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AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA, AMENDING CHAPTER 2 “ADMINISTRATION,” ARTICLE I “IN GENERAL,” SECTION 2-1 “SALE OF CITY-OWNED PROPERTY,” PROVIDING FOR EXCHANGE OF PROPERTY; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE

WHEREAS, the City of Lake Worth Beach, Florida (the “City”), is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statutes; and

WHEREAS, the City has adopted provisions regulating the sale of City-owned property; and

WHEREAS, the City desires to expand its options for sale of City-owned property to include exchange of property; and

WHEREAS, the City Commission finds and declares that the adoption of this ordinance is appropriate, and in the best interest of the health, safety and welfare of the City, its residents and visitors.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF LAKE WORTH BEACH, FLORIDA:

Section 1. The whereas clauses are incorporated herein as true and correct and as the legislative findings of the City Commission.

Section 2. Chapter 2 “Administration,” Article I “In General,” Section 2-1 “Sale of city-owned property” is hereby amended to read as follows:

Sec. 2-1. Sale of city-owned property.

(a) *Definitions.* As used in this section:

- (1) *Real property or property* shall mean any real property owned by the city, the sale of which is not otherwise prohibited by the charter of the city, an ordinance of the city, or the laws of the state.
- (2) *Surplus property* shall mean city property the city commission has declared is not needed for city purposes.

46 (3) *Good standing* shall mean that the person or entity submitting a bid or offer must
47 have no code enforcement fines, special assessments, taxes, judgments or liens
48 of any kind outstanding to the city and have not withdrawn an offer previously
49 approved by the city.

50
51 (4) *Appraised value* shall mean one hundred (100) percent of the total market
52 value of the real property as reported by the county's property appraiser's
53 current year of certified appraisal market value, or shall mean the opinion of an
54 independent property appraisal employed pursuant to this section.

55
56 a. If an independent property appraisal is requested by the city and prepared for
57 the property, then the appraised value shall be established from this report
58 and not be based upon one hundred (100) percent of the county appraiser's
59 total market value.

60
61 b. If two (2) or more independent property appraisers are employed to appraise
62 the same property, the appraised value will be the average of the appraisals
63 unless the city commission, in its sole discretion, determines otherwise.

64
65 (5) Proven track record shall mean three (3) completed affordable housing
66 projects.

67
68 (b) *Declaration of surplus property.*

69
70 (1) In accordance with F.S. § 166.0451, an inventory list of all real property within
71 the city limits to which the city holds fee simple title shall be prepared at least
72 every three (3) years. Properties found to be appropriate for use as affordable
73 housing by the planning and zoning board shall be delineated on said inventory
74 list and provided to the city commission for public hearing. All properties listed
75 must include the address and legal description of each such property and specify
76 whether the property is vacant or improved. The city commission must review
77 the list at a public hearing and make a determination of the properties appropriate
78 for affordable housing. Following the public hearing, the city commission shall
79 adopt a resolution that includes an inventory list of property to be used as
80 affordable housing.

81
82 (2) The properties identified as appropriate for use as affordable housing on the
83 inventory list adopted by the city commission may be offered for sale and the
84 proceeds may be used to purchase land for the development of affordable
85 housing, or to increase the city fund earmarked for affordable housing, or may
86 be sold with a restriction that requires the development of the property as
87 permanent affordable housing, or may be donated to a nonprofit housing
88 organization for the construction or rehabilitation of a property for permanent
89 affordable housing.

90

91 (3) The city commission may also determine from the inventory list, or it may make
92 an independent decision that, there are properties that are unusable or not
93 needed for city purposes that are not appropriate for affordable housing. In such
94 event, the properties may be sold by competitive sealed bids, by a request for
95 proposals, or by unsolicited proposal or exchanged for other property that is
96 desired for city purposes. If not already included, these properties will then be
97 identified on the inventory list.

98
99 (4) The city may sell the property by any of the following means listed below.

100
101 (c) *Methods of sale.* The city commission may elect to dispose of city-owned surplus
102 property by any of the following means listed below.

103
104 (1) *Competitive sealed bids.*

105
106 a. *[Invitation for bids.]* An invitation for bids shall be issued which shall include
107 the specifications for the purchases sought including any special terms or
108 conditions of sale.

109
110 b. *Public notice.* Prior to bid opening, public notice of the invitation for bid shall
111 be published in a newspaper of general circulation once a week for two (2)
112 consecutive weeks and by any other such means as deemed appropriate by
113 the purchasing manager.

114
115 c. *Bid submission.* Bids shall be accepted only from persons or entities that are
116 in good standing with the city. Bids must be received no later than the time
117 and date and at the location specified for bid opening in the invitation for bid.
118 No bids shall be accepted after such time and date or at any other location
119 than specified. Bids received later, or at any other location specified, or from
120 a vendor not in good standing with the city, shall be returned unopened to the
121 bidder.

122
123 d. *Bid opening.* Bids shall be opened publicly at the time and place specified in
124 the invitation for bids. The name of each bidder, the amount of each bid, and
125 such other relevant information shall be recorded and such information shall
126 be posted.

127
128 e. *Bid cancellation or postponement.* The city may at any time, elect to cancel a
129 bid or postpone the date and/or time of bid submission or opening. After a bid
130 opening, the purchasing manager may cancel a bid if fewer than two (2)
131 responsive, and responsible bids are received.

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(2) *Request for proposals.*

- a. At any time, the city can issue a request for proposals for a property which may include any special terms or conditions of sale.
- b. All responses to the request for proposals must be received no later than the time and date and at the location specified in the request for proposals. No response shall be accepted after such time and date or at any other location than specified. A response received later, or at any other location than specified, or from a person or entity not in good standing, shall be returned unopened.
- c. Cancellation or postponement. The city may at any time, elect to cancel a request for proposals, or postpone the date and/or time of submission or opening. After a request for proposals opening, the purchasing manager may cancel a request for proposals if fewer than two (2) responsive, and responsible responses to the request for proposals are received.

(3) *Unsolicited proposal.*

- a. At any time, the city manager may recommend to the city commission that it consider an unsolicited proposal to purchase city-owned property that the city manager believes qualifies as surplus property. An unsolicited proposal shall be accepted only from persons or entities that are in good standing with the city. In considering the unsolicited proposal the city commission must make a finding that the property is surplus and not needed for city purposes.
- b. The city commission must evaluate the unsolicited proposal and consider the appraised value for the property in the manner as set forth below before accepting an unsolicited proposal.
- c. The city commission is under no obligation to accept an unsolicited proposal.

(4) *Exchange of property.*

- a. At any time, the city commission, upon request or on its own motion, may determine it is in the best interest of the city for city-owned property that is or may, through the transaction, become surplus property be exchanged for other property within the city that the city desires to acquire for city purposes.
- b. An exchange of property shall be authorized only with persons or entities that are in good standing with the city. In considering the exchange of property

174 the city commission must make a finding that the property is, or through the
175 transaction will become, surplus and not needed for city purposes.

176 c. The city commission must evaluate the terms and conditions of the exchange
177 and consider the appraised value for the properties in the manner as set forth
178 below before authorizing an exchange of properties.

179
180 d. The city commission is under no obligation to authorize an exchange of
181 properties.

182
183 (d) *Appraisals for sale of property by sealed bids, request for proposals, ~~and~~ unsolicited*
184 *proposal, and exchanges.*

185
186 (1) *Sealed bids and request for proposals.*

187
188 a. The city, at its option, may determine the appraised value of a surplus
189 property by using one hundred (100) percent of the county property
190 appraiser's total market value for the property. This appraisal shall be
191 available for public view.

192
193 If this method is selected, then no sale by sealed bids shall be authorized
194 unless the bid on the property is equal to at least one hundred (100) percent
195 of current county property appraiser's total market value.

196
197 b. Independent property appraisal. The city, at its option, may determine the
198 value of the property based upon an independent property appraisal (IPA),
199 prepared by an individual who is both a member of the appraisal institute
200 (MAI) and a state certified general appraiser acceptable to the city
201 commissioners. This appraisal shall be available for public view.

202
203 Sales price shall not be less than one hundred (100) percent of the property
204 appraisal report. If the city elects to have the appraisal value determined by
205 an independent property appraisal, then this report shall be the value used in
206 considering the sale of the property.

207
208 (2) *Unsolicited proposal or exchange.*

209
210 a. If the city receives an unsolicited proposal to purchase or is considering
211 exchange of city-owned surplus property that has been assessed by the
212 county property appraiser at less than twenty-five thousand dollars
213 (\$25,000.00), then no formal appraisal shall be required. The property can be
214 sold to the proposer or valued for exchange at no less than one hundred
215 (100) percent of the amount assessed by the county property appraiser.

216
217 b. If the city receives an unsolicited proposal to purchase or is considering
218 exchange of city-owned surplus property that has been assessed by the

219 county property appraiser between twenty-five thousand dollars (\$25,000.00)
220 and fifty thousand dollars (\$50,000.00), then one formal appraisal shall be
221 required. The sale price or exchange value shall not be less than one hundred
222 (100) percent of the fair market value of the property according to an appraisal
223 report made as of a date not earlier than six (6) months before the date that
224 the city commission considers the proposer's request or a date not more than
225 six (6) months before or after the date of the appraisal report for the property
226 to be acquired by the city through the exchange.

227
228 c. If the city receives an unsolicited proposal to purchase or is considering
229 exchange of city-owned surplus property that has been assessed by the
230 county property appraiser for more than fifty thousand dollars (\$50,000.00),
231 then two (2) formal appraisals shall be required. At least one appraisal report
232 shall be prepared by an individual who is both a member of the appraisal
233 institute (MAI) and a state certified general appraiser. The appraiser selected
234 shall be acceptable to the city commissioners. Either the city or the proposer
235 or owner of property to be exchanged may provide the second appraisal
236 report. The sale price or exchange value shall not be less than eighty-five (85)
237 percent of the average of the two (2) appraisals. The appraisals shall be made
238 as of a date not earlier than six (6) months before the date that the city
239 commission considers the proposer's request or a date not more than six (6)
240 months before or after the date of the appraisals for the property to be
241 acquired by the city through the exchange.

242
243 d. Appraisals for property to be acquired by the city through an exchange must
244 meet the same appraisal requirements as set forth above for city-owned
245 property.

246
247 (e) *Sale provisions for sale of property by sealed bids.*

248
249 (1) The city commission at a public meeting shall approve the sale to the highest
250 bidder, subject to the conditions set forth in this section, within forty-five (45) days
251 from the deadline date set for receiving bids.

252
253 (2) All bids must include a deposit check for five (5) percent of offering price or five
254 hundred dollars (\$500.00), whichever is greater.

255
256 (3) In the event of a default on the part of any purchaser of city-owned real property
257 in making full payment or otherwise failing in the performance of the purchaser's
258 obligations under the contract of purchase, the amount of the deposit shall be
259 forfeited unless the contract shall otherwise provide.

260
261 (4) Notwithstanding any rules of general practice for apportioning costs of the sale
262 of property, purchasers of city-owned property shall pay all closing costs,
263 including but not limited to costs of the survey, abstracting, title insurance,
264 brokers fees, real estate commissions, purchaser's attorney's fees and all

265 documentary stamps, as well as the appraisal costs. Any costs incurred by the
266 city must be reimbursed to the city prior to closing.

267
268 (5) The city shall be responsible for all advertisements and or publication expenses
269 which it elects to undertake for the property.

270
271 (6) The city shall have the right at any time to reject any and all bids and to cancel
272 any scheduled sales.

273
274 (f) *Sale provisions for sale of property by request for proposals.*

275
276 (1) The city commission, at a public meeting, shall review the proposals received,
277 and shall select and award the proposal based upon the criteria set forth in the
278 request for proposals. The sale price may be determined at the public meeting
279 or at a subsequent public meeting after negotiation with staff. The sale shall be
280 subject to the conditions set forth in this section.

281
282 (2) All proposals must include a deposit check for five (5) percent of offering price or
283 five hundred dollars (\$500.00), whichever is greater.

284
285 (3) In the event of a default on the part of any purchaser of city-owned real property
286 in making full payment or otherwise failing in the performance of the purchaser's
287 obligations under the contract of purchase, the amount of the deposit shall be
288 forfeited unless the contract shall otherwise provide.

289
290 (4) Notwithstanding any rules of general practice for apportioning costs of the sale
291 of property, purchasers of city-owned property shall pay all closing costs,
292 including but not limited to costs of the survey, abstracting, title insurance,
293 brokers fees, real estate commissions, purchaser's attorney's fees and all
294 documentary stamps, as well as the appraisal costs. Any costs incurred by the
295 city must be reimbursed to the city prior to closing.

296
297 (5) The city shall be responsible for all advertisements and/or publication expenses
298 which it elects to undertake for the property.

299
300 (6) The city shall have the right at any time to reject any and all proposals and to
301 cancel any scheduled sales.

302
303 (g) *Sale provisions for sale of property by unsolicited proposal.*

304
305 (1) The city commission, at a public meeting, shall discuss the unsolicited proposal
306 and determine whether to approve the sale of the property. The sale price may

307 be determined at the public meeting or at a subsequent public meeting after
308 negotiation with staff.

309
310 (2) Should the city commission approve the sale, notwithstanding any rules of
311 general practice for apportioning costs of the sale of property, the purchaser of
312 city-owned surplus property shall pay all closing costs, including, but not limited
313 to, costs of the survey, abstracting, title insurance, brokers fees, real estate
314 commissions, purchaser's attorney's fees and all documentary stamps, as well
315 as the appraisal costs. Any costs incurred by the city must be reimbursed to the
316 city prior to closing.

317
318 (3) The sale must take place no later than six (6) months from the date of approval
319 by the city commission.

320
321 (h) Exchange provisions for exchange of property.

322
323 (1) The city commission, at a public meeting, shall discuss the terms and
324 conditions of the exchange and determine whether to approve the exchange of
325 property. The exchange value of each property to be exchanged and any other
326 terms and conditions of the exchange may be determined at the public meeting
327 or at a subsequent public meeting after negotiation with staff.

328
329 (2) Prior to such public meeting of the city commission where a determination may
330 be made, the city must publish, once a week for at least two (2) weeks, in a
331 newspaper of general circulation in the city, a notice setting forth the terms and
332 conditions of the exchange.

333
334 (3) Following the required notice, the city commission may authorize the exchange
335 of properties by resolution.

336
337 (4) Should the city commission authorize the exchange, notwithstanding any rules
338 of general practice for apportioning costs of the sale of property, the party
339 receiving city-owned surplus property through exchange shall pay all closing
340 costs, including, but not limited to, costs of survey(s), abstracting, title
341 insurance, brokers fees, real estate commissions, its attorney's fees and all
342 documentary stamps, as well as the appraisal costs. Any costs incurred by the
343 city must be reimbursed to the city at or prior to closing.

344 (i) Exceptions.

345
346 (1) Notwithstanding the foregoing sections, the city commission, at a scheduled
347 public meeting by a simple majority vote, may waive the requirements regarding
348 minimum bid amount, method of sale and sale of surplus property, and convey
349 property to the Lake Worth Community Redevelopment Agency or for property
350 located in a residentially zoned area, convey said real property to a 501(c)3
351 organization with a proven track record in the affordable housing industry. In such

352 event, the Lake Worth Community Redevelopment Agency or the 501(c)3
353 organization shall be responsible for paying all closing costs, including but not
354 limited to, the cost of the survey, abstracting, title insurance, broker's fees, real
355 estate commissions, attorney's fees and documentary stamps, as well as
356 appraisal costs and any costs that the city incurred in obtaining clear title of the
357 property.

358
359 (2) The Lake Worth Community Redevelopment Agency and the 501(c)3
360 organization awarded city surplus real property must apply for a building
361 permit within one hundred twenty (120) days of obtaining clear marketable title
362 or the property reverts back to the city. The city commission in its discretion may
363 extend this time period.

364
365 **Section 3. Severability.** If any section, subsection, sentence, clause, phrase or
366 portion of this Ordinance is for any reason held invalid or unconstitutional by any court of
367 competent jurisdiction, such portion shall be deemed a separate, distinct, and
368 independent provision, and such holding shall not affect the validity of the remaining
369 portions thereof.

370
371 **Section 4. Repeal of Laws in Conflict.** All ordinances or parts of ordinances in
372 conflict herewith are hereby repealed to the extent of such conflict.

373
374 **Section 5. Codification.** The sections of the ordinance may be made a part of
375 the City's Code of Ordinances and may be re-numbered or re-lettered to accomplish such,
376 and the word "ordinance" may be changed to "section", "division", or any other appropriate
377 word.

378
379 **Section 6. Effective Date.** This ordinance shall become effective ten (10) days
380 after its final passage.

381
382 The passage of this ordinance was moved by _____, seconded by
383 Commissioner _____, and upon being put to a vote, the vote was as follows:

- 384
385 Mayor Betty Resch
386 Vice Mayor Herman Robinson
387 Commissioner Christopher McVoy
388 Commissioner Sarah Malega
389 Commissioner Kim Stokes

390
391 The Mayor thereupon declared this ordinance duly passed on first reading on the
392 _____ of _____ 2022.

393
394
395 The passage of this ordinance on second reading was moved by Commissioner
396 _____, seconded by Commissioner _____, and upon being put to a vote, the
397 vote was as follows:

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Mayor Betty Resch
Vice Mayor Herman Robinson
Commissioner Christopher McVoy
Commissioner Sarah Malega
Commissioner Kim Stokes

The Mayor thereupon declared this ordinance duly passed on the _____ day of _____, 2022.

LAKE WORTH BEACH CITY COMMISSION

By: _____
Betty Resch, Mayor

ATTEST:

Melissa Ann Coyne, City Clerk