's sureties if there are any, shall be held liable to the city for any and all such property as is not satisfactorily and properly accounted for, either by the return of the same, or by showing its expenditure on behalf of the city, division or ward, or its loss without the fault of such person.~~

14.50. Recovery by city on liability for city property. ~~All liability of any person having the use or care of public property may be recovered from such person and the person's sureties, if there are any, by civil action; and if any such person shall fail or refuse to furnish and file written receipts and accounts as aforesaid, such shall be deemed a violation of this Code.~~

14.120 Sale of city lands and buildings used for municipal operations. ~~In the event any of the if lands and buildings owned by the city for any municipal operation or service, become useless or are no longer needed for such purpose, they shall be sold, if possible, disposed of by sale, if resalable, upon advertisement for bids or at private sale as the city council shall deem to be in the best interest of the city. The city engineer shall determine whether the real estate is needed for municipal operations.~~

~~The sale shall be for an adequate consideration and upon such other terms and conditions as the city council may prescribe. Notice of the proposed sale of any such property shall be published in a newspaper of general circulation in Hennepin County at least ten (10) days before the public hearing date, fixed for hearing thereon, describing the property to be sold and stating that the terms and conditions of the sale are available for public inspection at the office of the city clerk. At the time and place specified in the notice, a hearing shall be held to determine the advisability of the sale.~~

~~Prior to any sale, the proposed sale of such property shall be referred to the city engineer and the city planning commission for their review and recommendations. The valuation of such property the real estate as determined by the city assessor or by an independent appraisal shall be reported to the city council, prior to approval of the sale. Any funds realized by said sale shall be credited to such project account within the permanent improvement fund as the city council may direct. reimburse holding costs and selling expenses with the remainder deposited into the appropriate permanent improvement fund or operating expenses fund related to the public lands or buildings being sold, except to the extent that other City ordinances, grant requirements, or state or federal laws require a different method for allocating the revenue from sales. This section shall not apply to City-owned real estate acquired, held or sold for development purposes.~~

14.125 Fund designations for certain types of real estate dispositions. When city-owned real estate formerly held for municipal operations is disposed of for development purposes or city-owned real estate formerly held as development property is transferred for use in municipal operations, the City Council shall determine the fund allocations of net sale proceeds or interfund transfers at the time of the disposition or use approval.

14.130. Leasing of private property. Taxes must be paid. The city shall not, as lessee, execute any lease or contract for lease of any privately owned real property or interest therein for public use by the city or any of the boards or departments thereof, nor shall the city finance officer countersign or the city clerk attest any such lease or contract until the lessor presents receipts showing that all of the real estate taxes, including installments of special assessments due thereon, have been paid. **Sale of development property.** The director of the department of community planning and economic development shall be responsible for the disposition of city-owned real estate acquired or held for development purposes. Disposition of development property must comply with applicable state and federal laws and such policies as may be adopted from time to time by the city council.

22.70. Control of equipment and public buildings. The city engineer shall have full charge of and be held responsible for all construction and maintenance equipment (except that as to the police and fire department maintenance equipment the city engineer shall exercise only such control and furnish such service as the city council shall specially direct), and also of all lands and buildings owned or leased by the city and maintained or operated by the departments of the city under the jurisdiction of the city council.

22.141. Care Control of public lands and buildings used for municipal operations. The city engineer shall control all public lands and buildings owned or leased by the city for municipal operations under the jurisdiction of the city council. The city engineer shall take such measures as the city engineer deems necessary for the proper care, maintenance and protection of city public lands and buildings, and to purchase such additional or replacement lands and buildings as in the judgment of the city engineer may be necessary. The city engineer shall also purchase or sell public lands and buildings subject to the Such land and building purchases shall have proper approval of the city council. All leases of public property must involve adequate consideration to reimburse the City for property expenses. The section shall not apply to purchases, sales or leases for development purposes.

22.150. Rental of lands and buildings. The city engineer shall not permit the use of any of the lands and buildings under the control of the city engineer by any department or board of the city or other person or persons except upon a rental basis per month or year as the city engineer may determine. Such rental basis shall be determined and calculated to be sufficient to provide the necessary cost of operation, repairing, maintaining and depreciating of said lands and buildings. The city engineer shall make vacant unused city property available to residents of the city for gardening, recreational or related uses through the issuance of short-term permits upon payment of a fee of five dollars (\$5.00) to cover the cost of issuing such permits. Such permits shall be revocable at any time upon written notice from the engineer. **Control of development property.** The director of the department of community planning and economic development shall acquire, manage, maintain and control all real property acquired or held by the city for development purposes.

22.160. Lands and buildings fund. ~~The city finance officer shall maintain a separate fund to be known as "lands and buildings fund." This fund shall be subdivided into the permanent improvement subdivision and the current expense subdivision. Into the permanent improvement subdivision shall be placed all moneys received from the sale of real estate and fire insurance, as reimbursement for fire losses on permanent improvements. This subdivision shall be used to buy new property, to make major repairs due to fire losses, and for the construction of new buildings. Into the current expense subdivision shall be placed all~~

moneys received from rentals and for operation and maintenance work done for other departments. This subdivision shall be used to make all minor repairs properly chargeable to current expense, to maintain and operate all structures, and as a general working fund for the department operation and maintenance, properly chargeable to current expense.

22.170. ~~Lands and buildings rent to be credited to fund.~~ Lease revenue. Rental charges for Lease revenue from the use of public lands and buildings shall be collected from the various departments or boards of the city or from construction projects, as the case may be, and said money when so collected shall be credited to the lands and buildings fund. shall be credited to the appropriate permanent improvement fund or to the operating expenses fund related to the public lands or buildings being leased. This section shall not apply to leases on development property.

22.180. ~~Sale of lands and buildings.~~ Upon any of the lands and buildings becoming useless, and upon recommendation of the city engineer, they shall be disposed of by sale, if salable, in accordance with section 14.120.

22.190. ~~Purchase of lands and buildings.~~ Additional new lands and buildings found to be necessary to be used for the purposes herein specified must be paid for from any cash balance in the lands and buildings fund not otherwise encumbered. If, however, there shall not be sufficient unencumbered cash balance in said fund to purchase new lands and buildings, the city council may authorize additional money to be placed in said fund to be used for such purpose.

22.200. ~~Accounting procedures.~~ The city finance officer shall maintain the necessary accounting procedures for the purpose of disclosing the expense and income of all equipment as well as lands and buildings under the direction and control of the city engineer. For the purpose of accounting, all heads of departments of the city directing or controlling equipment or lands and buildings as herein mentioned shall furnish the city finance officer such information as the finance officer may require and on such forms as the finance officer may designate, deemed necessary for full and complete accounting purposes as herein indicated.