

RESOLUTION NO. 101024-04

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA VERNIA, TEXAS,
ADOPTING A SURPLUS ASSET DISPOSAL POLICY; ESTABLISHING AN
EFFECTIVE DATE**

WHEREAS, A Surplus Asset Disposal policy is considered to be a best practice when adopted in a manner in which the Council would declare property that The City Administrator and various department heads determined to be of no further use to the City to be surplus in accordance with all state applicable laws as outlined under Local Gov't Code § 263.151; and

WHEREAS, the proposed policy states that the Council will recommend the disposal method of the property and the City Administrator will carry out that action.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LA VERNIA, TEXAS:

Section 1. The City Council of the City of La Vernia, Texas hereby declares the attached Exhibit A as the Surplus Asset Disposal Policy and authorizes the sale of any such properties in accordance with the forgoing legislative findings.

Section 2. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section 3. All resolutions or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

Section 5. If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City Council hereby declares that this Resolution would have been enacted without such invalid provision.

Section 6. It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject

matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, Texas Government Code, as amended.

Section 7. This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

PASSED AND APPROVED this 10th day of Oct, 2024.

Martin Poore, Mayor

ATTEST:

Madison Farrow, City Secretary

Exhibit A

Surplus Asset Disposal Policy

OBJECTIVE: This policy provides guidelines for how the City will dispose of surplus assets.

SCOPE : This policy applies to all employees and City Council Members.

DEFINITIONS:

"**Surplus Property**" means personal property that possesses some usefulness for the purpose for which it was intended, is not waste, is not currently needed by its owner, and is not required for the owner's foreseeable needs. See Local Gov't Code § 263.151.

"**Personal Property**" is "everything that is subject to ownership not falling under the definition of real estate" and includes things such as money and goods. *San Antonio Area Found. v. Lang*, 35 S.W.3d 636, 640 (Tex. 2000). such as furniture, fixtures, equipment, vehicles, tools, clothing, or such other items of value, which have lost useful value to the City or have become obsolete. All property is owned in the name of the City of La Vernia and is not vested in any specific department.

Under state law, "**Salvage Property**" generally refers to personal property that is damaged, used, or consumed so that it has no value for the purpose for which it was originally intended. See, e.g., TEX. GOV'T CODE § 2175.001; TEX. LOC. GOV'T CODE §§ 263.151, 352.002.

BACKGROUND: The procedures the city must follow to sell, convey, or otherwise dispose of its personal property depends upon the nature of the property at issue and provisions that govern that property. Thus, the precise manner in which the city may dispose of any particular personal property may depend on state law and local policies or ordinances. That being said, for most items of personal property there is no general statutory scheme that dictates the manner of disposition. In other words, there is no statute that generally requires that a City hold an auction or advertise and receive bids to sell its personal property. See TEX. LOC. GOV'T CODE § 252.022(a)(12)(C) (providing that personal property sold by a City is exempt from Local Government Code Chapter 252). However, in order to avoid any appearance of impropriety in the transaction. Cities sometimes have local ordinances, policies, or charter provisions that address this issue.

Chapter 51 of the Local Government Code says that a Type A city may "lease, grant, or convey" property. TEX. LOC. GOV'T CODE §§ 51.015, 51.034. Authority to dispose of personal property is also found in statutes outside of Chapter 51. A transaction to dispose of personal property does not violate provisions of the Texas constitution if: (1) It has as its predominant purpose the accomplishment of a public purpose of the City (as opposed to a private purpose); (2) The City places sufficient controls on the transaction to ensure that the public purpose is carried out; and (3) The City receives a return benefit.

POLICY: The City Administrator in conjunction with various department heads will recommend real property for the City Council to review before it is declared surplus. The City Council shall determine when the recommended property meets the definition of "surplus property" by vote. (discussion action)

Once the property has been declared surplus by City Council, surplus equipment may be disposed of by one of the following methods:

- Sold competitively by public auction or by accepting sealed bids;
- Traded in for new equipment; or
- If the item has no value except for salvage, the City Administrator or their designee, may authorize such items to be sold as scrap.

From there, various department heads will be directed to dispose of surplus property and salvage items by posting notice on any applicable public forum or facility and requesting sealed bids or by using a public auction. When the equipment, material or other property becomes surplus, an auction sheet will be filled out. City decals, and other equipment still maintained by the city must be removed from all surplus City vehicles and machinery before sale.

Before trading in equipment, the department head must prepare a memo to the City Administrator stating the piece of equipment to be traded-in, reasons for it being declared surplus, the surplus Asset Disposal price recommendation, and the value of the trade-in. After approval of the City Administrator, the requesting memo and approval must be submitted to the Finance Department.

City employees/City Council Members and their immediate families may purchase any surplus City property either by sealed bid, at an auction, or resale from a trade-in.