



To: Michael Pounds

From: Yaneris Figueroa, Assistant City Attorney for the City of Coral Gables

Approved: Craig E. Leen, City Attorney for the City of Coral Gables 

RE: Legal Opinion Regarding Sale Of Surplus City Property

Date: October 8, 2014

I agree with the ultimate conclusion below; however please note that Section 274.05 is inapplicable to municipalities. Section 274.01, "Definitions," defines a governmental unit as "the governing board, commission or authority of a county or taxing district of the state or the sheriff of the county." Fla. Stat. § 274.01 (emphasis added). Because the City is not a *county or taxing district* of the state, the City is not a "governmental unit" for the purposes of Chapter 274. Indeed, the Florida Attorney General opined that Section 274.05 is inapplicable to municipalities. See Fla. Att'y Gen. Op. 98-04 (1998) ("The provisions of section 274.05, Florida Statutes, do not apply to the disposition of surplus municipal property."). See also Fla. Att'y Gen. Op. 2001-79 (2001) ("The term 'governmental unit' is defined restrictively in section 274.01(1), Florida Statutes, to include only 'the governing board, commission or authority of a county or taxing district of the state or the sheriff of the county.' Thus, municipalities are not included within the scope of the term 'governmental unit' for purposes of Chapter 274, Florida Statutes.").

With respect to the disposition surplus property, the Attorney General opined that "in the absence of any statutory provision regulating the disposition of surplus tangible personal property ... by a municipality, a city government may exercise its discretion in performing municipal functions for municipal purposes the public body is required only to act in good faith and in the best interests of the public." Fla. Att'y Gen. Op. 98-04 (1998) (emphasis added). The City must, however, "follow any local legislation, such as charter provisions or ordinances it may have enacted, regarding the disposal of such surplus property." *Id.* Thus, in disposing of any surplus property, the City only needs to abide by the procedures set forth in the City Code.

The City code states that "[t]he chief procurement officer shall be responsible for the sale or disposition of surplus supplies *by a method or methods deemed by the chief procurement officer to be most advantageous and in the best interest of the city.* The chief procurement officer shall have the authority to sell or dispose of surplus items in any manner authorized by the appropriate Florida Statutes, *including* F.S. ch. 274, entitled "Tangible Personal Property Owned by Local Governments." All surplus items with an estimated fair market value of \$25,000.00 or more must be declared surplus by a resolution of the city commission before the chief procurement officer may dispose of said surplus supplies." City of Coral Gables, Fla., City Code§ 2-290 (2006) (emphasis added). Thus, as long as the Chief Procurement Officer disposes of the surplus property in the manner most advantageous and in the best interest of the City, the disposition may proceed. Please note, moreover, that because the City Code states ... "including F.S. ch. 274," it is my opinion that the City *may* follow the procedures set forth in Chapter 274 but is not *required* to do so.

Parramore, Carol

From: Leen, Craig
Sent: Friday, October 10, 2014 12:25 PM
To: Parramore, Carol; Osle, Zilma
Cc: Thornton, Bridgette; Figueroa, Yaneris
Subject: FW: Sale of Surplus Police Vehicles to the City of Sweetwater

Importance: High

I agree with Yaneris' opinion, and adopt it as a City Attorney Opinion under section 2-201(e)(1) and (8) of the City Code. Please include it within the opinion folder.

Craig E. Leen, City Attorney

*Board Certified by the Florida Bar in
City, County and Local Government Law*
City of Coral Gables
405 Biltmore Way
Coral Gables, Florida 33134
Phone: (305) 460-5218
Fax: (305) 460-5264
Email: cleen@coralgables.com

From: Figueroa, Yaneris
Sent: Wednesday, October 08, 2014 2:59 PM
To: Leen, Craig
Cc: Thornton, Bridgette
Subject: RE: Sale of Surplus Police Vehicles to the City of Sweetwater

Craig,

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Thanks!

Yaneri Figueroa
Assistant City Attorney for the City of Coral Gables
405 Biltmore Way, 2nd Floor
Coral Gables, FL 33134
Office: (305) 722-8625
Fax: (305) 476-7795

From: Leen, Craig
Sent: Wednesday, October 08, 2014 1:43 PM
To: Figueroa, Yaneri
Cc: Thornton, Bridgette
Subject: Fwd: Sale of Surplus Police Vehicles to the City of Sweetwater

Please review and let me know if you agree.

Sent from my iPhone

Begin forwarded message:

From: "Pounds, Michael" <mpounds@coralgables.com>
Date: October 8, 2014 at 1:32:54 PM EDT
To: "Olazabal, Carmen" <colazabal@coralgables.com>, "Kephart, Glenn (gkephart@coralgables.com)" <IMCEAEX-O=CORAL+20GABLES OU=First+20Administrative+20Group cn=Recipients cn=gkephart@coralgables.com>
Cc: "Riley, Steven" <sriley@coralgables.com>, "Gomez, Diana" <dgomez@coralgables.com>, "Leen, Craig" <cleen@coralgables.com>, "Katsaris, Pamela" <pkatsaris@coralgables.com>
Subject: Sale of Surplus Police Vehicles to the City of Sweetwater

Glen:

In response to your question about selling surplus police vehicles to the City of Sweetwater I would offer the following.

Section 2-920, Disposal of Surplus, of the Procurement Code, requires that all surplus items with an estimated Fair Market Value of \$25,000 or more be declared surplus by a Resolution of the City Commission before the Chief Procurement Officer may dispose of said surplus supplies.

If the vehicles proposed to be sold are valued at less than \$25,000 they can be sold to the City of Sweetwater without a declaration by the Commission.

Under Section 274.05, Surplus Property, of the Florida Statutes, "within the reasonable exercise of its discretion and having consideration for the best interests of the county or district, the value and condition of property classified as surplus, and the probability of such property's being desired by the prospective bidder or donee to whom offered, the governmental unit may offer surplus property to other governmental units in the county or district for sale or donation or may offer the property to private nonprofit agencies as defined in s.273.01(3) by sale or donation."

I would interpret the above Statute that the City can sell surplus property to other governmental units in the County in consideration of above mentioned criteria. To insure that those criteria are considered, I would recommend that the sale of the vehicles to the City of Sweetwater be at Fair Market Value.

Mike Pounds
Chief Procurement Officer