

ARTICLE V. - SALE OR LEASE OF CITY'S REAL PROPERTY<sup>[5]</sup>

Footnotes:

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**Charter reference**— Powers with respect to acquiring and disposing of property, § 3(f); contracts for sales or lease of real property, §§ 29-A(d), 29-B.

## Sec. 18-176. - Methods and procedures for sales and leases.

- (a) Any sale, conveyance or disposition of any interest, including any leasehold in real property, owned by the city, the off-street parking department, or the downtown development authority shall be made in the manner set forth in this article, and said sale, conveyance or disposition shall be conditioned upon compliance with the provisions of this article V. Nothing in this section shall be construed to waive the special requirements for leases and contracts of waterfront property provided elsewhere in this Code or in the city Charter.
- (b) In order to facilitate the implementation of a city policy before considering proposals requiring deferrals, abatements, credits or other reductions in payments to the city for leases and any other agreements for the use of the city's real property, including but not limited to license agreements, permits, use agreements and other related agreements, four affirmative votes of the city commission shall be required for approval of any such deferrals, abatements, credits or other reductions in payments.
- (c) Before the city considers proposals requiring deferrals, abatements, credits or other reductions in payments to the city for leases and any all other agreements for the use of the city's real property, the lessee or party using the city's property shall provide an audited financial statement. Audited financial statements shall:
  - (1) Be prepared in accordance with generally accepted accounting principles (GAAP) in the United States;
  - (2) Be complete and include all notes to the statements and any auditor's reports associated with the audited financial statements; and
  - (3) Include, if associated with the financial statement, an auditor's opinion.

(Ord. No. 9572, § 1, 2-10-83; Code 1980, § 18-78; Ord. No. 13151, § 2, 4-8-10)

## Sec. 18-176.1. - Unified development projects.

Unified development projects shall be as set forth in Charter Section 29-A.

(Ord. No. 12271, § 3, 8-22-02)

## Sec. 18-176.2. - Cone of silence; exceptions.

The cone of silence shall be as set forth in section 18-74, except that, in the case of unified development projects or other matters governed by this article, the cone of silence shall be applicable only to contracts for amounts in excess of \$500,000.00.

(Ord. No. 12271, § 3, 8-22-02)

## Sec. 18-176.3. - Procedures for resolution of protested UDP's and awards.

Procedures for resolution of protested UDP's and awards shall be as set forth in sections 18-105 and 18-106, with the exception that all references to the chief procurement officer shall, for the purpose of proceedings under this article, mean the director of the department of real estate and economic development.

(Ord. No. 12271, § 3, 8-22-02)

Sec. 18-177. - Competitive sealed bidding.

- (a) *Conditions for use.* Competitive sealed bidding shall be used in those circumstances in which it is practicable and advantageous for the city to specify all detailed plans, specifications, standards, terms and conditions relating to a property interest already owned by the city or to be acquired and disposed of by the city, so that adequate competition will result and award may be made to the highest responsible and responsive bidder. In all other instances there shall be a public notice required prior to the sale or disposition of city-owned property in order to allow potential purchasers to compete.
- (b) *Invitations for bids.* An invitation for bids shall include, but not be limited to, all relevant items stipulated in section 18-79(b), as well as all information necessary to describe the particular property interest owned or to be acquired and disposed of, including any conditions or restrictions upon the use of such property.
- (c) *Public notice.* Notice inviting bids shall be in accordance with the provisions of section 18-79(d).
- (d) *Prebid conferences.* Prebid conferences to discuss the contemplated purchase or disposition of property interest may be held in accordance with provisions of section 18-79(e).
- (e) *Bid opening.* Bid opening shall be in accordance with the provisions of section 18-79(f).
- (f) *Bid acceptance and evaluation.* Bid acceptance and evaluation shall be in accordance with the procedures established by the chief procurement officer.
- (g) *Award.* The city manager shall submit recommendations as to the award to the city commission, which may reject all bids. The contract shall be awarded with reasonable promptness by written notice to the responsible and responsive bidder whose bid offers the city the highest total compensation from the proposed sale, lease, conveyance or other disposition, as the case may be. The decision of the city commission shall be final. All contracts shall be approved as to form and correctness by the city attorney, and a copy shall be filed with the city clerk.

(Ord. No. 9572, § 1, 2-10-83; Code 1980, § 18-78.1)

**City Code cross reference**—Competitive sealed bidding generally, § 18-79.

Sec. 18-178. - Emergency conveyances.

The city commission or department of off-street parking board or the downtown development authority board of directors, as appropriate, may by resolution waive the requirement of sale, conveyance or disposition to the highest responsible bidder by means of the following procedure: The city manager, the director of the off-street parking department, or the director of the downtown development authority, as appropriate, must make a written finding, supported by reasons, that a valid emergency exists. Such finding must be ratified by an affirmative vote of two-thirds of the city commission or applicable board, after a properly advertised public hearing. In such event the city manager, the director of the off-street parking department, or the director of the downtown development authority, as appropriate shall solicit as many proposals as practicable for the sale, lease or conveyance or disposition of the property. The commission or applicable board, as appropriate, shall accept the proposal that is most advantageous.

(Ord. No. 9572, § 1, 2-10-83; Code 1980, § 18-78.2)

Sec. 18-179. - Sales to only possible bidder.

The requirement of competitive bidding may be dispensed with upon a written finding by the city manager that such methods would be futile for the reason that only one possible bidder could be chosen. In those instances the property shall be sold for the amount and in accordance with the procedure outlined in section 18-182(a)(3) of this article.

(Ord. No. 9572, § 1, 2-10-83; Code 1980, § 18-78.2.1)

Sec. 18-180. - Cancellations.

The city, the off-street parking authority, and the downtown development authority shall have the right to cancel all invitations for bids or requests for proposals before bid opening or proposal submission and to reject all bids or proposals after receipt. All invitations for bids and requests for proposals shall contain a reservation of the foregoing rights. In the event of such a cancellation or rejection, the city manager or its designee shall promptly notify all affected bidders or offerors and make available to them a copy of the written explanation for such cancellation or rejection, which shall be a public record.

(Ord. No. 9572, § 1, 2-10-83; Code 1980, § 18-78.3; Ord. No. 12271, § 3, 8-22-02)

Sec. 18-181. - Applicability to off-street parking/downtown development authorities.

With the exception of the requirement for advertisement prior to sale of real property, as contained in subsection 18-85(d) of this article, the provisions contained elsewhere in this article are not required to be followed in effecting the sale, conveyance or disposition of real property owned by the Miami Parking Authority or the Downtown Development Authority.

(Ord. No. 9572, § 1, 2-10-83; Code 1980, § 18-79)

Sec. 18-182. - Authority to sell.

- (a) The city manager is hereby authorized to sell any real property owned by the city not needed for public use or that may have become unsuitable for use by any city department, provided that:
- (1) Such property cannot be leased so as to produce revenue to the city.
  - (2) Such property shall not be sold for less than its appraised or assessed value, unless express authority is given by the city commission.
  - (3) The deed of conveyance for such property shall contain a provision which requires that in the event the property is ever immune or exempt from the payment of ad valorem taxes, the grantee, or any of the grantee's assigns, heirs, or successors, shall pay to the city an annual payment which shall be equal to what the city would have received as ad valorem taxes based on the valuation method employed by the county property appraiser pursuant to F.S. ch. 193, as amended.
- (b) For purposes of this section, appraised values shall be those determined by at least two independent appraisers, both of whom shall be members of the American Institute of Real Estate Appraisers, unless said appraisers cannot agree on value, in which case the higher value shall be deemed the appraised value.
- (c) The city commission may declare an exemption from the restrictions contained in subsection (a) above and declare them inapplicable by resolution provided that the city manager has made a written finding that it is in the best interest of the city, which findings must be ratified by an affirmative vote

of 2/3 of the commission after a properly advertised public hearing.

(Ord. No. 9572, § 1, 2-10-83; Code 1980, § 18-80; Ord. No. 11422, § 2, 12-12-96; Ord. No. 11640, § 2, 4-14-98)

Sec. 18-183. - Commission on sale.

The city will pay a real estate percentage commission of five percent on all real estate sold by the city whenever a bid is made at a private sale through the efforts of a broker and the party making such bid is the purchaser of the property. The director of finance is hereby authorized to pay the same out of the proceeds of the sale.

(Ord. No. 9572, § 1, 2-10-83; Code 1980, § 18-81)

Sec. 18-184. - Expenses of abstract of title.

The director of finance is authorized to pay for the expense of updating or obtaining an abstract of title on all property sold by the city, to be paid out of the sale price of the property.

(Ord. No. 9572, § 1, 2-10-83; Code 1980, § 18-82)

Sec. 18-185. - Payment to be in cash, certified check.

Terms are deemed to be all cash at time of closing. All costs involved in the sale of the property shall be the responsibility of the buyer, with the exception of the abstract and all customary prorations of prepaid or delinquent costs. Buyer may pay cash, by cashier's check, by certified check, or by a combination thereof.

(Ord. No. 9572, § 1, 2-10-83; Code 1980, § 18-83)

Sec. 18-186. - City attorney responsible for closing of sale.

It shall be the responsibility of the city attorney to effect the closing of any city property which is sold under this article.

(Ord. No. 9572, § 1, 2-10-83; Code 1980, § 18-84)

Sec. 18-187. - Disposition of proceeds from sale.

All money received from sales under this article shall be delivered over to the director of finance in accordance with the city Charter.

(Ord. No 9572, § 1, 2-10-83; Code 1980, § 18-85)

Sec. 18-188. - Discrimination by lessees of city-owned property—Prohibited.

The lessee of any property of which the city is the owner shall not discriminate against or refuse or deny to any person or persons, guests or permittees the use of the facilities leased from the city because of race, creed, religion, color or national origin.

(Code 1967, § 38-9.1; Code 1980, § 37-13)

Sec. 18-189. - Same—Requirements for organizations using city facilities.

In order to facilitate the implementation of the policy of the city as set forth in section 18-188, in instances wherein leases are entered into between the city and organizations or clubs for the use of city property or city facilities by the members thereof, such organizations or clubs shall comply with the following requirements:

*Membership.*

- (1) Membership in the club or organization shall be available to all persons without
- a. discrimination as defined in section 18-188.
  - b. There shall be no requirement that applicants for enrollment be sponsored by anyone as a condition to such applicant being processed or accepted for membership.
  - c. The club or organization shall make a minimum of five percent of existing enrollment of the various types of membership in such club or organization available for new enrollment for a minimum period of 30 days of each year. The enrollment period shall commence July 1 of each year. In the event there is more than one type of membership available, this shall mean five percent of each type of membership shall be open to the general public.
  - d. Acceptance into membership shall be determined by simple majority vote of the general membership at a meeting designated for such purpose, and there shall be no secret ballot for admission to membership.
  - e. In the event there are a greater number of applicants than there are openings available for membership under the annual five percent of enrollments as set forth above, then, and in that event, new members in this enrollment period shall be selected by lot.
  - f. Within the 30-day period prior to the date of the commencement of the enrollment period described above in subparagraph (1)c, the club or organization shall advertise twice in two daily newspapers of general circulation published in the city a notice of the acceptance of new members as hereinabove provided, and notice of the purposes of the club or organization and of the programs offered by the club or organization to the public. The notice shall be printed on June 1 and June 14 of each year.
- (2) *Dues.* All members in each of the various categories of membership shall pay equal dues, if any, within such categories.
- (3) *Minutes of meetings.* All minutes of meetings, whether regular meetings or special meetings, or however designated, of such club or organization shall be posted upon the bulletin board upon the club premises within 30 days after the date of such meetings, and a copy thereof shall be forwarded to the city manager, or his designee.
- (4) *Privileges.* All members in each category shall have equal rights and privileges.

(Code 1967, § 38-9.2; Code 1980, § 37-14)

Sec. 18-190. - Same—Provisions of sections 18-188 and 18-189 to be part of lease.

The foregoing matters as set forth in sections 18-188 and 18-189 being an implementation of the provisions of the Constitution of the United States of America and the constitution of the state, such provisions are to be considered a part of every such lease as described above entered into between the city and any person, firm, corporation, club or organization, regardless of the specific written terms of any lease now existing or to be entered into in the future.

(Code 1967, § 38-9.3; Code 1980, § 37-15)

Sec. 18-191. - Same—Termination of lease for violations.

Any person, firm, corporation, club or organization violating the terms and conditions of sections 18-188 through 18-190 shall be subject to having its lease forthwith terminated by the city for such violation, upon due notice to the violator and upon an opportunity to be heard before the city commission concerning such violation.

(Code 1967, § 38-9.4; Code 1980, § 37-16)

Secs. 18-192—18-220. - Reserved.