INCOME AND OTHER PROPERTY

The City owns and manages an extensive and valuable assortment of property including streets, parks, beaches, public buildings and service facilities. The City also owns or ground leases and/or operates a yacht basin, resort hotel and apartment property, a luxury residential development and various other income-producing properties. Much of the income property is tidelands, filled tidelands or waterfront. Unencumbered fee value of income property is substantial.

As owner/manager of property, the City is the steward of a public trust, and state law requires the City to maximize its returns on state-managed property or be subject to a charge of making a gift of public funds. Nevertheless, the City Council recognizes the importance of this property not only as a revenue generator, but also as a means to provide otherwise financially less feasible uses and facilities that benefit the community.

In managing its property, the City will continually evaluate the potential of all City owned property to produce revenue. This may include leasing or licensing unused land, renting vacant space, and establishing concessions in recreation areas or other similar techniques. The City Council will evaluate the appropriateness of establishing new income generating opportunities on City controlled areas using sound business principles and after receiving input from neighbors, users and the public.

The policy of the City Council is that income and other property be held and managed in accordance with the following:

A. Whenever a lease, license, management contract, concession or similar action regarding income property is considered by the City, an analysis shall be conducted to determine the maximum or open market value of the property. This analysis shall be conducted using appraisals or other techniques to determine the highest and best use of the property and the highest income generating use of the property.

B. All negotiations regarding the lease, license, management contract, concession, or similar action regarding income property shall include review of an appraisal or analysis of the use being considered for the property conducted by a reputable and independent professional appraiser, real estate consultant, or business consultant.

C. The City shall seek, whenever practical and financially advantageous, both in the short and long term, to operate or manage all property and facilities directly with City staff or contractors, provided staff have the expertise needed to competently do so, or to oversee the work of contractors.

D. In most negotiations regarding the lease, license, management contract, concession, or similar action regarding an income or other property, the City shall seek revenue equivalent to the open market value of the highest and best use; and, whenever practicable the City shall conduct an open bid or proposal process to ensure the highest financial return.

E. However, in some circumstances the City may determine that use of a property by the public for recreational, charitable or other nonprofit purpose is preferred and has considerable public support, in which case the City may determine that non-financial benefits justify not maximizing revenue from such property. In such circumstances, the City has a vested interest in ensuring that the lessee of such property operates the activities conducted on or from the property in the manner that has been represented to the City throughout the duration of any lease or contract with the City.

F. Whenever less than the open market or appraised value is received or when an open bid process is not conducted, the City shall make specific findings setting forth the reasons thereof.

Such findings may include but need not be limited to the following:

1. The City is prevented by tideland grants, Coastal Commission guidelines or other restrictions from converting the property to another use.

2. Redevelopment of the property would require excessive time, resources, expertise and costs, which would outweigh other financial benefits.

3. Converting the property to another use or changing the operator, manager, concessionaire, licensee, or lessee of the property would result in excessive vacancy, relocation or severance costs, real estate commissions, tenant improvement allowances, expenses or rent concessions which would outweigh other financial benefits.

4. Converting residential property to another use or opening residential leases to competitive bid would create recompensable liabilities and other inequities for long-term residents.

5. The property provides an essential or unique service to the community or a clearly preferred use that enjoys substantial support in the community that might not otherwise be provided were full market value of the property be required.

6. The property serves to promote other goals of the City such as affordable housing, preservation of open space, uses available to the public or marine related services.

7. If the lessee is not (a) a statewide or national nonprofit organization, or (b) a public entity or subdivision thereof, then the City finds that the By-Laws and charter documents of such lessee (i) establishes a procedure wherein the election of directors of such lessee is accomplished by an open, democratic and transparent process that allows members to vote, (ii) has a governance and operational structure that is consistent with best practices for non-profit public benefit corporations as determined by the City Council, and (iii) cannot be amended to affect subparts (i) or (ii) without the prior written consent of the City as lessor.

G. Generally, lengths of licenses, leases, management contracts, concessions, or similar agreements will be limited to the minimum necessary to meet market standards or encourage high quality improvements and will contain appropriate reappraisal and inflation protection provisions. Also, all agreements shall contain provisions to assure complete audits periodically through their terms.

H. All negotiations regarding the license, lease, management contract, concession or similar action regarding income property shall be conducted by the City Manager or his/her designee under the direction of any appropriate City committees.

I. To provide an accurate accounting of actual net revenues generated by the City's income property, all costs directly attributable or allocable to the management of a specific income property shall be charged against the gross revenues collected on that property in the fiscal year the costs are incurred. Costs so chargeable include, but are not limited to, property repairs and maintenance, property appraisals, and consultant fees, as authorized by the City Council, City Manager, or by this Income Property Policy.

J. The City Manager or his/her designee is authorized to sign a license, lease, management contract, concession, or similar agreement or any amendment thereto, on behalf of the City. Notwithstanding the foregoing, the City Manager or his/her designee, or a City Council member, may refer any license, lease, management contract, concession or similar agreement or any amendment thereto, to the City Council for its consideration and/or action.

K. The City's portfolio of quality income producing properties adds an element of diversification to a portfolio otherwise invested primarily in financial assets. Certain of those income properties are restricted from sale by their terms of grant, state agency regulations or rules, other federal and state guidelines, private

covenant or agreement or otherwise. For those properties not so restricted from sale, an analysis shall be prepared to determine the following prior to such income producing property being offered for sale:

1. The maximum open market value of the City's interest in the property in its as is condition.

2. If the property is in an important location, a determination of the possible future consequences of the City no longer controlling that property.

3. If the current rent is contractually low and significant rent increases are likely within a finite period.

4. The likelihood of significant increases in the ability of the property to generate income after the expiration of any current lease of the property.

5. The likelihood of a lease extension being requested by the tenant and the ability to substantially increase rents or require significant improvements to enhance the utility and the value of the property as consideration for granting such an extension.

6. The value of the revenue stream from (i) lease income over the life of an existing lease and/or (ii) likely lease revenue if an existing lease were to be renewed or the property re-let to a different tenant; and/or (iii) lease income from the property if it were to be converted to its highest and best use, compared with the financial benefits of the use of the proceeds of a sale and if, considering the totality of the circumstances, such use of the proceeds of a sale is preferable to retaining the property in question.

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