



FLORIDA DEPARTMENT OF STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

January 17, 2017

Honorable Karen E. Rushing
Clerk of the Circuit Court
Board Records Department
Sarasota County
1660 Ringling Boulevard, Suite 210
Sarasota, Florida 34236

Attention: Moana Pele, Recording Secretary

Dear Ms. Rushing:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Sarasota County Ordinance No. 2016-087, which was filed in this office on January 17, 2017.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

BOARD RECORDS
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KAREN E. RUSHING
CLERK OF CIRCUIT COURT
SARASOTA COUNTY, FL

ORDINANCE NO. 2016-087

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA RELATING TO THE DISPOSITION OF REAL PROPERTY ENTITLED THE "SARASOTA COUNTY SURPLUS LANDS CODE"; REPEALING AND REPLACING ARTICLE IX, CHAPTER 2 OF THE SARASOTA COUNTY CODE ADOPTED BY ORDINANCE NO. 2013-021; PROVIDING FOR A SHORT TITLE; PURPOSE AND INTENT; APPLICABILITY; AND DEFINITIONS; ESTABLISHING STANDARDS AND PROCEDURES APPLICABLE TO SURPLUS LAND DECLARATION; DETERMINING METHOD OF SURPLUS LAND SALE; BID SALE; PRIVATE SALE; COUNTY SALE; DETERMINATION AS TO LAND VALUE; AND NOTICE GENERALLY; CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, SCRIVENER'S ERRORS AND AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners has the right and authority to sell County-owned property under the provisions of Section 125.35, Florida Statutes; and

WHEREAS, Section 125.35(3), Florida Statutes, provides the Board with the authority to adopt an ordinance establishing alternative standards and procedures applicable to the sale or conveyance of real property owned by the County; and

WHEREAS, the establishment of alternative procedures for the sale of surplus County property will facilitate a more efficient return of surplus lands to the tax rolls; and

WHEREAS, the Board finds it is appropriate and in the best interest of the public to adopt standards and procedures applicable to the sale and conveyance of County surplus real property.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA:

Section 1.

This Ordinance repeals and replaces Ordinance No. 2013-021, codified as Article IX, Chapter 2 of the Sarasota County Code.

Section 2-360. - Short Title.

This Ordinance will be known as the "Sarasota County Surplus Lands Code."

FILED FOR THE BOARD RECORDS
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CLERK OF THE BOARD OF COUNTY COMMISSIONERS

Section 2-361. - Purpose and intent.

This Article sets forth procedures for lease or sale of surplus real property owned by Sarasota County. The provisions for Bid Sale and Private Sale are intended to implement Sections 125.35(1) and (2) of the Florida Statutes, respectively. The provisions for County Sale establish an alternative mechanism pursuant to Section 125.35(3), Florida Statutes. Conveyance of property taken by eminent domain is governed by Section 73.013, Florida Statutes. Closing and abandonment of roads is governed by Sections 336.09 through 336.125, Florida Statutes. Nothing herein should be construed as limiting the Board's ability to dispose of property by any other statutorily authorized or lawful method.

Section 2-362. - Applicability.

This Article is applicable to the disposition of County-owned real property declared surplus by the Board of County Commissioners.

Section 2-363. - Definitions.

Board means the Sarasota County Board of County Commissioners.

County Administrator means the Sarasota County Administrator or designee.

Land(s) means real property owned by County.

Manual means the Surplus Lands Manual.

Surplus Property means land owned by the County that the Board has determined is not necessary to serve a public purpose.

Surplus Property Inventory means a list of Surplus Property which the County has determined is currently available for disposal.

Section 2-364 – Delegation of Authority.

The County Administrator or designee(s) shall have authority over the preparation of a Surplus Lands Manual. Further, the County Administrator or designee(s) is authorized to adopt systems, procedures, standards and evaluation tools related to the effective disposal of County surplus lands, which shall be included in the Manual.

Section 2-365. - Disposition of Surplus Property

(a) Surplus Land Declaration

(1) *Discretionary act.* Declaring real property as surplus is a discretionary act of the Board. It is not subject to appeal. A Surplus Property declaration is not required for the lease of

real property owned by the County if the proposed lease is for a term of one (1) year or less. To lease real property owned by the County to an individual or an entity other than those allowed under Section 125.38 Florida Statutes for a period exceeding one (1) year, the Board may declare the property to be temporary surplus until such time that the Board determines there is a need for the property and shall compete the lease in accordance with one of the surplus disposition methods described herein.

(2) *Recommendation.* The decision to declare real property as surplus will be based upon a recommendation from the County Administrator. This recommendation will be presented to the Board and may address any or all of the following factors:

- a. Any potential use of the parcel for a County purpose;
- b. Potential purchasers of the property, if known;
- c. Current zoning, site dimensions, and other factors related to use of the site;
- d. Value estimate;
- e. Any recommended conditions on the transfer of title (e.g., limitation on access or use); and
- f. Estimated costs associated with the disposition to be paid by the County, if any.

(b) Determining Method of Surplus Property Sale or Lease

(1) *Alternatives.* Florida Statutes provide a number of alternative methods for the disposition of Surplus Property. These include:

- a. Bid Sale (Section 125.35(1), Florida Statutes)
- b. Private Sale (Section 125.35(2), Florida Statutes)
- c. County Sale (Section 125.35(3), Florida Statutes)
- d. Conveyance to Governmental Entity or Charitable Institution (Section 125.38, Florida Statutes)
- e. Like Kind Exchange (Section 125.37, Florida Statutes)

This Article establishes standards and procedures with respect to the disposition of Surplus Property under subsections (1), (2) and (3) of Section 125.35, Florida Statutes. Conveyances or leases pursuant to Section 125.38, Florida Statutes, and exchanges pursuant to Section 125.37, Florida Statutes, shall be made in accordance with the applicable statute and neither are governed by this Article.

(2) *Method selection.* In absence of specific Board direction, the County Administrator has the sole discretion to determine the method to be used in disposing of Surplus Property. Neither the Board nor the County Administrator's decision is subject to appeal. Exercise of discretion will be based upon consideration of the following factors:

- a. Land value;
- b. Length of time the property has been in the Surplus Property Inventory;
- c. Costs associated with the disposition;
- d. Benefit of the disposition to the County;
- e. Parties requesting disposition;
- f. Previous attempts to dispose of property using alternative methods; and
- g. Development potential of parcel.

The County may engage the services of a Florida licensed real estate broker to assist in disposing of surplus property.

(3) *Deposit.* A deposit may be required from the selected bidder or respondent as a condition of approving a purchase contract. The amount of such deposit shall be stated in the solicitation specifications.

(c) Bid Sale

(1) *Generally.* The Bid Sale process is controlled by the provisions of Section 125.35(1), Florida Statutes.

(2) *Request.* Any person may request a Bid Sale of property by filing a written request with the County Administrator. The request must specifically identify the property and include a statement as to a bonafide intention to purchase the property. A Bid Sale may also be initiated by the County Administrator based upon a review of the Surplus Property Inventory.

(3) *Surplus Determination.* If a person seeks to purchase a parcel not currently in the Surplus Property Inventory, then a recommendation as to the appropriateness of declaring the parcel surplus may be sent to the Board in accordance with subsection (a), above. If the Board declares the parcel surplus, then the request can proceed through the disposition process.

(4) *Notice.* A notice calling for bids must be published in a newspaper of general circulation once a week for at least two weeks prior to Board approval of any real estate purchase contract resulting from the Bid Sale process. The notice must indicate the location of the subject property, where a bid package may be obtained, and the bid submittal deadline. The notice shall

also specify the amount of any deposit or surety bond which may be required to be submitted with each bid.

(5) *Auction.* A bid sale may also be conducted by a public auction held by a licensed real estate broker or auctioneer.

(6) *Bid Acceptance.* All bids must comply with the County-approved bid specifications. Only bids meeting these specifications will be considered. In the event that two or more bids are for the same amount and there are no other material differences, either or any of such bids shall be deemed to be the highest and best bid and the County Administrator, or designee, is authorized to select between or among such bids by a means of random selection as set forth in the Manual.

(7) *Purchase Contract.* The Board may enter into a purchase contract for the sale of the parcel to the highest acceptable bidder, as determined by the Board in the Board's sole discretion. The Board may enter into a purchase contract for the sale of the parcel to a sole bidder. However, the Board has the right to reject any and all bids for any reason. A deposit or surety bond may be required from each bidder in such amount as set forth in the solicitation documents.

(8) *Alternative Disposition.* If a Bid Sale is not successful, the County Administrator may pursue an alternative disposition method or retain the property in the Surplus Property Inventory.

(d) Private Sale

(1) *Generally.* The Private Sale process is controlled by the provisions of Section 125.35(2), Florida Statutes. A Private Sale is appropriate only after the Board determines that:

- a. The parcel of real property is of insufficient size and shape to be issued a building permit for any type of development to be constructed on the property; and the parcel is of use only to one or more adjacent property owners due to the size, shape, location and value of the parcel; or
- b. The value estimate of the parcel is \$15,000 or less, as determined by a fee appraiser designated by the Board or by the County Property Appraiser, and the parcel is of use only to one or more adjacent property owners due to the size, shape, location, and value of the parcel.

(2) *Request.* A person may request a Private Sale of property by submitting a written request to the County Administrator. The request must specifically identify the property and include a statement as to a bonafide intention to purchase the property. A Private Sale may also be initiated by the County Administrator based upon a review of the Surplus Property Inventory.

(3) *Surplus Determination.* If a person seeks to purchase a parcel not currently in the Surplus Property Inventory, then a recommendation as to the appropriateness of declaring the

parcel surplus may be sent to the Board in accordance with subsection (a), above. If the Board declares the parcel surplus, then the request can proceed through the disposition process.

A request to purchase property already declared surplus by the Board does not require additional Board action until a purchase contract is executed by the potential buyer and presented for Board approval.

(4) *Notice.* A written notice of the intent to sell the property under the Private Sale alternative must be sent to all adjacent property owners by certified mail. The notice must: (a) identify the property, (b) inform the property owners how to submit an offer to purchase the parcel, (c) specify the required time frame for submittal of an offer and (d) describe the process.

(5) *Multiple offers to purchase.* If two or more adjacent property owners notify the County of a desire to purchase the surplus parcel, then the County will solicit sealed bids from those property owners.

(6) *Purchase Contract.* The Board may enter into a purchase contract for the sale of the parcel with the highest acceptable bidder as determined by the Board in the Board's sole discretion. The Board may enter into a purchase contract for the sale of the parcel to a sole bidder. However, the Board has the right to reject any and all bids for any reason.

(e) County Sale

(1) *Authority and Scope.* This Section is enacted under the authority of Section 125.35(3), Florida Statutes, to prescribe additional disposition standards and procedures to be used by the County in selling, conveying or leasing real property for a term in excess of one (1) year. Leasing or otherwise providing for the use of real property for a term of one (1) year or less is not governed by this Section. Regardless of the length of the term, concession agreements, license agreements, operating agreements, recreational facility use agreements or other agreements requiring the use of real property but whose primary purpose is to provide services to the County or to the public are not governed by this Article. Such agreements shall be subject to competition to the extent required by the Sarasota County Procurement Code. The Board may choose to exercise its economic development powers under the authority of Section 125.045, Florida Statutes, in connection with the disposition of real property.

(2) *Standards.* The Board may negotiate, approve and execute lease, sale, conveyance or development agreements for real property to be used by a private party in a manner directly benefiting the County or otherwise for a governmental or public purpose. In no event shall the uses permitted by any such lease, sale, conveyance or development agreement violate the County's zoning regulations or comprehensive plan.

(3) *Procedures.*

a. The following procedures shall apply to selected transactions relating to negotiated lease, sale, conveyance or development agreements benefiting the County or

otherwise for governmental or public purposes:

1. The selection of private parties for lease, sale, conveyance or development agreements shall result from an open competitive process. Examples of competitive solicitations that comply with the terms of this Section include, but are not limited to, invitations to negotiate requests for proposals and requests for letters of interest.
2. Notice of each solicitation shall be published in a newspaper of general circulation in the County not less than ten (10) calendar days prior to the date on which responses to the solicitation are due. The notice shall indicate how copies of the solicitation can be obtained or electronically accessed by interested parties and state the date and time responses will be opened.
3. The County staff will have the right to require additional information and interview any, all or none of the respondents. The interview format and content will be at the staff's discretion. The staff will have the right to conduct site visits of the respondents' facilities and/or of any current project(s) managed by the respondents.
4. Solicitation submittals will be reviewed and evaluated by the County staff to determine how the written responses and additional information address the County's needs and requirements, as stated in the solicitation. Evaluation criteria may include, but not be limited to the following:
 - (a) Respondent's ability to perform its obligations under the proposed lease, sale, conveyance or development agreement;
 - (b) The financial obligations, if any, to be borne by the County;
 - (c) Respondent's past record of performance;
 - (d) Experience of the respondent and the respondent's team, if applicable;
 - (e) Recent, current and projected workloads of the respondent and the respondent's team.

Additional evaluation criteria may be included in each solicitation.

5. If two or more responses are received, the staff will present a report detailing each response to the Board for its consideration. All respondents shall be notified of the meeting date and time. The Board may either terminate the solicitation process or authorize the County Administrator to

begin negotiating an agreement with the respondent the Board determines to best meet the evaluation criteria.

6. Upon selection of a respondent by the Board, a proposed lease, sale, conveyance or development agreement will be negotiated by the County Administrator. Negotiations may include revisions to all terms and conditions submitted by the respondent. Each party shall be solely liable for all of its own fees, costs and other expenses in conjunction with negotiation and preparation of the lease, sale, conveyance or development agreement. No legally binding obligations on the parties will be created, implied or inferred until a lease, sale, conveyance or development agreement has been negotiated, approved by the Board and executed by the parties.
7. The County Administrator will present the proposed lease, sale, conveyance or development agreement to the Board for consideration. The Board may approve or reject the proposed lease, sale, conveyance or development agreement in its sole and absolute discretion.
8. In the event only one response is received, the County Administrator or designee may negotiate a contract for the proposed lease, sale, conveyance, or development agreement in accordance with Paragraph 6 above, for consideration by the Board in lieu of presenting a report to the Board. The Board may approve or reject the proposed lease, sale, conveyance or development agreement in its sole and absolute discretion.

(4) *Request.* A County Sale may also be initiated by the County Administrator based upon a review of the declared Surplus Property Inventory. Any person may request a County Sale of property by submitting a written request to the County Administrator. The request must specifically include the following:

- a. Name of the person or legal entity interested in the property;
- b. The reason for acquiring the property;
- c. The legal description, parcel identification number and street address of the property;
- d. A statement as to a bonafide intention to purchase the surplus property;
- e. The name of any real estate broker involved in the sale; and
- f. Any other information the applicant deems relevant.

(5) *Surplus Determination.* If a person seeks to purchase a parcel not currently in the Surplus Property Inventory, then a recommendation as to the appropriateness of declaring the parcel surplus may be sent to the Board in accordance with subsection (a), above. If the Board declares the parcel surplus, then the request can proceed through the disposition process.

A request to purchase property already declared surplus by the Board does not require additional Board action until a purchase contract is executed by the potential buyer and presented for Board approval.

(6) *Notice.*

a. *Types of notice.* Once the parcel has been properly designated surplus, notice of the availability and potential sale of the parcel will be provided through at least two of the following means:

- (1) County Website (www.scgov.net/surpluslands);
- (2) Sign on the parcel;
- (3) Posted notice in the Courthouse;
- (4) Certified mail notice to adjacent property owners;
- (5) Notice to names on the surplus lands mailing list;
- (6) Newspaper or other print advertisement.
- (7) Electronic media notice or advertisement.

b. *Notice period/deadline for response submittal.* The deadline for submittal of responses will be a minimum of thirty (30) days from the date the Notice of Availability for Sale is first published on the County Website.

(7) *Negotiation of Purchase Contract.* The County will attempt to negotiate a purchase contract with the respondent submitting the response deemed to be the most beneficial to the County, as determined by the Board in the Board's sole discretion. The negotiation period will be stated in the solicitation. If the County is unable to successfully negotiate a purchase contract within the negotiation period, then the County may cease negotiations and proceed to negotiate with other respondents.

(8) *Purchase Contract.* Once a purchase contract has been negotiated, the contract will be sent to the Board for consideration and approval. Any party may address the Board with respect to the purchase contract during Open to the Public. The date the item will appear on the Board agenda will be available on the County website.

(9) The Board has the right to reject any and all purchase contracts for any reason.

(10) The Board may enter into a purchase contract for sale of the parcel to a single respondent.

(f) Determination as to Estimated Value of Land

The County Administrator will determine the estimated value of the Surplus Property. This determination may be based upon the assessed value as set by the County Property Appraiser, by staff recommendations or by an appraisal prepared by an independent state certified real estate appraiser acceptable to the County Administrator.

Determinations as to the estimated value of surplus land must consider and evaluate the following:

1. Configuration of property;
2. Location;
3. Uplands/wetlands;
4. Environmental concerns;
5. Ability to develop the parcel in accordance with applicable regulations;
6. Current zoning on the parcel;
7. Access;
8. Highest and best use of the parcel;
9. Encumbrances on title.

(g) Notice Generally

(1) *County Website.* The address for the County website is www.scgov.net/surpluslands. This site includes a listing of all property currently held by the County as Surplus Property that are actively for sale or under a sales contract. The forms and/or procedures applicable to purchasing surplus County property are set forth on the site. The information available at this site will be updated on an ongoing basis, but not less than once each quarter.

(2) *Sign on the subject parcel.* This sign will indicate the property is available for purchase. It will also provide a contact phone number for additional information as to pending purchases or offers to purchase.

(3) *Posted notice in the Courthouse.* Property to be sold under the County Sale alternative may be listed on a notice posted in the Courthouse. This notice will identify the parcel, its location, the solicitation closing date and the place to obtain information on the solicitation process.

(4) *Mailed notice to adjacent property owners.* A notice sent via Certified Mail directly to the adjacent property owners may be provided in the context of a Private Sale or County Sale. This notice will contain information as to the pending sale and how to submit an offer.

(5) *Notice to names on the surplus lands mailing list.* Persons on the surplus lands mailing list may receive a courtesy notice as to all pending surplus lands sales on a quarterly basis. This notice will be sent via e-mail to the address provided by the requesting party unless otherwise specifically requested by the person. This is a courtesy notice only and failure to send this notice will not constitute a defect in the sale procedure.

(6) *Newspaper Advertisement.* A newspaper advertisement is required for Bid Sales. However, advertisements may be used at the County Administrator's discretion at any time in conjunction with the sale of Surplus Property under the Private Sale or County Sale Process.

Section 3. - Conflicts of Law.

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

Section 4. - Severability.

If any provision of this Ordinance is for any reason finally held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining provisions.

Section 5. - Codification and scrivener's errors.

The Board of County Commissioners intend that this Ordinance will be made part of the Sarasota County Code; and that sections of this Ordinance can be renumbered or relettered and that the word "ordinance" can be changed to "section", "article" or some other appropriate word or phrase to accomplish codification, and regardless of whether this Ordinance is ever codified, the Ordinance can be renumbered or relettered.

Section 6. - Effective date.

This Ordinance shall become effective upon filing with the Office of Secretary of State of the State of Florida.

PASSED AND DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA, this 10th day of January, 2017.

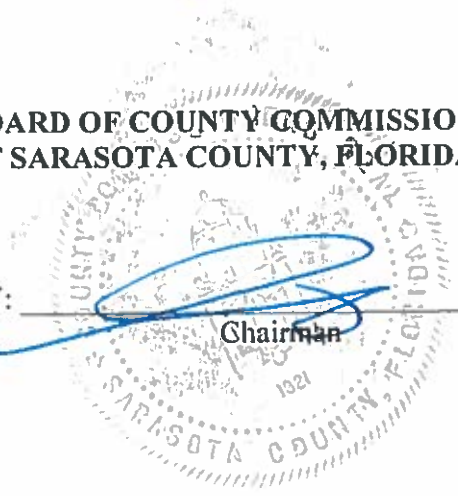
ATTEST:

KAREN E. RUSHING,
Clerk of the Circuit Court and
Ex-Officio Clerk of the
Board of County Commissioners
of Sarasota County, Florida

By: *Moana Pele*
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF SARASOTA COUNTY, FLORIDA

BY: *[Signature]*
Chairman



○ 2016-087