

FIRST READING: February 20, 2024

SECOND READING: March 18, 2024

ORDINANCE NO. 68-6

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LINDEN,
COUNTY OF UNION, STATE OF NEW JERSEY, AUTHORIZING THE
PRIVATE SALE OF BLOCK 322, LOT 9, IN THE CITY OF LINDEN, AT
PRIVATE SALE PURSUANT TO N.J.S.A. 40A:12-1 ET SEQ.**

WHEREAS, the City of Linden is the owner of real property known as Block 322, Lot 9, in the City of Linden, County of Union, State of New Jersey (collectively the "Property"); and

WHEREAS, the Property is located at 2800 Highland Avenue. The property currently vacant and is an undersized lot and too small to be a building lot; and

WHEREAS, N.J.S.A. 40A:12-13(b)(5) authorizes the City to sell municipally owned real property at a private sale to an owner of real property contiguous thereto where the City owned Property is less than the minimum size required for development under the municipal zoning ordinance and is without any capital improvement thereon; and

WHEREAS, N.J.S.A. 40A:12-13(b)(5) further provides that where there is more than one owner of real property contiguous thereto, the municipal property shall be sold to the highest bidder from among all such contiguous owners and that the sale shall be for not less than the fair market value of the said real property; and

WHEREAS, the City Council of the City of Linden, County of Linden, State of New Jersey, has determined that the Property is not needed for public use, and the sale of the Property will return the Property to the tax rolls of the City of Linden, and it is in the best interests of the City of Linden to offer the Property for sale at a private sale to an owner of real property contiguous thereto, to the highest bidder; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Linden, County of Linden, State of New Jersey as follows:

SECTION 1. The City of Linden in the County of Linden is the owner of the following land located within the City of Linden (hereinafter referred to as the "Property"):

Block 322, Lot 9 located 2800 Highland Avenue and is undersized, (note: no metes and bounds description will be supplied; successful bidder is to prepare and submit a metes and bounds description for inclusion in the deed of conveyance), and subject to all easements and restrictions of record and not of record.

SECTION 2. The City Council has determined it to be in the public interest to sell said Property at private sale to an owner of real property contiguous thereto to the highest bidder in accordance with N.J.S.A. 40A: 12-13(b)(5).

SECTION 3. N.J.S.A. 40A:12-13(b)(5) further provides that where there is more than one owner of real property contiguous thereto, the municipal property shall be sold to the highest bidder from among all such contiguous owners and that the sale shall be for not less than the fair market value of said real property.

SECTION 4. The City Council declares the Property to be surplus and not needed for public use.

SECTION 5. The following conditions for the sale of the Property apply:

(a) The minimum bid for the Property shall be \$2,500.00.

(b) The highest bidder will be the purchaser.

(c) The City will only accept bids calling for an all cash purchase of the Property. Full payment of the purchase price must be received within 60 days of the date of the acceptance of the bid, unless extended by the City Attorney. The successful bidder will be required to pay, by either cash, wire transfer or bank check, a deposit equal to ten (10%) percent of minimum price of the bid at the close of bidding, with the balance to be paid by either cash, wire transfer or bank check at closing. Pending closing of title, this deposit will be held by the City of Linden in a non-interest bearing escrow account, with the total deposit to be credited to the purchase price at closing.

(d) The sale of the Property is being made subject to the terms, conditions, restrictions and limitations of a Contract of Sale with the following terms and conditions:

1) The Property is being sold in an "AS IS" WHERE-IS" condition. The

- successful bidder is responsible for conducting any and all inspections and testing of the Property at its own cost and expense.
- 2) The successful bidder shall pay prorated real estate taxes for the balance of the current year as of the date of closing of title.
 - 3) The closing of title to the Property is "TIME OF THE ESSENCE" and must take place on a date as described above, and the failure of the successful bidder to close title as agreed shall result in the successful bidder's forfeiture of any and all money deposited with the City.
 - 4) The successful bidder shall consolidate the Property purchased with other contiguous lot or lots so as to be part of a reconfigured lot in conformance with the zoning requirements.
 - 5) The deed must be recorded within thirty (30) days of closing or within (60) days after the appeal period expires, or the Property shall automatically revert back to the City of Linden without the necessity of entry or reentry.
 - 6) In the event that the successful bidder fails to close title to the Property, the bidder shall forfeit all deposit monies made to the City. No refunds whatsoever will be made by the City of Linden in the event that the successful bidder fails to complete the purchase of the Property within thirty (30) days from the acceptance of the bid.
 - 7) The purchaser(s) shall pay the cost of recording fees.
 - 8) The purchaser(s) shall pay any and all realty transfer and "mansion" taxes assessed in connection with the sale of the Property.
 - 9) With respect to the sale of the Property herein, NO real estate commission is owed.
 - 10) The Property is being sold "AS IS" "WHERE IS." The Property is sold subject to existing encumbrances, liens, easements, zoning ordinances, other restrictions of record, such facts as an accurate survey would reveal and any present or future assessments for the construction of improvements benefiting the Property. A survey of the Property may be conducted by any prospective bidder, at its discretion, as part of its due diligence.
 - 11) No representation is made by the City as to the utility, usability or environmental condition of the Property.

(e) All bids must satisfy any requirements and meet any terms and conditions of the Contract of Sale. The successful bidder will execute the Contract upon completion of bidding and its payment of the required deposit. To execute the Contract, the bidder shall properly execute the Contract in the signature spaces at the end. Failure to execute the Contract properly shall not affect the obligation of the successful bidder or the validity of the sale. The deed given by Linden City for the Property will be a Quit Claim Deed. No title contingencies or conditions are permitted.

(f) The sale shall be subject to adjournment or cancellation by the City Council. The City reserves the right to accept the highest responsive bid if equal to or greater than the minimum bid price, or to reject all and not to award to the highest bidder. The City reserves the right to waive any and all defects and informalities in any proposal, and to accept or reject the highest responsible and responsive bid deemed to be in the best interest of the City.

(g) It is suggested and recommended that potential bidders perform title searches and/or last owner and lien searches on the properties that they are interested in bidding upon prior to the date of bid submission in order that the potential bidder may be adequately apprised of any encumbrances or restrictions of record affecting the use and enjoyment of the Property. It is further suggested and recommended that potential bidders exercise due diligence with respect to every state of facts including open permits, local fines, penalties, taxes, assessments, etc., which may not be of record but which may nonetheless affect the use and enjoyment of the Property. The City of Linden shall not be responsible for the costs associated with such searches in the event that the City of Linden is unable to convey title and/or if a bid is rejected.

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SECTION 6. That notice of the City's intention to sell the Property and the minimum bid price therefore shall be sent by certified mail, return receipt requested and regular mail, to all property owners listed on the municipal tax records who own properties contiguous to the Property.

SECTION 7. That said notice and a certified copy of this Ordinance shall be posted on the bulletin board or other conspicuous place in the municipal building.

SECTION 8. That any offer(s) for the Property may thereafter be made to the City's Purchasing Agent for a period of twenty (20) days after the passing of said ordinance on second reading or upon receipt of the certified and regular mail, whichever is later.

SECTION 9. That if more than one bid is received, the Purchasing Agent may hold such bids without opening, advise the City Council of such multiple bids, and said City Council shall decide whether to invite said bidders to a public meeting for purposes of an open auction between the original submitting bidders, or to open said original bids.

SECTION 10. That, if sold, the Property shall be awarded to the highest bidder in excess of the

minimum bid price for the Property.

SECTION 11. That the City Council of the City of Linden may reconsider its decision to sell the subject Property within thirty (30) days after the enactment of this Ordinance and either offer the Property for sale at a public sale pursuant to N.J.S.A. 40A:12-13 (a) or reject any or all bids and retain any or all of the Property for City use.

SECTION 12. That all Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 13. If any section, subsection, paragraph, sentence or any part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance not directly involved in the controversy in which such judgment shall have been rendered.

SECTION 14. This Ordinance shall take effect upon final passage and publication in accordance with law.

PASSED:

President of Council

APPROVED:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM BY:
Daniel Antonelli, City Attorney