

ORDINANCE NO. 1049

**AN ORDINANCE ADOPTING SEC. 22A-22
DISPOSITION OF CITY-OWNED REAL PROPERTY.**

WHEREAS, Article IV, Sec. 16 of the *Charter of the City of Fort Morgan* (1914) provides that the Council shall have the power to sell and dispose of real and personal property; and

Whereas, the Mayor and City Council desire to adopt Sec. 22A - 22 to allow for the disposition of city-owned real property by sealed bid.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF FORT MORGAN, COLORADO that Sec. 22A-22 is hereby adopted as follows:

22A-22 Disposition of City-Owned Real Property

- 22A – 22.1 Purpose.
- 22A – 22.2 Objectives.
- 22A – 22.3 Procedure.
- 22A – 22.4 Determination of bids.
- 22A – 22.5 Post-bidding procedure.
- 22A – 22.6 Awarding of bid.
- 22A – 22.7 Disposition contract.
- 22A – 22.8 Applicability.

22A – 22.1 Purpose.

The purpose of this Section is to set forth the rules and regulations to enable the Mayor and Members of Council to establish a uniform procedure for the disposition of city-owned surplus or unused real property, including such land located in the Fort Morgan Industrial Park, to ensure that disposition of such property will be developed in the most appropriate use for the public.

22A – 22.2 Objectives.

The objectives of this Section are as follows:

- A. To establish a uniform procedure for the disposition of city-owned surplus or unused real property, including such land located in the Fort Morgan Industrial Park, determining a winning bid and the negotiating a contract for sale;
- B. To encourage the sale of surplus or unused real property in a manner beneficial to the City of Fort Morgan;
- C. To encourage development that will maximize the public investment in existing capital improvements further promoting the efforts of the City of Fort Morgan;

22A – 22.3 Procedure.

The following procedure shall govern the sale of city-owned surplus or unused real property.

- A. The Superintendent of Public Works shall determine whether the city-owned land is surplus or unused in accordance with the *Charter* of the City of Fort Morgan and by recommendation to the City Council request the sale or disposition of such real property.
- B. The City Council may approve the sale or disposition of such property, and direct the Superintendent of Public Works to publish a notice inviting sealed bids.
- C. A notice inviting bids shall be published in the *Fort Morgan Times* not less than **sixty (60) days** prior to the deadline for closing bids, unless such property is located in the Fort Morgan Industrial Park, at which time notice shall be published not less than **thirty (30) days** prior, to the close of bids. Such notice shall identify the specific property to be sold, the legal description of the parcel to be sold, and the minimum sale price as determined by the Council
- D. The Superintendent of Public Works shall establish the manner in which all bids shall be submitted in response to the notice. All bids shall contain sufficient information to specifically address the items as set forth in Section 22A – 22.3.
- E. All bids made for the purchase of land in the Fort Morgan Industrial Park shall be accompanied by an Economic Development Incentive Application
- F. No bid shall be accepted for less than the acceptable minimum bid as determined by council and full amount of the bid must accompany each bid. The City of Fort Morgan reserves the right to reject any and all bids, or to award the bid most advantageous to the City.

22A – 22.4 Determination of bids.

After all bids have been opened and all information reviewed and compiled, the Superintendent of Public Works shall present the information to the City Council; the City Council shall then consider the following:

- A. The demonstrated financial and legal ability of the person making the bid to implement the proposal;
- B. The significance of the positive impact on the City of Fort Morgan;
- C. The potential of the development for providing employment opportunities;
- D. The monetary value offered for the land, as well as the monetary value of the proposed development upon completion;
- E. A preliminary development plan for the property which shall consist of a description of all proposed uses and the type of development proposed for the property, including the preliminary design of all proposed building and structures, including a site plan of the proposed building or structures and all amenities proposed to be developed therewith;
- F. Any other criteria the City Council may wish to consider to make its determination.

22A – 22.5 Post-bidding procedure.

Upon acceptance, the successful bidder shall provide the City Council with the following information:

- A. The financial and legal ability to implement the purchase and improvement to the subject real property;
- B. A preliminary development plan which will provide employment opportunities;
- C. The monetary value of the proposed development after completion;
- D. A preliminary development plan for the real property consisting of a description of all proposed uses and type of development proposed for the real property, the preliminary design of all proposed buildings and structures, and a preliminary site plan showing the proposed building and structures and all amenities proposed for the site development;
- E. Any other information as requested by the City Council.

After City Council review, the City Council shall decide whether to proceed to award by Resolution and a disposition contract to the successful bidder pursuant to Sec. 22A – 22.4 or to reject the bid.

Should the bid be rejected, and at the discretion of the City Council, the bid may be awarded to the second highest bidder. This process will be followed until all bids submitted are unable to meet the criteria established by this procedure and City Council or otherwise proceed to a closing on the property.

In the event, no bids are received; any future sale of the property may proceed without notice.

22A – 22.6 Awarding of bid.

The City Council shall make an award by Resolution and proceed to sell or dispose of the property pursuant to the terms of a disposition contract. The disposition contract for the sale of the property shall contain the requirements of Section 22A – 22.7(A) and such other specific requirements as determined by the City Council deemed necessary to accomplish this sale under the terms of this chapter. As a condition prior to the City's obligation to convey the property, the purchaser shall submit to the City adequate evidence that the Purchaser has the equity capital and commitment for mortgage financing necessary for the construction of the improvement to the property. No conveyance of the property shall be made prior to the execution of the disposition contract and the acceptance of such contract by the City Council.

Upon the award of a bid, it shall be the responsibility of the bidder to:

- A. Guarantee payment of the bid amount. The successful bid check shall be deposited within **forty-eight (48) hours** of the bid opening. If the bid check does not clear the bank, due to either insufficient funds or a stop payment, the bidder shall be given **five (5) working days** to provide cash or money order, along with a **twenty (\$20.00) dollar** fee; otherwise, the property will be awarded to the second highest bidder or returned to the sale list.

22A – 22.7 Disposition contract.

- A. In addition to the regulations set forth in the *Zoning and Land Use Code of the City of Fort Morgan*, the building code, and other applicable codes and ordinances, the following shall be applied by the provisions contained in the disposition contract:
 - 1. The purchaser shall devote such parcel to the uses as specified in the development plan which has been approved by the City of Fort Morgan; additionally, if the property is located in the Fort Morgan Industrial Park, the purchaser must utilize the property under the requirements of the Economic Incentive Policy.

2. Closing shall be made within **thirty (30) days**, with the conveyance of property to be made by Warranty Deed or by a deed reflecting the City's interest in the property. Such closing date may be by mutual agreement of the parties.
3. Such deed conveying the property shall expressly provide that the agreements and covenants provided for in the development plan shall be covenants running with the land and shall be binding on the land for the benefit and in favor of the City;
4. A current commitment for title insurance in an amount equal to the purchase price shall be furnished to the purchaser, and the title shall be merchantable in the seller, or made merchantable prior to the date for closing and the conveyance of the property.
5. Purchaser shall agree that no warranties or representations with regards to the condition of the property have been made. Purchaser acknowledges that an adequate inspection has been made and the purchaser has been informed of the condition of the property and accepts the property "as is" without warranty, either express or implied.
6. Purchaser agrees that all said final plans for structures, site improvements, landscaping, parking, etc., shall be approved as required by Code and shall be approved by the City Council, including landscaping requirements that may apply in the Fort Morgan Industrial Park.
7. The purchaser and the seller shall agree that in the event either party is in default or in violation of the terms of the disposition contract, the remedies as set forth in the disposition contract shall be applied.
8. The purchaser shall agree for itself and its successors and assigns and any successor in interest to the property or any part thereof, and the deed shall contain covenants that the purchaser and any such successors or assigns shall devote the property to and only to and in accordance with the use specified and approved in the development plan.
9. None of the provisions of this chapter or the disposition contract are intended to or shall be merged by reason of any deed transferring title to the property to the purchaser or to any successor in interest.
10. The purchaser shall agree that interest in the property shall not be assignable without the prior written consent of the City of Fort Morgan.
11. The disposition contract for sale of the property may be modified, including provisions pertaining to land use, building and site modification, before and after the transfer of property with prior written consent of the City Council by Resolution.

22A – 22.8 Applicability.

The requirements of the disposition contract shall be applicable to the entire tract when a purchaser combines his adjacent property he intends to purchase from the city with city-owned surplus or real property for development, subject to waiver or modification by the mayor and city council.

INTRODUCED, READ AND PASSED UPON FIRST READING this 19TH day of June, 2007, for publication once in a newspaper of the City of Fort Morgan, Colorado, at least ten days before its final passage.

THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO

[SEAL]

BY: /s/ Jack Darnell
Mayor

ATTEST:

/s/ Andrea J. Strand
City Clerk

FINALLY PASSED, ADOPTED AND APPROVED this 3rd day of July, 2007, for publication once in the newspaper of the City of Fort Morgan, Colorado, within five days of the final passage, to take effect five days after final publication.

THE CITY COUNCIL OF THE CITY OF
FORT MORGAN, COLORADO

[SEAL]

BY: /s/ Jack Darnell
Mayor

ATTEST:

/s/ Andrea J. Strand
City Clerk

STATE OF COLORADO)
COUNTY OF MORGAN)
CITY OF FORT MORGAN)

CERTIFICATE

I, Andrea Strand, the duly appointed, qualified and acting Clerk of the City of Fort Morgan, Colorado, do hereby certify and attest that the foregoing **Ordinance No. 1049** was, as a proposed **Ordinance** duly and legally presented to the City Council of the City of Fort Morgan, Colorado, at a Regular Meeting on the 19th day of June, 2007. Said **Ordinance**, as proposed, was duly read at length at said regular meeting, and thereafter the same was, on the 22nd day of June, 2007, published in the *Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado. Said proposed **Ordinance** was again taken up and read a second time, duly and legally passed, approved and adopted at a Regular Meeting of the City Council held on the 3rd day of July, 2007. Within five (5) days after its final passage, said **Ordinance** was published in the *Fort Morgan Times*, a daily newspaper of general circulation published and printed in the City of Fort Morgan, Morgan County, Colorado.

/s/ Andrea J. Strand
City Clerk