

**ORDINANCE OF THE TOWNSHIP OF LAKEWOOD, COUNTY OF OCEAN, STATE OF NEW JERSEY, AUTHORIZING THE PRIVATE SALE OF BLOCK 458, LOT 1, IN THE TOWNSHIP OF LAKEWOOD, COUNTY OF OCEAN, STATE OF NEW JERSEY, AT PRIVATE SALE PURSUANT TO N.J.S.A. 40A:12-1 ET SEQ.(SOUTHEAST CORNER OF NUSSBAUM AVENUE AND BEAVER STREET)**

**WHEREAS**, the Township of Lakewood is the owner of real property known as Block 458, Lot 1, in the Township of Lakewood, County of Ocean, State of New Jersey (collectively the "Property"); and

**WHEREAS**, the Property is located on southeast corner of Nussbaum Avenue and Beaver Street. Lot 1 is currently vacant and wooded and contains approximately 12,000 sq. ft. The property is located in the R-20 Zone and is an undersized lot; and

**WHEREAS**, N.J.S.A. 40A:12-13(b)(5) authorizes the Township to sell municipally owned real property at a private sale to an owner of real property contiguous thereto where the Township 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 Township Committee of the Township of Lakewood, County of Ocean, 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 Township of Lakewood, and it is in the best interests of the Township of Lakewood to offer the Property for sale at a private sale to an owner of real property contiguous thereto, to the highest bidder.

**NOW, THEREFORE, BE IT ORDAINED** by the Township Committee of the Township of Lakewood, County of Ocean, State of New Jersey as follows:

**SECTION 1.** The Township of Lakewood in the County of Ocean is the owner of the following land located within the Township of Lakewood (hereinafter referred to as the "Property"):

Block 458, Lot 1 located the southeast corner of Nussbaum Avenue and Beaver Street in Lakewood, New Jersey and is located in the R-20 Zone, (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 Township Committee declares the Property to be surplus and not needed for public use.

**SECTION 3.** The Township Committee has determined it to be in the public interest to sell said Property at private auction 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 4.** 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 5.** That notice of the Township's intention to sell the Property and the minimum bid price therefore shall be sent by certified mail, return receipt requested, to all property owners listed on the municipal tax records who own properties contiguous to the Property.

**SECTION 6.** 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 7.** The following conditions for the sale of the Property apply:

(a) The minimum bid for the Property shall be \$161,800.00

(b) The highest bidder will be the purchaser.

(c) The Township will only accept bids calling for an all cash purchase of the Property. Full payment of the purchase price must be received within 30 days of the date of the acceptance of the bid. 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 Township of Lakewood 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, which is on file with the Municipal Clerk, including but not limited to 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 Township.
  - 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) No variances shall be requested and/or permitted for either Property and there shall be no further subdivision of the Property until it is consolidated with a contiguous parcel.
  - 6) The deed must be recorded within thirty (30) days of closing or title to the Property shall automatically revert back to the Township of Lakewood without the necessity of entry or reentry.
  - 7) In the event that the successful bidder fails to close title to the Property, the bidder shall forfeit all deposit monies made to the Township. No refunds whatsoever will be made by the Township of Lakewood 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.
  - 8) The purchaser(s) shall pay the cost of recording fees.
  - 9) The purchaser(s) shall pay any and all realty transfer and "mansion" taxes assessed in connection with the sale of the Property.
  - 10) With respect to the sale of the Property herein, NO real estate commission is owed.
  - 11) 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.
  - 12) No representation is made by the Township as to the utility, usability or environmental condition of the Property.
  - 13) The purchaser will pay at the time of closing a fee per lot of \$155 to change the tax map.

(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 Lakewood Township for the Property will be a bargain and sale deed without covenants. No title contingencies or conditions are permitted.

(f) The sale shall be subject to adjournment or cancellation by the Township Committee.

(g) The Township's acceptance or rejection of bids shall be made not later than at the second regular Township Committee meeting following the auction. No bid shall be considered finally accepted until passage by the Township Committee of a Resolution accepting such bid.

(h) Any material prepared and distributed in connection with this auction sale is for convenience purposes only and is intended to give prospective bidders a general understanding of the condition, location and size of the Property. The Township of Lakewood is not responsible for errors that may appear in such materials. Each prospective bidder is urged to thoroughly research and examine the Property prior to placing a bid. The Property will be available for inspection by appointment only. Prospective bidders desiring to inspect the Property should contact Kathryn Hutchinson, Township Clerk at (732) 364-2500 ext. 5970 between the hours of 9:00 a.m. and 3:00 p.m. to make an appointment.

(i) 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 or properties. 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 or properties. The Township of Lakewood shall not be responsible for the costs associated with such searches in the event that the Township of Lakewood is unable to convey title and/or if a bid is rejected.

(j) The Municipal Manager shall invite the contiguous property owners to the Manager's office for the purpose of an auction between them. Only those property owners contiguous to Block 458, Lot 1 shall be permitted to attend this auction.

**SECTION 8.** That all Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

**SECTION 9.** 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 10.** This Ordinance shall take effect upon final passage and publication in accordance with law.

### **NOTICE**

**PUBLIC NOTICE** is hereby given that the foregoing Ordinance was introduced at a meeting of the Township Committee of the Township of Lakewood, in the County of Ocean and State of New Jersey on **November 14, 2019** and was then read for the first time. The said Ordinance will be further considered for final passage by the Township Committee in the Town Hall at 5:30 p.m. on **December 5, 2019**. At such time and place or any time or place to which said meeting may be adjourned, all persons interested will be given an opportunity to be heard concerning said ordinance.

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Kathryn Hutchinson, RMC, CMC, CMR  
Township Clerk

### **CERTIFICATION**

I, Steven Secare, Township Attorney of the Township of Lakewood, do hereby certify the foregoing to be a true and exact copy of the ordinance which was adopted by the Township Committee of the Township of Lakewood at a meeting held on **December 5, 2019** at 5:30 P.M., at the Municipal Building, located at 231 Third Street, Lakewood, NJ 08701.

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Steven Secare, Esq.  
Township Attorney