



CITY OF HOUSTON

Administrative Procedure

Subject: **Environmental Policy for Disposal of Surplus Real Property**

A.P. No. **7.5**

Effective Date:
Upon Approval

1. Purpose

1.1 To establish protocols to enable the City to expedite the disposition of properties, after consideration of potential environmental impacts. Surplus real property with adverse environmental impacts shall not automatically be precluded from disposition to third parties.

2. Method

2.1 Screen properties to determine whether the City has ever actively used the property for any operation, or whether the City merely owned property but never utilized it. Implement appropriate site assessments, full disclosure and contractual provisions.

3. Objectives

If there have been no current or former active City Operations:

- 3.1 Always perform a Phase I Environmental Site Assessment as that term may be currently described by the American Society for Testing Materials (ESA-1).
- 3.2 If the ESA-1 determines that no adverse environmental impact is likely, then transfer property as is, with full disclosure of the ESA-1 to all potential buyers and lessees.
- 3.3 If the ESA-1 determines the property may have adverse environmental impacts, the property will be referred to a committee chaired by the Director of Real Estate (BSD) or by his designee. The committee will include a person or persons designated by the Director of the Mayor's Office of Health and Environmental Policy and a member of the City Attorney's office with environmental expertise who will review such properties on a case-by case basis. The committee will determine whether additional testing should be done or –given that the City has never had operations on the property- it would be appropriate to transfer the property as is with full disclosure. On a case-by-case basis, the City also will consider pursuing prior operators concerning the adverse environmental impact.
- 3.4 The City's ESA-1 will be available during the bidding phase in the Building Services Department and on the BSD website.
- 3.5 If a buyer or lessee performs a Phase II Environmental Site Assessment, as that term may be currently described by the American Society for Testing Materials (ESA-2) prior to the closing of the transaction and the ESA-2 finds the property has adverse environmental impacts (defined for the purpose of this policy as "the presence of regulated substances at levels that have been determined by a regulatory agency to require further investigation or remediation"), then the City will attempt to structure the disposition of the property in such a manner that the City is ensured that the required investigation or remediation will be performed, either by the City or by the buyer or lessee. However, if the attempt to restructure the transaction materially changes the financial terms of the sale, the

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City may terminate the sale and rebid the property with the disclosure of the ESA-1 and the ESA-2. The contractual provisions of the transaction shall control if a buyer or lessee chooses to perform an ESA-2 after the closing of the transaction.

If there are current or have been former active City Operations:

- 3.6 Always perform an ESA-1. Depending on the results of the ESA-1 report and with the advice of the committee mentioned in 3.3 above an ESA-2 may be ordered to confirm whether the City operations may have had a limited environmental effect on the property. The committee may decide to proceed with the sale and notify prospective Buyers or Lessees that performing an ESA-2 is up to them.
- 3.7 The ESA-1 and/or ESA-2 will be available during the bidding phase in the Building Services Department and on the City Surplus Property website.
- 3.8 If the ESA-1 and/or ESA-2 determines that the property has no adverse environmental impacts the property will be transferred as is, with full disclosure of the report(s) to the potential Buyer or Lessee. The Buyer or Lessee shall be free to conduct their own environmental tests and studies as they deem necessary.
- 3.9 If the ESA-2 finds the property has adverse environmental impacts (defined for the purpose of this policy as "the presence of regulated substances at levels that have been determined by a regulatory agency to require further investigation or remediation"), then the property will be referred to a committee, described in Section 3.3 above, that will review such properties on a case-by-case basis. The committee will determine whether the City can structure the disposition of the property in such a manner that the City is ensured that the required investigation or remediation will be performed, either by the City or by the Buyer or Lessee. Any requirements that the committee recommends will be incorporated into the contract for the sale or lease of the property and will be fully disclosed to bidders, so that they will consider those requirements when making their bids.
- 3.10 On a case-by-base basis, the City will consider securing its surplus properties to protect against contamination by third parties, nuisance dumping, or adverse possession.
- 3.11 The Director of Health Policy may approve exceptions to this policy, on a case-by-case basis, with concurrence of the committee described in Section 3.3 above and the director of the department whose property has been declared surplus.