

ORDINANCE NO. 2023 - 29

ORDINANCE AUTHORIZING THE SALE OF BLOCK
904, LOT 28 AT PRIVATE SALE IN ACCORDANCE
WITH N.J.S.A. 40A:12-13(B)(5).

WHEREAS, N.J.S.A. 40A:12-13(b)(5) provides that a municipality, when authorized by ordinance, may sell any real property, not needed for public use, at private sale, provided the sale is a sale to the owner of real property contiguous to the real property being sold, and the property being sold is less than the minimum size required for development under the municipal zoning ordinance, and is without capital improvements thereon;

WHEREAS, a departmental survey was conducted as to whether the property is needed for a public purpose, with the responses concluding that the property is not so needed; the property is also less than the minimum size for development; and is without capital improvements thereon and has a fair market value is \$3,600.00.

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Vineland, the governing body of the City of Vineland, that the statements of the preamble, hereinabove, are incorporated herein as though fully set forth herein;

BE IT FURHTER ORDAINED that the following property shall be offered for sale to the owners of contiguous property, for not less the price indicated:

Description of Real Property	Minimum Price
Block 904, Lot 28, Friendship Street Approximate Size – 50 x 125	\$3,600.00

BE IT FURTHER ORDAINED, that subject to Vineland City Council’s right to reconsider this ordinance and instead advertise the property for public sale pursuant to subsection N.J.S.A. 40A:12-13 (a), the property shall be sold to the highest bidder among the contiguous property owners, provided that the sale price equals or exceeds the fair market value of the property;

BE IT FURTHER ORDAINED that the sale shall be conducted in accordance with the requirements of NJSA 40A:12-13 (b);

BE IT FURTHER ORDAINED that the sale of the property shall not affect the right and privileges, if any, possessed by any municipal or private utility and by any cable television company to maintain, repair and replace their existing or future facilities in, adjacent to, over or under the Property.

BE IT FURTHER ORDAINED that this ordinance shall be posted on the bulletin board at Vineland City Hall, and notice of the offer to sell the property, and the minimum bid price, shall be advertised in the Daily Journal and sent by certified mail, return receipt requested, and regular mail, to all property contiguous property owners, within 5 days of the enactment of this Ordinance;

BE IT FURTHER ORDAINED that Offers for the property may thereafter be made by contiguous property owners by sealed bid delivered to the Clerk of the City of Vineland for a period of 20 days following the publication of the advertisement in the Daily Journal;

BE IT FURTHER ORDAINED, the following terms and conditions shall apply:

1. Block 904, Lot 28 is being sold subject to the express condition that the lot shall be added to, and becomes a part of, the adjacent lands of the purchaser, and it shall for all future purposes be considered as one parcel. It shall be the property owner’s responsibility to provide the Solicitor for the City of Vineland with an all-inclusive description combining the property with that of the property owner’s adjacent property.

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2. Vineland City Council reserves the right to withdraw the offer of sale and reject any and all bids.
3. The minimum bid the City will consider is \$3,600.00, plus the cost of recording the deed, and that the deed shall be recorded, on behalf of the purchaser, by the City Solicitor's office. The property will be conveyed by a Quit Claim Deed and such conveyance shall be subject to all liens, covenants, restrictions, reservations and easements established of record or by prescription and without representation as to character of title of the property to be conveyed.
4. All bids shall contain the bidders name, and contact information, and be submitted as a sealed bid to the Clerk of the City of Vineland, indicating on the face of the envelope it is a "Bid for Block 904, Lot 28." Bids must be submitted within 20 days of the date notice of the proposed sale is published in accordance with N.J.S.A. 40A:12-13(b) (5).
5. All bids will be opened at 10:00 am on 21st day after publication of the advertisement. In the event the 21st day is a weekend or holiday, the sealed bids will be opened on the next business day thereafter. The highest bidder will be notified either in person, or through the contact information provided with the bid. In the event that bidding results in a tie, all contiguous property owners that submitted a qualifying bid shall notified and given 20 days to submit a new sealed bid subject to the terms and conditions set forth in this Ordinance.
6. Potential Bidders are advised:
 - A. No representations of any kind are made by the City of Vineland as to the condition of the property; the property is being sold in its present condition, "as is," "where is." and "with all faults. The property is being 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 benefitting the property. A survey may be conducted by any prospective bidder, in their discretion. The City makes no representation as to the utility, usability or environmental condition of the Property. The successful bidder is responsible for conducting any and all inspections and testing of the property at their own cost.
 - B. The sale is made subject to all applicable laws, statutes, regulations and ordinances of the United States, State of New Jersey and the City of Vineland;
 - C. No employee, agent or officer of the City of Vineland has any authority to waive, modify or amend any of the conditions of the sale.
 - D. The City of Vineland shall not be responsible and will not pay any real estate commission arising out of or in any way connected with the sale of the property.
7. Additional Terms of Sale:
 - A. The successful bidder must execute a contract of sale (the form of which is attached hereto, and is on file with the Clerk's Office) and deposit cash, or certified check in an amount of not less than 10% of the bid price within one (1) week of the opening of the bids.
 - B. The successful bidder must pay at the time of closing: (i) The balance of the purchase price; (ii) The cost of recording the deed; and (iii) All other closing costs. All payments to the City of Vineland, must be in certified funds
 - C. The successful bidder is required to abide by appropriate zoning, subdivision, health and building regulations and codes and stipulate that this sale will not be used as grounds to support any variance from the regulations.

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- D. The failure to close title as agreed shall forfeit to the City of Vineland any and all money deposited with the City.
 - E. The purchase price shall not be used before any County Board of Taxation, Tax Court of New Jersey, or in any court of this State as grounds to support a challenge of the existing assessments with regard to other properties.
 - F. All sales are subject to final approval by the City Council. Title shall close on or before 30 days after the resolution approving the sale is adopted by Vineland City Council and that date shall be considered of the essence. In the event the successful bidder fails to close title within 30 days after the resolution is adopted, the deposit shall be forfeited to the City; and the property shall be offered to the next highest bidder, provided said bid equals or exceeds the minimal sale price. Any such offer and sale shall be subject to all the terms and conditions set forth in this Ordinance.
8. The City does not warrant or certify title to the property, and in no event shall the City , be liable for any damages to the purchaser/successful bidder if title is found unmarketable for any reason. The purchaser/successful bidder waives any and all right in damages against the City, the sole remedy being the right to receive a refund of the deposit, prior to closing, in the event title is found unmarketable. It shall be the obligation of the successful purchaser to examine title to the premises prior to the closing. In the event of closing and later finding of defect of title, the City shall not be required to refund money or correct any defect in title or be held liable for damages.
9. The submission of a bid shall be considered as an acknowledgment that the person submitting the bid understands and agrees to all the terms and conditions set forth in this Ordinance; and waives any right they may have to otherwise challenge the procedure followed by the City in the connection with the sale of the property. The sale is subject to all of the terms and conditions as provided for in this Ordinance or otherwise in the Notice of Sale and the contract on file with the Vineland Municipal Clerk.

This Ordinance shall take effect upon adoption and publication according to Law.

Passed first reading:

Passed final reading:

President of Council

Approved by the Mayor:

Mayor

ATTEST:

City Clerk

AGREEMENT OF SALE

THIS AGREEMENT, made and dated this ____ day of _____, 202____, between City of Vineland, a municipal corporation of the State of New Jersey (hereinafter referred to as the “Seller”), and _____ (hereinafter referred to as "Buyer"),

WHEREAS, on _____, Vineland City Council enacted an Ordinance authorizing the sale of Block 904, Lot 28, located on Friendship Street, to a contiguous property owner, pursuant to N.J.S.A. 40A:12-13(b) (5).

WHEREAS, Block 904, Lot 28, has a fair market value of \$3,600.00, is less than the minimum size for development; is without capital improvements thereon; and is not needed for a public purpose;

WHEREAS, _____ submitted the highest qualifying bid;

NOW, THEREFORE, in consideration of the mutual agreements and undertakings provided herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

1. SALE OF PROPERTY. Seller agrees to sell and convey to Buyer, and Buyer agrees to purchase from Seller, fee simple title to a parcel of real property located in the City of Vineland, County of Cumberland, State of New Jersey, known as **Block 904, Lot 28** of the tax map of the City of Vineland (herein at times referred to as the “Property”). This property is being sold "as is", “where is” and with “all faults. The Seller does not make any claims or promises about the condition or value of any of the property included in this sale.

2. PURCHASE PRICE. The total consideration or purchase price (the “Purchase Price”) for the Property shall be _____, payable as follows:

(a) Buyer shall deposit (ten (10%) percent of the purchase price with the City of Vineland upon the execution of this Agreement.

(b) The balance of the Purchase Price will be paid by wire transfer, certified check or title company check at Settlement.

(c) The Purchase Price shall be adjusted in accordance with the provisions of **Section 13** below, which provides for various adjustments and apportionments.

3. SELLER’S REPRESENTATIONS. The Buyer acknowledges and agree that Buyer is the owner of contiguous real property and is more familiar with the Property, including its utility, usability and environmental conditions, than the City of Vineland. Therefore, no representations of any kind are made by the City of Vineland as to the conditions of the property; the property is being sold in its present condition, "as is," “where is.” and “with all faults. The property is being 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 benefitting the property. The Seller makes no representation as to the utility, usability or environmental condition of the Property and does not warrant or certify title to the Property. In no event shall the Seller be liable for damages for any reason, including, but not limited to environmental conditions/contamination, or title defects. The Buyer is responsible for conducting any and all inspections and testing of the property at their own cost.

4. QUALITY OF TITLE. In the event that title is not marketable and free and clear of all liens, restrictions, easements and other encumbrances and title objections, or not insurable at ordinary rates, Buyer may cancel this Agreement and receive a return of the deposit. The Property is being sold subject to all applicable laws, statutes, regulations and ordinances of the United States, State of New Jersey and the City of Vineland. The Buyer shall abide by appropriate zoning, subdivision, health and building regulations and codes and stipulate that this sale will not be used as grounds to support any variance from the regulations. The Property shall remain subject to the right of any municipal or private

utility and by any cable television company to maintain, repair and replace their existing or future facilities in, adjacent to, over or under the Property.

5. **ASSIGNMENT.** The Property is being sold to a contiguous property owner who submitted the highest bid for the Property, pursuant to N.J.S.A. 40A: 12-13(b) (5). Accordingly, this sale is personal to the Buyer, and the Buyer may not assign its rights, and obligations, under the terms of this Agreement. The foregoing shall not restrict or abridge the Buyers right to sell the Property, along with Buyer's contiguous property subsequent to closing and the recording of the all-inclusive deed combining the properties.

6. **SURVEY.** Buyer and its agents, employees and contractors shall have full access to the property for purposes of performing a survey.

7. **APPROVAL VINELAND CITY COUNCIL.** This Agreement is subject to approval of the sale by Vineland City Council.

8. **BREACH OF AGREEMENT.** In event the Buyer breaches this Agreement, the Seller may declare this Agreement terminated and retain the Buyer's deposit as liquidated damages.

9. **ADJUSTMENTS AT SETTLEMENT AND CLOSING COSTS.** At closing Buyer shall pay all survey and title charges, including but not limited to, owners title insurance; all recording fees, and all other closing costs, including any and all title company charges and fees. The Buyer at Buyers sole cost and expense, shall also provide the solicitor for the City of Vineland with an all-inclusive deed combining the Property, with the contiguous property owned by the Buyer, which all-inclusive legal description will be used by the City's solicitor in preparation of the deed.

10. **TIME AND PLACE OF SETTLEMENT.** Closing shall be within 30 days after a resolution approving the sale is adopted by Vineland City Council and that date shall be considered of the essence. In the event Buyer fails to close title within 30 days after the resolution is adopted, the deposit shall be forfeited to the City. Closing shall be held by at the title company of Buyers choice located in Vineland, New Jersey, or Vineland City Hall. Upon Settlement, possession of the Property shall be delivered to Buyer.

11. **DOCUMENTS TO BE DELIVERED AT SETTLEMENT.** At Settlement, Seller will deliver to Buyer the following, executed, acknowledged and in recordable form, as appropriate:

- (a) a quit claim deed, combining the Property with Buyers contiguous property;
- (b) affidavit of title; and
- (c) Residency Certificate.

12. **NOTICES.** All notices, requests, demands or other communications hereunder shall be in writing and deemed given when delivered personally or when sent by certified mail, postage prepared as follows:

To Buyer: Alan G. Giebner, Esq.
Associate Solicitor
City of Vineland
640 E. Wood Street
Vineland, NJ 08360

To Seller: _____

13. **REAL ESTATE COMMISSIONS.** Real Estate Commissions, if any, are the sole and exclusive responsibility of the Buyer.

14. **PARTIES BOUND.** This Agreement shall be binding upon the parties hereto and their respective heirs, administrators, executors, successors, and assigns.

15. **SUCCESSORS AND ASSIGNS.** This Agreement shall be binding upon, enforceable against, and shall inure to the benefit of the assigns and successors of the parties hereto.

16. **AMENDMENT.** Neither this Agreement nor any provision hereof may be changed, amended, modified, waived or discharged, orally or by any course of dealing, but only by an instrument in writing signed by the party against whom enforcement of the change, amendment, modification, waiver or discharge is sought.

17. **GOVERNING LAW.** This Agreement has been executed, delivered, and accepted in the State of New Jersey. This Agreement shall be governed, construed and interpreted in all respects in accordance with the laws of the State of New Jersey. The Superior Court of the State of New Jersey, in the County of Cumberland, shall have sole and exclusive jurisdiction to hear and determine any claims or disputes pertaining directly or indirectly to this Agreement, enforcement of this Agreement, or any other matter arising therefrom. The parties hereby expressly submit, and consent, in advance, to such jurisdiction in any action or proceeding commenced by either party in such Court and expressly waives any right that may otherwise exist to a trial by jury.

18. **EFFECTIVE DATE/COUNTERPARTS.** This Agreement shall be effective on the later of the date signed by either party (“Effective Date”). This Agreement may be executed in counterparts, each of which shall be binding against the party whose signature appears thereon. All such counterparts, together, shall consist of one and the same document. This Agreement may be executed and delivered by exchange of facsimile or PDF copies showing signatures of all parties, and those signatures need not be affixed to the same copy. The facsimile or PDF copy showing the signatures of all parties will constitute originally signed copies requiring no further execution.

19. **ENTIRE AGREEMENT.** This Agreement and the Exhibits attached hereto constitute the entire Agreement of the parties with respect to the subject matter hereof. This Agreement supersedes any and all prior negotiations, understandings and agreements of the parties with respect to the subject matter herein.

20. **TITLES AND SUBTITLES.** Titles of the paragraphs and subparagraphs are placed herein for convenient reference only and shall not to any extent have the effect of modifying, amending or changing the express terms and provisions of this Agreement.

21. **WORDS AND GENDER OR NUMBER.** As used herein, unless the context clearly indicates the contrary, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

22. **SEVERABILITY.** In the event any parts of this Agreement are found to be void, the remaining provisions of this Agreement shall nevertheless be binding with the same effect as though the void parts were deleted.

23. **SURVIVORABILITY.** The terms, conditions, restrictions and limitations set forth in this Agreement shall survive closing and not merge with the deed.

IN WITNESS WHEREOF, the Seller and Buyer have caused this Agreement to be executed on the day and year set forth in the first paragraph hereof.

BUYER:

Date: _____, 2023

**SELLER:
CITY OF VINELAND**

Date: _____, 2023

Anthony Fanucci, Mayor