

ORDINANCE NO. 2000-013

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF APR 25 2000

**AN ORDINANCE AMENDING TITLE 12 OF THE
CITY CODE RELATING TO CITY OWNED
PROPERTY**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO

SECTION 1.

Title 12 of the Sacramento City Code is hereby amended to read as follows.

Title 12. CITY PROPERTY

Chapter 12.01. Franchises.

12.01.010 Generally.

No person, firm or corporation shall exercise any franchise mentioned in this chapter in the city except insofar as such person, firm, or corporation may be entitled to do so by direct authority of the Constitution of the State of California or of the United States, unless such person, firm, or corporation shall have obtained a grant therefor in accordance with the provisions of this chapter.

Nothing contained in this chapter shall be construed to invalidate any lawful franchise heretofore granted nor to necessitate the obtaining of a new franchise for a use for which a franchise holder shall have a valid unexpired franchise.

12.01.011 Authority to grant.

The council is empowered to grant by ordinance a franchise to any person, firm or corporation, whether operating under an existing franchise or not, to furnish the city and its inhabitants with transportation, communication, terminal facilities, water, light, heat, power, refrigeration, storage or any other public utility or service, or to use the public streets, ways, alleys and places, as the same may now or may hereafter exist, in connection therewith.

12.01.012 Terms and conditions of franchises.

The council, in granting franchises, shall prescribe the terms and conditions of such franchises in accordance with the applicable provisions of this chapter and any ordinance adopted

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pursuant thereto and may in such franchise impose such other and additional terms and conditions not in conflict with the Charter, whether governmental or contractual in character, as in the judgment of the council are in the public interest or as the people, by initiative, indicate their desire to have so imposed.

12.01.013 Term.

Every franchise for a fixed term shall not exceed twenty-five years.

12.01.014 Purchase or condemnation of property of grantee by city.

No franchise grant shall in any way or to any extent impair or affect the right of the city now or hereafter conferred upon it by law to acquire the property of the grantee thereof either by purchase or through the exercise of the right of eminent domain, and nothing herein contained shall be construed to contract away or to modify or to abridge either for a term or in perpetuity the city's right of eminent domain with respect to any public utility.

12.01.015 Compensation to city.

No new franchise or the renewal of an existing franchise shall be granted without reserving to the city just and adequate compensation.

12.01.016 Chapter not applicable to certain cases.

Nothing in this chapter shall be construed as applying to or requiring the operators of refrigeration or storage utilities or the carriers of freight or passengers not operating over a fixed route, or other public utilities or services not specifically described in this chapter, to obtain a franchise to operate within the city unless required to do so by ordinance of the city.

12.01.017 Exercising right without franchise.

The exercise by any person, firm or corporation of any privilege for which a franchise is required without procuring such franchise shall be a misdemeanor, and each such day that such condition continues shall constitute a separate violation.

12.01.018 Franchising procedure--Invitation to bid.

Except as provided in sections 12.01.031 and 12.08.130, for any franchise the city shall prepare an invitation to bid, which shall include a summary of the terms and conditions of the franchise.

12.01.019 Same--Publication of notice.

An advertisement for bid shall be published at least once a week for two consecutive weeks. The published notice shall state where bid forms may be obtained, the time and place for the receiving and opening of sealed bids, and shall describe, in general terms, the franchise to be granted.

12.01.020 Same--Questionnaire and financial statement from bidders.

The council may require from prospective bidders answers to questions contained in a standard form of questionnaire and financial statement including a complete statement of the prospective bidder's financial ability and experience in maintaining and operating similar or related franchises or business activities. When completed, the questionnaire and financial statement shall be verified under oath by the bidder.

12.01.021 Same--Questionnaire--Public inspection.

Such questionnaire and financial statements are open to public inspection.

12.01.022 Same--Sealed bids.

All bids shall be presented under sealed cover.

12.01.023 Same--Closing time.

Whether or not bids are opened exactly at the time fixed in the public notice for opening bids, a bid shall not be received after that time.

12.01.024 Same--Withdrawal of bids.

Any bid may be withdrawn at any time prior to the time fixed in the public notice for the opening of bids but only by written request filed with the City Manager. The request shall be executed by the bidder or by an authorized representative. The withdrawal of a bid does not prejudice the right of a bidder to file a new bid prior to the date and time set for the opening of bids.

This section does not authorize the withdrawal of any bid after the time fixed in the public notice for the opening of bids.

12.01.025 Same--Public opening of bids.

On the day and at the time named in the public notice the city clerk shall publicly open the sealed bids.

12.01.026 Same--Public inspection of bids; hearing.

The city clerk shall place copies of all bids on file for public inspection, and shall publish notice of the availability of this file for inspection once within a week after opening the bids.

The council shall set a public hearing on the bids received not sooner than fifteen days or later than sixty days after opening of the bids. The council may set other public hearings as it deems in the public interest.

At the appointed time the council shall proceed to hear and consider all bidders and any other interested person. Following the hearing the council may grant a franchise in conformity with the terms of any bid or such modification thereof as the council shall deem to be in the public interest, or the council may reject all bids and readvertise for bids.

12.01.027 Same--Failure to sign contract, provide bond, etc.

A failure on the part of the successful bidder to sign and deliver the franchise contract within thirty days of receipt thereof and to provide the city with any bond and any evidence of insurance required thereunder may be treated as a refusal to execute if the city so elects.

12.01.028 Same--Findings.

An ordinance awarding any franchise shall contain a section of findings setting forth the basis for the council's action.

12.01.029 Same--Joint powers agreements.

Notwithstanding any other provision of this chapter the council may in the award of any franchise avail itself of the authority set forth in Government Code Section 6500 et seq.

12.01.030 Amendment of franchise ordinance.

Each franchise ordinance shall be subject to amendment according to the terms of such franchise, and by mutual consent of the parties to such franchise.

12.01.031 Issuance of franchise without bids.

The council may grant a franchise agreement by ordinance without competitive bidding when any one or more of the following conditions exist:

- (a) The bid process as prescribed in this chapter has failed to produce a successful bidder pursuant to section 12.01.026.
- (b) The council determines that special circumstances make the use of the bid procedure inappropriate.
- (c) The council determines that it is in the best interest of the city that the bid process not be used.

12.01.032 to 12.01.039 Reserved.

Chapter 12.02. Leases of City-owned real property.

12.02.040 Leases and subleases included.

As used in this chapter, the term "lease" shall include, where appropriate in the context, a sublease.

12.02.041 When bids required.

Except as provided in sections 12.02.050 and 12.08.130, all leases authorizing occupancy of city property for a period of more than six months shall be awarded to the highest responsible bidder.

12.02.042 Leasing procedure--Invitation to bid.

For any lease authorizing occupancy by the lessee for a period of more than six months of city property, the city shall prepare an invitation to bid, which shall include a summary of the terms and conditions of the lease sufficient to enable persons to bid solely on the basis of rents to be paid to the City.

12.02.043 Leasing procedure--Publication of notice.

An advertisement for bid shall be published at least once a week for two consecutive weeks. The published notice shall state where bid forms may be obtained, the time and place for the receiving and opening of sealed bids, and shall describe, in general terms the lease to be granted.

12.02.044 Leasing Procedure--Sealed bids.

All bids shall be presented under sealed cover.

12.02.045 Leasing Procedure--Closing time.

Whether or not bids are opened exactly at the time fixed in the public notice for opening bids, a bid shall not be received after that time.

12.02.046 Leasing Procedure--Withdrawal of bids.

Any bid may be withdrawn at any time prior to the time fixed in the public notice for the opening of bids but only by written request filed with the city manager. The request shall be executed by the bidder or by an authorized representative. The withdrawal of a bid does not prejudice the right of a bidder to file a new bid prior to the date and time set for the opening of bids.

12.02.047 Leasing Procedure--Opening of bids; award.

On the day named in the public notice the city clerk shall publicly open the sealed bids. The council may award the lease to the person then determined to be the highest responsible bidder.

12.02.048 Leasing procedure--Failure to sign lease, provide bond, etc.; award to next best bidder.

A failure on the part of the successful bidder to sign and deliver the lease within thirty days of receipt thereof and to provide the city with any bond and any evidence of insurance required thereunder may be treated as a refusal to execute if the city so elects. If the council deems it is in the best interest of the city, it may, on the refusal or failure of the successful bidder to execute the lease, award it to the second highest responsible bidder.

If the second best responsible bidder fails or refuses to execute the contract, the city may likewise award it to the third highest responsible bidder.

12.02.049 Leasing procedure--Rejection of bids.

If the council deems that the acceptance of any bid is not in the best interest of the city, it may reject all bids and advertise for new bids or proceed as provided in Section 12.02.050.

12.02.050 Leasing without bids--Negotiation of terms.

If the council finds that such action is in the best interest of the city, it may enter into a lease without bidding when one or more of the following conditions exist:

- (a) The bid process as prescribed in this chapter has failed to produce a highest responsible bidder.
- (b) The city proposes to lease the property to another governmental agency.
- (c) The city proposes a ground lease for a term in excess of twenty years where the lessee, as a condition of the lease, is required to construct facilities on the leased premises having a value in excess of one hundred thousand dollars, and these facilities will become the property of the city upon termination of the lease.
- (d) A firm and complete written offer for lease has been presented by or on behalf of a prospective lessee or sublessee, wherein the rent specified is at or above the fair market rate for comparable, similarly situated property, as determined by the real property supervisor.
- (e) The city proposes to lease the property to a non-profit tax-exempt community civic organization with a membership comprised predominantly of persons residing in the city, and
 - (1) The firm term of the lease shall not exceed ten years.
 - (2) The resolution approving the lease shall contain the following:
 - (i) The reason for leasing such real estate.
 - (ii) A description of the real estate to be leased.
 - (iii) The document number of a copy of the lease filed in the office of the city clerk.

- (f) The council finds and determines that special circumstances make the use of the bid procedure inappropriate.

12.02.051 Amendment of existing leases.

The council may by resolution approve the amendment of any lease, or may in the initial lease agreement authorize the city manager to enter into minor lease amendments, provided that the amount of the expenditure or income resulting from the amendment is less than \$100,000.00.

12.02.052 Short-term leases of real property acquired for future city public works projects.

Real property acquired by the city for future public works projects may be leased without competitive bidding if each of the following conditions exist:

- (a) The prospective lessee was the occupant or tenant of the property at the time of its acquisition by the city; and
- (b) The tenancy will be on a month to month basis and will not exceed twenty-four months.

The director of public works is hereby authorized to negotiate and execute on behalf of the city all lease agreements entered into pursuant to this section.

12.02.053 to 12.02.059 Reserved.

Chapter 12.03. Concession Contracts.

12.03.060 Authority of council.

The Council may enter into contracts with persons, firms, or corporations to construct, maintain, and operate concessions on city property for the safety and convenience of the general public in the use and enjoyment of the said city property.

12.03.061 Contract procedure--Award to best responsible bidder.

Except as provided in sections 12.03.071 and 12.08.130, all concession contracts authorizing occupancy of city property for a period of more than seventy-two hours shall be awarded to the best responsible bidder. "Best responsible bidder" means the bidder, as determined by standards established by the council, and who, in the opinion of the council, will operate the concession consistent with the contract and in the best interest of the city and the public.

12.03.062 Contract procedure--Invitation to bid.

For any concession contract authorizing occupancy by the concessionaire for a period of more than seventy-two hours of city property, the city shall prepare an invitation to bid, which shall

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include a summary of the terms and conditions of the concession sufficient to enable persons to bid solely on the basis of rates to be paid to the city.

12.03.063 Contract procedure--Publication of notice.

An advertisement for bid shall be published at least once a week for two consecutive weeks. The published notice shall state where bid forms may be obtained, the time and place for the receiving and opening of sealed bids, and shall describe, in general terms the concession to be operated.

12.03.064 Contract procedure--Financial statement and questionnaire from bidders.

The council may require from prospective bidders answers to questions contained in a standard form of questionnaire and financial statement including a complete statement of the prospective bidder's financial ability and experience in maintaining and operating similar or related concessions or business activities. When completed, the questionnaire and financial statement shall be verified under oath by the bidder.

12.03.065 Contract procedure--Sealed bids.

All bids shall be presented under sealed cover.

12.03.066 Contract procedure--Closing time.

Whether or not bids are opened exactly at the time fixed in the public notice for opening bids, a bid shall not be received after that time.

12.03.067 Contract procedure--Withdrawal of bids.

Any bid may be withdrawn at any time prior to the time fixed in the public notice for the opening of bids but only by written request filed with the city manager. The request shall be executed by the bidder or by an authorized representative. The withdrawal of a bid does not prejudice the right of a bidder to file a new bid prior to the date and time set for the opening of bids.

This section does not authorize the withdrawal of any bid after the time fixed in the public notice for the opening of bids.

12.03.068 Contract procedure--Opening of bids; award.

On the day named in the public notice the city clerk shall publicly open the sealed bids. The council shall carefully study and analyze all such bids and, on or after the seventh day after the bids are opened, may award the concession to the person then determined to be the best responsible bidder.

12.03.069 Contract procedure--Failure to sign contract, provide bond, etc.; award to next best bidder.

A failure on the part of the successful bidder to sign and deliver the concession contract within thirty days of receipt thereof and to provide the city with any bond and any evidence of insurance required thereunder may be treated as a refusal to execute if the city so elects. If the council deems it is for the best interest of the city, it may, on the refusal or failure of the successful bidder to execute the contract, award it to the second best responsible bidder.

If the second best responsible bidder fails or refuses to execute the contract, the city may likewise award it to the third best responsible bidder.

12.03.070 Contract procedure--Rejection of bids.

If the council deems that the acceptance of any bid is not in the best interest of the city, it may reject all bids and call for new bids or proceed as provided in Section 12.03.071.

12.03.071 Contract without bids--Negotiation of terms.

The council may, without competitive bidding, enter into a contract, when any one or more of the following conditions exist:

- (a) The bid process as prescribed in this chapter has failed to produce a successful bidder pursuant to section 12.03.069.
- (b) The council determines that special circumstances make the use of the bid procedure inappropriate.
- (c) The council determines that it is in the best interest of the city that the bid process not be used.

12.03.072 Same--Authority of city manager.

The city manager may enter into concession contracts without calling for bids for concession service to areas which will primarily serve city employees.

12.03.073 Amendment of concession contracts.

The council may by resolution approve the amendment of any concession contract, or may in the initial concession contract authorize the city manager to enter into minor concession contract amendments, provided that the amount of the expenditure or income resulting from the amendment is less than \$100,000.00.

12.03.074 to 12.03.079 Reserved.

Chapter 12.04. Revocable Permits.

12.04.080 Grant; conditions; acceptance.

The council may by resolution grant permits revocable at its will for minor or temporary purposes or privileges on public property subject to such terms and conditions as it deems necessary for the public interest. The use of the property by the permittee shall constitute acceptance and agreement to be bound by the terms and conditions of the permit.

12.04.081 Application; Director of Public Works to recommend approval or denial.

Applications for revocable permits shall be filed with the Department of Public Works and shall be accompanied by a map or plat indicating the area for which the permit is sought. If any work is to be undertaken in the area subject to the permit, the application shall also be accompanied by a detailed plan or plans of such work.

The Director of Public Works shall refer such application to the city council together with a recommendation concerning the approval, conditional approval or denial of such permit.

12.04.082 Director of Public Works or Designee--Authority to Issue Revocable Permits for Certain Uses.

The Director of Public Works may review applications for and approve or conditionally approve revocable permits for the following uses:

- (a) Behind existing curbs and gutters:
 - (1) Paving.
 - (2) Landscaping.
 - (3) Construction of landscape planters.
 - (4) Other minor uses.
- (b) Groundwater monitoring wells.
- (c) Privately owned utilities within public streets and alleys.

12.04.083 City Manager or designee--authority to issue revocable permits for outdoor sidewalk cafes.

The City Manager or designee may review applications for and approve or conditionally approve revocable permits for outdoor sidewalk cafes.

12.04.084 Telecommunications facilities located on City-owned property.

- (a) Exclusive procedure. Except as specifically otherwise stated herein, the procedures specified in this section shall be the exclusive procedure governing revocable permits for telecommunications facilities which are proposed to be located on City-owned

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property. Nothing in this section shall preclude the application of the following provisions. and any applicant for a revocable permit shall comply therewith:

- (1) all applicable land use regulations, including but not limited to City zoning regulations and guidelines;
- (2) Sacramento City Code Section 12.04.082, relating to revocable permits for use of city rights of way or easements.
- (3) Sacramento City Code chapter 38.03, relating to excavation permits and street cuts; and
- (4) Sacramento City Code, Title 23, relating to business occupation tax certificates.

The revocable permit application required hereunder may be filed by an applicant while land use and other applications are pending; provided, however, that no revocable permit shall be issued unless and until all other required City, state or federal permits have been obtained by the applicant, and all other state, federal and City requirements including but not limited to subsections (1) through (4) above, have been met.

(b) Definitions. The following definitions shall apply to terms used in this section:

- (1) Telecommunications facilities. Facilities designed for the provision of cellular telephone facilities and other personal wireless services, including but not limited to transmitters, towers and other equipment.
- (2) Personal wireless services. Personal wireless services, as defined in 47 U.S. Code 332(c)(7)(C).
- (3) Telecommunications provider. A provider of cellular telephone or other personal wireless services.
- (4) Utility relocation. Any required move or relocation of an existing installation or equipment owned by any provider of utility or utility-related services, whether such provider is a private or public entity, including but not limited to the City, where such move or relocation is necessitated by installation, improvement, renovation or repair of telecommunications facilities installed on City-owned property.

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- (5) Utility relocation costs. Any actually incurred cost or expense associated with a utility relocation.
- (6) City-owned property. Any property owned, rented or leased by the City, or in which the City has the right to use or occupancy by virtue of an easement, right of way, or other similar interest in property; provided, however, that the provisions of this section shall not apply to street easements or right of way owned by the City, where the telecommunications provider will be installing wire, conduit or similar equipment within the street. For purposes of this section, "property" includes real property or improvements thereon, and personal property, fixtures or equipment. City-owned property shall also include traffic signals, City lighting or other poles or similar equipment, whether within or outside the street right of way, where telecommunications facilities are to be located or installed thereon.
- (7) Co-location. The location by the same or different telecommunication providers of telecommunication facilities together in the same location or on the same tower, pole, or other structure.

(c) Application.

- (1) A telecommunications provider proposing to locate telecommunications facilities on City-owned property shall make application to the city director of public works through the real estate services section supervisor, on a form provided for that purpose.
- (2) The application shall clearly describe the telecommunications facilities proposed to be installed, the City property on which the facilities are proposed to be installed, and their exact proposed location thereon, including such specifications, drawings, maps and other illustrations as are required by the city director of public works, through the real estate services section supervisor.
 - (i) The real estate services section supervisor shall, within thirty (30) days from the date of receipt of the application, make a determination as to whether the application is complete in all respects, and whether the applicant has applied for all other required land use entitlements and other required state, federal or City permits or licenses. If no such determination is made within the thirty (30) day period, the application shall be deemed complete. In the event that the

application is determined incomplete, the applicant shall be notified in writing of the nature and extent of the deficiencies.

- (ii) Upon a determination that the application is complete, or upon expiration of the thirty (30) day period for making that determination, the real estate services section supervisor shall process the application and meet with the applicant as required in order to determine whether the application should be granted or denied. The application may be denied for good cause, may be conditionally approved, or may be approved, subject to required procedures for approval by the City Council. No application or agreement may be approved or conditionally approved by the City Council unless all required land use entitlements, including but not limited to those required by City zoning regulations and guidelines, have been obtained by the applicant.
 - (iii) In the event that the application is denied, the applicant shall be notified in writing of the denial, with a written statement of the reasons for the denial. The notice shall be sent by United States mail to the applicant at the address listed on the application.
 - (iv) An applicant whose application has been denied may appeal the denial to the city manager, whose determination shall be final. Any such appeal shall be by letter or other written communication delivered to the city manager within fifteen (15) days from the date that the notice of denial was mailed.
- (3) The application shall be accompanied by an estimated processing fee, established by resolution of the City Council, designed to recover all City staff costs in processing the application, including but not limited to the city department of public works, the neighborhood services department, and the city attorney. The application shall contain a statement that by executing the application, the applicant agrees to pay any processing costs in excess of the estimated application fee, upon billing thereof by the City.
- (4) The application process shall be administered by the City in a nondiscriminatory manner, through the use of standardized procedures for establishing fair market rental, and a uniform schedule of initial, one time fees. All negotiations and discussions shall be conducted by assigned City staff.

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(d) Agreement for issuance of revocable permit; issuance of revocable permit.

- (1) The City Council shall, by resolution, adopt a form of agreement that shall be utilized for all applicants proposing to locate telecommunications facilities on City-owned property. The agreement form shall specify all of the terms and conditions upon which the permit is to be issued, including but not limited to the term; provisions for renewal; termination and revocation provisions; compensation to the City, including but not limited to a one-time initial fee and rental rates or provision of in-kind services as set forth in subsection (g) of this section; if applicable, provisions for space requirements or reservations for public use; provisions for fee escalation based upon a consumer price index procedure; use and nuisance restrictions; construction requirements and specifications; maintenance and repair responsibilities; insurance, liability limitation provisions, and indemnification obligations; provisions relating to payment of taxes including but not limited to possessory interest taxes, to the extent applicable; assignment restrictions; provisions requiring a permittee to notify before excavation ("one call" requirements); and other provisions as may be required by the city attorney.
- (2) Upon approval by the city director of public works through the real estate services section supervisor of an application pursuant to subsection (c), the applicant shall execute a copy of the pre-approved form of agreement for issuance of a revocable permit. Upon execution of the agreement, City staff shall seek approval of the City Council. Upon City Council approval of the agreement, and upon approval as to form by the city attorney, the city manager or designee shall execute the agreement.
- (3) Upon full execution of the agreement, and subject to subsection (a) and payment by the applicant of any further processing fees owing, the one time initial fee and any rental due, the city director of public works through the real estate services section supervisor shall issue the revocable permit. Each such permit shall be non-exclusive, and shall be in a form approved by the city director of public works through the real estate services section supervisor. The permit form shall refer to the agreement for issuance of revocable permit, which agreement shall govern the permit during its entire term.

- (e) Relocation. Where utility relocation is required either because of the applicant's construction or installation of its facilities, or by virtue of a subsequent City project, the entire utility relocation cost shall be payable by the permittee whose telecommunication facilities are required to be relocated. Nothing in this section

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shall be interpreted to affect, adversely or otherwise, a permittee's ability to recover all or any part of the relocation cost from another utility or provider located on or adjacent to the City-owned property.

- (f) Co-location. Where appropriate and feasible, telecommunication facilities located on City-owned property shall be collocated.
- (g) In lieu of requiring payment of fair market rental, the City may accept in kind services as compensation, provided that such services are of equal value to the fair market rental.

12.04.085 to 12.04.089 Reserved.

Chapter 12.05. Disposition of Surplus Personal Property.

12.05.090 Generally.

Surplus personal property, as defined in this chapter, belonging to the city, including any lost or unclaimed property transferred to the procurement services division of the city according to the provisions of Section 12.06.102 of this title, shall be disposed of according to the provisions of this chapter.

12.05.091 Department heads to submit list of surplus personal property; procurement services division to take possession of such property.

The city manager may, from time to time, require that the head of each department in the city submit to the procurement services division a list of all personal property belonging to such city department which is no longer fit or necessary for the use of such department in the exercise of its functions, and the same shall be known as surplus property.

The procurement services division, shall, thereafter, take physical possession of such surplus property, and shall dispose of such surplus property as provided by sections 12.05.092 and 12.05.094.

12.05.092 Methods of disposition.

The procurement services division shall dispose of surplus property through one of the following methods:

- (a) Sale at public auction to the highest bidder. The notice of such auction must be given by publication in the official newspaper of the city no later than ten days prior to such auction. The procurement services division shall reserve the right to reject any and all bids received for any item.

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In the event the procurement services division rejects any and all such bids so received, it shall not thereafter sell such property at a price less than the highest bid which it received therefor, until it shall first offer such item to the person who submitted the highest bid for such item, at the price bid. In the event such person refuses to purchase such item at such price, the procurement services division may, thereafter, dispose of such property at a lesser price.

- (b) Sealed proposal; provided that the restrictions as to rejecting any and all proposals and thereafter selling the property shall be the same as those for public auctions as set forth in subsection (a) of this section;
- (c) Incidental sale, as provided in Section 12.05.093.
- (d) Consignment. The City Council may, by resolution, determine to dispose of surplus property by putting such property out to sale on consignment if the council finds that such method of sale is likely to bring the highest price to the city. Such resolution shall set forth the minimum price at which such property shall be sold, and shall call for bids for consignees to sell such property. At the same time as the council determines to sell such property on consignment, or later, the council may, by a resolution adopted by a two-thirds vote, determine to waive competitive bidding on such consignment contract if it determines that such waiver is in the best interest of the city.
- (e) Sale to another public agency. Surplus property may be sold to any other public agency, provided that the price is determined to be fair and reasonable. Such determination shall be made by the director of administrative services for a sale for \$100,000.00 or less, and by the City Council for a sale exceeding \$100,000.00. Public agency means the state or any agency or subdivision thereof, any city, county, special district, or school district.
- (f) Donation. By resolution of the City Council, surplus property may be donated to any other public agency or charitable organization exempt under Section 501(c)(3) of the Internal Revenue Code.

12.05.093 Incidental sale of certain items.

- (a) The procurement services division may sell any item of surplus property by incidental sale when it determines that said item:

- (1) Is scrap or salvage material, including, but not limited to, discarded fire hose, a tire casing, a dead storage battery, or worn-out or wrecked automobile or machine body or part;
 - (2) Is perishable; or
 - (3) Has been offered for public sale and no offer to purchase has been received.
- (b) For the purpose of this section the term "incidental sale" shall mean the sale of any item defined in subsection (a) hereof at a price, and at a time and place to be determined by the procurement services division, to any buyer who is willing to pay the price requested, without first advertising such sale or calling for the receipt of bids; provided, however, that the procurement services division may advertise such sale as it may deem advisable.
- (c) Nothing in this section shall be read to limit the ability of the procurement services division to sell, as it may deem proper, any item as defined in part (a) hereof by sale at public auction or by sealed proposal as provided in Section 12.05.092.

12.05.094 Distribution of surplus property to city departments.

The procurement services division may, from time to time, send a list of surplus personal property, including property received from the chief of police according to provisions of Section 12.06.102 to all departments within the city.

The department head of any city department may choose any item of such surplus property from such list to be used by that department in the ordinary transaction of the business of such department, and the procurement services division may thereafter transfer such item to such department without offering the same for public sale.

In the event that more than one department shall request any particular item of surplus property, the city manager shall decide which department shall receive such property.

12.05.095 to 12.05.099 Reserved.

Chapter 12.06. Lost and Unclaimed Property.

12.06.100 Responsibility of finder of lost property.

Any person who shall save or find any personal property, the ownership of which is unknown to such person, shall, within a reasonable time after saving or finding such property, turn the property

over to the police department of the city in compliance with Section 2080.1 of the California Civil Code.

12.06.101 Responsibility of police department.

The police department shall comply with Sections 2080 through 2080.9 of the California Civil Code in the restoration of found property to the owner or finder.

12.06.102 Disposition of property unclaimed by owner or finder.

If, after the expiration of the three month time period specified in Section 2080.4 of the California Civil Code and after notice is published as required by Section 2080.3 of the California Civil Code, the owner fails to redeem the property as hereinbefore set forth, or if the finder of such property fails to pay the cost of publication of the notice concerning such property, or otherwise fails to claim the property, the chief of police shall cause such property to be transferred to the procurement services division of the city; provided, however, that if the property shall consist of lost and unclaimed bicycles or toys, the chief of police may cause such property to be donated to non-profit, tax-exempt charitable organizations which agree, in writing, to donate such property in turn to needy children of the City of Sacramento; and provided further, that if the property shall consist of money, it shall be deposited in the city treasury for disposition as provided by law.

Thereafter, the procurement services division shall dispose of such property in the same manner as it shall dispose of all surplus property of the city, as provided in Section 12.05.092 through 12.05.094 of this title.

Upon the transfer of such property to the procurement services division, the owner of such property, or the finder thereof, shall not thereafter be entitled to redeem such property.

12.06.103 Perishable property.

The provisions of this chapter shall not apply to perishable property. Such property shall be immediately transferred to and disposed of by the procurement services division in the manner provided by Section 12.05.094.

12.06.104 Property subject to confiscation.

The provisions of this chapter shall not apply to any property which is subject to confiscation under the laws of the United States or the State of California.

12.06.105 to 12.06.109 Reserved.

Chapter 12.07. Sale of City Owned Real Property.

12.07.110 General applicability.

The city may sell any real property owned by it in the manner set forth in this chapter.

12.07.111 Notice by city council of sale.

Except as provided by sections 12.07.118 and 12.08.130, the city council shall, by resolution, declare the intent of the city to sell real property by sealed bid. Notice of such intention, together with information regarding the property to be sold, minimum bid required, if any, the date, time and place when bids are to be received and opened, together with any other pertinent information shall be published at least one time in the official newspaper of the city not less than ten days prior to the date on which bids are to be received.

12.07.112 Minimum sale price for property acquired because of nonpayment of taxes or special assessments.

The city council shall establish a minimum sale price for any property acquired because of nonpayment of taxes or special assessments in an amount not less than the aggregate total of all delinquencies, penalties and costs outstanding, unless it specifically finds that the estimated value of such property is less than such outstanding aggregate total and that it would be in the best interest of the city to sell such property for less than such total, in which case it may set such other minimum sale price, if any, which it may deem proper.

12.07.113 Opening bids; acceptance or rejection of highest bid.

- (a) On the date and at the time and place specified in the notice published pursuant to Section 12.07.111, the city clerk shall publicly open and examine all bids received.
- (b) Within thirty days after the receipt of bids, the city clerk shall report to the city council the name of the highest bidder and the amount bid by such person.
- (c) The city council shall, within thirty days after receiving the report of the city clerk as specified in subsection (b) of this section, accept or reject the bid of the highest bidder.

12.07.114 Conveyance of property to highest bidder.

If the city council accepts the bid of the highest bidder, a deed, conveying the right, title and interest which the city may have in the property, signed by the city manager and the city clerk, shall be given such bidder upon prior payment in cash, by certified check or by cashier's check, of the full amount of such bid and any incidental costs pertaining to the transaction.

12.07.115 Rejection of bids; minor errors and informalities; failure of highest bidder to purchase; conveyance to next highest bidder.

The city council may reject any and all bids received. The city council may waive any minor informality or minor error in any bid, but shall not in any case be obligated to do so. If the city council accepts the bid of the highest bidder and such bidder fails within thirty days of such

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acceptance to pay for the property, the council may rescind its acceptance and accept the bid of the next highest bidder, or reject any and all bids, as it may deem proper.

12.07.116 Bid security and other protections.

- (a) The city council may require a bid security of all bidders in form and amount which it deems adequate to insure that the successful bidder will pay for the property.
- (b) Except for any bidder to whom award is made and who fails to purchase the property, the bid security of each successful bidder shall be returned to such bidder, and the bid security of the successful bidder shall be applied to the purchase price or returned to such bidder after payment of such price as such bidder shall elect.
- (c) No bid security shall be returned to a successful bidder who fails to pay for the property as provided in section 12.07.115.
- (d) The city council may require such other controls and protections as may be deemed proper in order to facilitate the sale of property under this chapter.

12.07.117 Independent price determination.

No person submitting any bid or proposal in connection with the sale of real property by City of Sacramento shall:

- (a) propose or bid prices which have not been arrived at independently without consultation, communication, or agreement with any other bidder, offeror or competitor for the purpose of restricting competition as to any matter relating to the prices bid or proposed;
- (b) unless otherwise required by law, prior to opening of the bids or proposals, knowingly disclose any price bid or proposed to any other bidder, offeror or to any competitor;
- (c) make any attempt to induce any other person, firm, or other entity or association to submit or not to submit a bid or proposal for the purpose of restricting competition;
- (d) knowingly be interested in more than one bid as the principal bidder.

In the case of joint venture bids, the joint venture and each and every member of the joint venture shall for purposes of the foregoing be construed to be the person submitting the bid or proposal.

Any violation of this section shall be unlawful and a misdemeanor and shall be punished by a fine not exceeding five hundred dollars or imprisonment for a term not exceeding six months, or

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by both such fine and imprisonment. Any bid received or contract awarded where there was a violation of this section shall be a nullity, and the city council shall dispose of the matter in the same manner as if the bidder involved has failed to enter the contract after award.

12.07.118 Sale of real property without bids.

- (a) The city council may, by resolution, provide for the sale of real property without first calling for bids:
 - (1) When the bid procedure as set forth in this chapter has been used and no bids have been received; or
 - (2) When it finds that such action will be in the best interest of the city.
- (b) The resolution provided for in subsection (a) of this section shall direct the city manager to sell such property on the terms and conditions as may be specified by the council.
- (c) A deed, conveying the right, title and interest which the city may have in the property, executed by the city manager and the city clerk, shall be given to the purchaser of any property sold pursuant to this section, upon prior payment in cash, by certified check, by cashier's check, or by money order, of the full purchase price and any incidental expenses pertaining to the transaction.

12.07.119 Conveyance of land for public purposes.

The city council may, by resolution, convey real property owned by the city to any public body or agency without cost to such body or agency when it finds that the land will be used for a valid public purpose and that such conveyance is in the best interest of the city.

12.07.120 to 12.07.129 Reserved.

Chapter 12.08. Authority of City Manager.

12.08.130 Income or expenditure less than \$100,000.

- (a) Notwithstanding any other provision of this title, the city manager shall have the authority, without the need to comply with the competitive bidding procedures specified in this title, to execute any agreement wherein the amount of the expenditure or income is less than \$100,000.00 and the agreement relates to:

- (1) the disposition, by sale or otherwise, purchase, rental, lease or sublease of real property owned by a private party or by the City;
 - (2) any other agreement regarding real property, or any other agreement covered by this title.
- (b) Any such agreement executed by the city manager shall be binding on the city.
- (c) For purposes of subsection (a) of this section, the expenditure or income with respect to a rental agreement, lease or sublease shall be the actual periodic rental payments required over the entire term of the rental agreement, lease or sublease including any renewal option periods set forth therein, but exclusive of periodic expenses which the tenant is required to pay under the lease, including but not limited to utilities, taxes, insurance, repairs and maintenance.
- (d) For purposes of subsection (a) of this section, with respect to the sale of property owned by the city, the following criteria shall apply:
- (1) Unless the City Manager determines that it is in the best interest of the City to do otherwise, the property shall be listed on the open market, either by the city manager or designee, or with a licensed real estate broker under a listing agreement executed by the city manager or designee, which agreement may be exclusive or nonexclusive;
 - (2) The price shall be established based upon a fair market value appraisal, conducted by city staff or under an agreement executed by the city manager or designee with a qualified independent real estate appraiser;
 - (3) The price as so established shall be less than \$100,000.00;
 - (4) Normal and usual costs associated with the sale of real property, including but not limited to real estate commission, closing costs, escrow costs, and related costs and fees shall not be taken into account in the process of determining whether the income from the sale of the property is less than \$100,000.00; and
 - (5) The entire net income from the sale of the property after reduction for city staff labor reimbursement, if applicable, shall be deposited into the specific

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City fund which, under City accounting procedures, carries or has carried the parcel or parcels of real estate as an asset of the fund.

12.08.131 Income or expenditure \$100,000 or more.

Unless otherwise specified in this title, all agreements specified in Section 12.08.130 involving income or expenditure of \$100,000.00 or more, shall be approved by the city council, for signature by the city manager. The signature by the city manager shall constitute certification that there remains unexpended and unapplied balances of the appropriations or funds applicable thereto sufficient to pay for the city's obligations under the agreement.

12.08.132 to 12.08.139 Reserved.

Chapter 12.09 Relinquishment of Unused Public Service Easements.

12.09.140 Findings.

The Sacramento City Council hereby finds and declares as follows:

- (a) Streets and Highways Code Section 8311 provides that the authority and procedures set forth for the abandonment of public service easements in the Public Streets, Highways, and Service Easements Vacation Law (Streets and Highways Code Sections 8300 et seq.), are alternative to other authorities and procedures that are provided by law.
- (b) One such alternative authority is provided by Government Code Sections 66434(g) and 66445(d), which establish alternative procedures for the abandonment of public streets and easements on final subdivision maps and parcel maps.
- (c) Additional alternative procedures should be established for relinquishing the City's public service easements that are not being used and are not needed for future use.

12.09.141 Definitions.

As used in this chapter, the following words and phrases shall have the meaning set forth in this section:

- (a) City utility facility: A facility that is operated by the City to provide public utility service.
- (b) Director: The Director of Public Works for the City of Sacramento, or his or her authorized representative.

- (c) Property owner: The owner of property that is burdened by an unused public service easement relinquished by quitclaim deed pursuant to the procedures established by this chapter.
- (d) Public service easement: Any “public service easement” as that term is defined in Section 8306 of the Streets and Highways Code, as amended, that is owned by the City.
- (e) Public utility facility: A facility operated by a public agency or privately-owned company to provide public utility service, excluding a City utility facility.
- (f) Unused public service easement: A public service easement that has never been used by a public utility facility and is not necessary for present or future use by any City utility facility or public utility facility, and that also meets any additional criteria applicable to a “summary vacation” under Section 8333 of the Streets and Highways Code, as amended.
- (g) Utilities Director: The Director of Utilities for the City of Sacramento, or his or her authorized representative.

12.09.142 Relinquishment of Unused Public Service Easement.

The owner of property in the City that is burdened by an unused public service easement may request that the Director relinquish the easement pursuant to this section. Upon verifying ownership of the property, determining that the easement is an unused public service easement as defined herein, and obtaining written consent from the Utilities Director, the Director may execute a quitclaim deed conveying the City’s right, title and interest in the unused public service easement to the property owner. The determination whether to execute the quitclaim deed shall be made in the sole discretion of the Director, and the Director’s determination shall be final.

12.09.143 Alternative Authority.

The procedures set forth in this chapter are intended to provide an alternative to any other authority or procedure provided by law for the abandonment or other disposition of an unused public service easement.

12.09.144 to 12.09.149 Reserved.

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MAYOR

ATTEST:

CITY CLERK

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