



Memphis City Council Summary Sheet

Please provide a brief summary of the item, in bullet form, not to exceed one page:

1. Describe item (Resolution, Ordinance, etc.)

Resolution for the fiscal year of 2013 to approve the City of Memphis - Division of Housing and Community Development's leases and / or sub-leases of Memphis City property that may be subject to City of Memphis Ordinance 2-291 relating to Real Property.

2. Identify initiating party (e.g., Public Works; at request of City Council, etc.)

Division of Housing & Community Development

3. State whether this is a change to an existing ordinance or resolution, if applicable.

Not Applicable

4. State whether this requires a new contract, or amends an existing contract, if applicable.

This requires a new contract (a new Lease Agreement).

5. State whether this requires an expenditure of funds/requires a budget amendment.

This does not require an expenditure of funds or a budget amendment.

RESOLUTION

WHEREAS, City of Memphis Ordinance 2-291 relating to Real Property provides language and processes for the disposition of City of Memphis properties through sale, exchange or transfer; and

WHEREAS, it is clear and concise per said language that City of Memphis Ordinance 2-291 relates to the disposition of real property belonging to the City of Memphis; and

WHEREAS, for the purposes of Ordinance 2-291 relating to Real Property any lease or license agreement two (2) years or more shall be considered a conveyance and shall be submitted to City Council for approval; and

WHEREAS, for the purposes of Ordinance 2-291 any extensions or renewals bringing the total term to two (2) years or more shall be included as a conveyance; and

WHEREAS, in the context of leases, a new lease that is merely a reexecution of the old lease, and does not confer any greater obligations or rights than those in the old lease, said transaction is a renewal of the old lease; and

WHEREAS, the Division of Housing and Community Development of the City of Memphis leases and / or sub-leases City of Memphis property that may be subject to City of Memphis Ordinance 2-291 relating to Real Property; and

WHEREAS, the Division of Housing and Community Development of the City of Memphis shall submit its leases and / or sub-leases to the City Council of Memphis City for approval; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF MEMPHIS, TENNESSEE, that:

1. The Lease Agreements between the City of Memphis and the Lessees listed on **Exhibit A** are hereby approved at the rates specified on **Exhibit A**.
2. The term of the Lease Agreements between the City of Memphis and the Lessees listed on **Exhibit A** shall be as specified on **Exhibit A**.
3. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Tennessee.
4. **BE IT FURTHER RESOLVED**, that **for the fiscal year of 2013**, the City Mayor is hereby authorized to execute all documents necessary to lease and / or sub-lease the properties listed on **Exhibit A** to the Lessees listed on **Exhibit A** for the term therein specified.

Memphis, Tennessee, Code of Ordinances >> Title 2 - ADMINISTRATION >> CHAPTER 2-16. - CITY REAL PROPERTY MANAGEMENT >>

CHAPTER 2-16. - CITY REAL PROPERTY MANAGEMENT

Sections:

Sec. 2-16-1. - Sale generally.

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The manager of the city real estate department shall be authorized to sell, exchange or transfer property no longer deemed necessary for city use and approve the sale of property deemed surplus under the following conditions:

- A. Sale of property for market value.
 - 1. The city real estate manager shall place a value on all properties being considered for sale. However, on all properties having a probable value of \$10,000.00 or more or on properties having a value of less than \$10,000.00 where the real estate manager determines that an independent valuation is needed, the services of a qualified independent real estate appraiser may be obtained. After a valuation has been placed on the property by the city real estate manager, he or she shall be authorized to make and approve the sale of such properties subject to the other provisions of this section.
 - 2. The sale of properties receiving an initial bid offer of \$20,000.00 or less shall be submitted for approval to the city council for first reading, which shall be final.
 - 3. Properties receiving an initial bid offer exceeding \$20,000.00 shall be submitted to the city council for first and second reading. The second reading shall be final. However, at the second reading, subsequent bidders will be permitted to bid in open council session, but the first increased bid must be a minimum of \$500.00. Thereafter, additional increases must be in minimum increments of \$50.00.
 - 4. Subsequent bidders must adhere to the terms and stipulations of the initial agreement and may not introduce new contingencies in their bid.
 - 5. On bids exceeding \$20,000.00, failure of the highest bidder to follow through with the purchase of the property will result in the next highest bidder being accepted as purchaser. Any funds paid as earnest money by any prospective purchaser may be forfeited for failure to follow through with the purchase of the property.
- B. Exchange of property.
 - 1. The governing authorities of the city shall have full authority to exchange any real property acquired by them or held by the city, but no longer needed or utilized for municipal purposes. Any proposed exchange shall be first approved by the city attorney and shall be advertised in a local newspaper at least two weeks prior to its initial presentation to the city council of the City of Memphis.
 - 2.

- Prior to such exchange the properties to be exchanged shall be appraised as to market value by a professional independent appraiser and reviewed by the manager of the real estate department.
3. Subsequent to the fixing of the values on property to be exchanged, the same shall be approved by the city council, and, such values having been so approved, a resolution authorizing the execution of deeds of conveyance shall be submitted and passed by the city council. The resolution shall provide for a first and second reading. The second reading will not subject the city property to increased bids and shall be final.
- C. Sale or transfer to another governmental entity. In the event a sale or transfer of real property, is to be made to any other governmental entity, its departments or agencies, the real estate manager shall be authorized to make and approve such sale or transfer subject to a resolution authorizing the execution of deeds of conveyance submitted to the city council for first reading, which shall be final, and it shall not be necessary to receive bids or require a monetary consideration for such property to be sold to a governmental entity, its departments or agencies.
- D. Sale of excess realty in connection with street projects.
1. When the city real estate department acquires right-of-way for a new street or public thoroughfare or for the improvement, realignment, or relocation of all or a portion of an existing thoroughfare or right-of-way and such project results in any of the following conditions, the department may, at its discretion, acquire title to and dispose of such properties in the immediate vicinity of the new or former thoroughfare or right-of-way:
 - a. The severance of a property owner's land resulting in an uneconomical remnant;
 - b. The realignment of a thoroughfare or right-of-way or abandonment of an existing thoroughfare or right-of-way which has the effect of eliminating or substantially reducing the access a property owner may have to the new thoroughfare or right-of-way;
 - c. The payment to a property owner for incidental damages arising out of land severance, denial of access or probable reduction in the value of the remnant would equal or exceed the cost of the real property to be conveyed to the affected property owner in lieu of cash compensation for damages. It shall not be a requirement to obtain a monetary consideration for such property.
 2. Such agreements to acquire or dispose of excess realty from or to specific property owners in connection with a street project may be made a part of the regular right-of-way agreement, a supplement, or a separate agreement subject to approval by the city engineer and execution of all necessary documents by the appropriate city officials.
- E. Disposition of property to an adjoining equitable purchaser. The city real estate manager shall be authorized to convey property to a selected adjacent property owner, without necessity of competitive bidding, for approval by the city council with one reading under the following circumstances:
1. The city property to be conveyed would have no reasonable utility, for building or other purposes, unless it was used in conjunction with the property of the selected adjoining property owner.
 - 2.

- Conveyance of the property to any prospective purchaser other than selected adjoining property owner would materially diminish the value and/or utility of the property of the selected adjacent property owner.
3. Conveyance of the property to any prospective purchaser other than the selected property owner would cause undue hardship to the selected adjacent property owner.
 4. The selected adjacent property owner is willing and capable of paying the value of the adjacent property to be acquired based on valuation determined by the city real estate department.
- F. Disposition of property acquired for redevelopment purposes. Property acquired by the city for redevelopment purposes may be conveyed upon such terms and conditions as it deems proper and without regard to the conveyance procedure outlined in subsection A of this section, upon passage of a resolution authorizing such sale or conveyance by the city council upon first reading, which reading shall be final. Such reading shall take effect only after the following has been accomplished:
1. A finding by the city office of housing and community development or its successor agency that such a sale or conveyance under the terms of this subsection would be in furtherance of the redevelopment goals of the Housing and Redevelopment Act of 1974, 2 USC 5301 et seq.; or
 2. A finding by any other city office, agency or department, whose purpose is the redevelopment of the city, that a sale under the terms of this subsection would be in furtherance of municipal redevelopment purposes.
- G. Disposition/conveyance of property for public benefit.
1. The city real estate manager is authorized to convey or dispose of city property at reduced or no cost to the following entities in the following order of priority:
 - a. Adjoining property owners;
 - b. A neighborhood organization in an area targeted by the city for redevelopment;
 - c. Nonprofit organizations whose use of the property will be for the benefit of the community;
 - d. A program implemented or assisted by a private entity or government agency which has as its goal the development of vacant or underdeveloped land or the renovation of existing improvements on city-owned land for the purpose of providing occupant-owned housing to persons who qualify for housing programs designed for moderate and low income households and who would not otherwise be eligible for such housing;
 - e. Other entities or organization (profit or nonprofit) which, in the opinion of the mayor or chief administrative officer of the city, are proper recipients of such property.
 2. Conveyance of the property to the above described entities shall be subject to the following conditions:
 - a. Submission of an application to the city real estate department by the entity seeking ownership of the property utilizing forms created and approved by the city real estate department;
 - b. Completion by the city real estate department of a form providing basic information about the property, and valuation of the property;

- c. Completion of a form by the city division which initiated the request for the property;
 - d. Requests for conveyance of property under the terms of subdivision (1) (d) of this subsection must be made by either the mayor or the chief administrative officer only. All of the other provision of this subsection (G)(2) shall apply except for subsections (G)(2)(c) and (e);
 - e. Approval from both the director having jurisdiction over the property and from the chief administrative officer;
 - f. Approval by the Memphis City Council. Approval shall become final on second reading after all interested parties shall have had an opportunity to voice either their approval of or opposition to the transfer.
- H. Auction of distressed property. Any city property which has not been disposed of in conformity with the above methods after the expiration of two years from the date efforts were first made to dispose of such property may, at the discretion of the real estate manager, be presented before the city council for a public auction which sale shall be final. Any property proposed for auction shall be first approved by the city attorney and shall be advertised in a local newspaper at least two weeks prior to its presentation to the council of the City of Memphis.
- I. Disposition of funds. All proceeds from the sale of city-owned real estate not specifically under the management of some board or commission entitled to receive the same, and not set aside for some specific purpose, shall be paid into the general fund, to be disbursed for any lawful municipal purpose.
-  J. Lease agreements involving real property. For the purposes of this section, any lease or license agreement two years or more shall be considered a conveyance and shall be submitted to city council for approval, except for right of entry agreements, encroachment agreements, and easement agreements. Any extensions or renewals bringing the total term to two years or more shall be included as a conveyance.

(Code 1985, § 2-291; Ord. No. 4381, § 1, 12-19-1995; Ord. No. 5346, § 1, 3-23-2010)