

RESOLUTION NO. 2019-65

RESOLUTION OF THE NAPA COUNTY BOARD OF SUPERVISORS, STATE OF CALIFORNIA: (1) DECLARING THE BOARD'S INTENTION TO SELL THE REAL PROPERTY LOCATED AT 2344 OLD SONOMA ROAD, NAPA, CALIFORNIA, APN 004-291-015-000; (2) ESTABLISHING A MINIMUM PRICE FOR SALE OF THE PROPERTY AND OTHER TERMS, CONDITIONS AND REQUIREMENTS APPLICABLE TO ALL BIDS; (3) SETTING THE PROCEDURES, DATE, TIME, AND PLACE FOR THE OPENING AND REVIEW OF SEALED BIDS FOR PURCHASE OF THE PROPERTY; (4) SETTING THE DATE, TIME AND PLACE FOR A MEETING OF THE BOARD OF SUPERVISORS AT WHICH THE BOARD SHALL CONSIDER COUNTY STAFF'S RECOMMENDATIONS REGARDING SELECTION AND ORDER OF BIDS; AND (5) DIRECTING THE CLERK OF THE BOARD TO PUBLISH AND POST NOTICE

WHEREAS, the County has owned and operated a 8.6 acre property located at 2344 Old Sonoma Road, Napa, APN 004-291-015-000 (the "Old Sonoma Road Property" or "Property") as a Health and Human Services Agency campus and for other County uses for more than fifty years; and

WHEREAS, on August 29, 2017, the Board of Supervisors ("Board") adopted Resolution No. 2017-136 declaring the Old Sonoma Road Property as surplus; and

WHEREAS, the County received three timely notices, proposals or indications of any interest in the Property from the agencies or entities specified by the Surplus Land Act ("Act") to whom notice was given of the Board's decision to declare the Property as surplus; and

WHEREAS, on January 9, 2018, the Board adopted Resolution No. 2018-03 declaring minimum price and other terms for the sale of the property; and

WHEREAS, County staff received final submittals from two parties proposing to purchase the property, neither of which satisfied the terms and conditions established by Resolution 2018-03 or the Act; and

WHEREAS, the County complied fully with the Act and on May 15, 2018 adopted Resolution No. 2018-59 concluding the Surplus Land Act process and declared the County's desire to sell the Property under Government Code section 25365 authorizing the County to sell the Property by a four-fifths vote to a city, without complying with any other provisions of the Government Code; and

WHEREAS, County staff engaged in direction negotiations with the City of Napa for the sale of the property but ultimately received notice that the City of Napa would not continue negotiations; and

WHEREAS, it is the Board’s desire to sell the Property in a timely, expeditious manner to a purchaser whose proposed use of the Property will be subject to discretionary approvals that may be required from the City of Napa; and

WHEREAS, Government Code section 25526 requires that the Board of Supervisors, by at least a two-thirds vote of all of its members, adopt a resolution declaring the County’s intention to sell the Property, setting forth a description of the Property, the minimum price for sale of the Property and any other terms and conditions of such sale that shall apply to Bids, and establishing the procedures, date, time and place for the opening and consideration of sealed Bids for purchase of the Property; and

WHEREAS, the County has retained a real estate broker in connection with the contemplated sale and will pay from the proceeds of sale a broker’s commission of two and one-half percent (2.5 %) of the sales price, the disclosure of which is required by Government Code section 25527.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Napa County as follows:

1. The foregoing recitals are true and correct and incorporated herein.
2. The Board declares Napa County’s intention to sell the Property, consisting of 8.6 acres located at 2344 Old Sonoma Road, Napa, APN 004-291-015-000.
3. The Board declares that the minimum net bid price that will be acceptable shall be the sum of Seven Million Five Hundred Thousand Dollars (\$7,500,000.00), in net proceeds to the County after payment of any and all brokerage commissions owed to the bidder/buyer’s real estate broker(s), and after payment of all escrow, title and recording fees (the “Net Minimum Price”). It shall be the sole responsibility of the Buyer of the Property to pay through escrow all amounts necessary to pay any and all real estate brokerage commissions or fees owed to any real estate brokers or agents retained by or representing the Buyer, and any and all escrow, title and recording fees and costs.
4. The County is selling the Property in “as-is” condition with the requirement that all bidders will represent in their bid package (“Bids”) that they have conducted their own independent due diligence investigation of the Property prior to submission of Bids, and that they understand all applicable zoning and land use restrictions on the Property.
5. The Board establishes the following requirements, prerequisites, terms and conditions that will be specified in a Request for Proposals (“RFP”) to be issued by the Director of Public Works, which will govern, and/or be required of, all Bids before they may be deemed responsive and considered:

- a. The Bid must be in writing and signed by the bidder and comply with all of the procedural and substantive provisions of the RFP.
- b. The Bid must be for a net purchase price that meets or exceeds the Net Minimum Price of \$7,500,000.00 that the County must receive after payment of any and all brokerage commissions owed to the bidder/buyer's real estate broker(s) and all escrow, title and recording fees.
- c. The Bid must state whether or not a broker's commission is to be paid to a buyer's broker and, if so, provides the name(s) of any broker to whom a commission is to be paid, and the rate and/or method of calculating the amount of the commission to be paid.
- d. The Bid must be accompanied by a deposit in the form of a cashier's check (which must be the equivalent of cash) payable to Placer Title Company (with reference to the purpose of purchasing the County Property) in the amount of \$250,000.00 (the "Deposit").
- e. The Bid must be accompanied by the bidder's fully executed Purchase and Sale Agreement in the form attached to the RFP, without modification (the "Agreement"), with the amount of the bidder's proposed purchase price filled in and initialed by the bidder's authorized signatory.
- f. All Bids must include a signed written statement ("Bid Statement") from the bidder (using the form that will be provided to bidders as part of the RFP), which states as follows:
 - i. The bidder agrees to buy and accept the Property in "as-is" condition.
 - ii. The bidder represents and agrees that the bidder has conducted independent due diligence investigation of the Property prior to submission of the Bid, understands all applicable zoning and land use restrictions on the Property including the existence of historic resources, and understands the City of Napa's land use entitlement and permitting process.
 - iii. The bidder shall, if selected to purchase the Property, comply with all laws, ordinances, codes, rules, covenants, restrictions, regulations and licensing requirements that are applicable to the Property and to any proposed development of the Property, including such laws and regulations of any and all federal, state, and local agencies having jurisdiction and /or authority.
 - iv. The bidder agrees to cooperate with the County in good faith to complete all actions and to prepare and execute all documents

and instruments to complete the purchase and transfer of the Property.

- v. If selected as the purchaser of the Property, the bidder agrees to waive any and all contingencies to close of escrow no later than ninety (90) days after the Agreement is fully executed, and to close escrow on the purchase of the Property no later than one-hundred and twenty (120) days after the Agreement is fully executed.
 - vi. If selected as the purchaser of the Property, the bidder agrees to pay through escrow all amounts necessary to pay any and all real estate brokerage commissions or fees owed to any real estate brokers or agents retained by or representing the Buyer, and any and all escrow, title and recording fees and costs necessary for consummation of the purchase.
 - vii. Bidder acknowledges that if the intended use of the Property is for the development of 10 or more residential units, bidder shall provide such units in accordance to and in compliance with Government Code section 54233. This requirement shall be in the form of a restrictive covenant or deed restriction accompanying the Agreement.
- g. The procedure and order for the County's acceptance of Bids and the handling and application of Deposits shall be as follows:
- i. Subject to further adoption of a Resolution by this Board as described below, after the opening of Bids by the Bid Selection Committee ("Committee") and the consideration of the Committee's recommendations, the intent is to accept the Bid from the highest responsive bidder (the "Selected Bidder").
 - ii. The Selected Bidder's Deposit shall become non-refundable upon the Selected Bidder's waiver of contingencies to close of escrow or upon the date upon which the Selected Bidder will be deemed to have waived all contingencies as specified in the Agreement, whichever occurs first, and shall be credited toward payment of the purchase price at the close of escrow.
 - iii. If for any reason escrow fails to close on the Agreement with the Selected Bidder, then County staff will promptly notify the next highest responsive bidder of the County's acceptance of

that bidder's Bid as the next Selected Bidder, which acceptance shall become effective upon timely receipt of the required Deposit from that bidder. That new Selected Bidder shall be given five days in which to deliver to the County a Deposit, again in the form of a cashier's check (which must be the equivalent of cash) payable to Placer Title Company (with reference to the purpose of purchasing the County Property), and again in the amount of \$250,000.00. The new Selected Bidder's Deposit shall, as with that of any prior Selected Bidder, become non-refundable upon the Selected Bidder's waiver of contingencies to close of escrow or upon the date upon which the Selected Bidder will be deemed to have waived all contingencies as specified in the Agreement, whichever occurs first, and shall be credited toward payment of the purchase price at the close of escrow.

- iv. At such time as the next Selected Bidder provides the Deposit and indicates a desire to proceed with the purchase of the Property, then the County will use the Purchase and Sale Agreement executed by that bidder, which that bidder submitted along with its proposal and bid package, shall have that Agreement signed by the Chair of the Board, and shall cause escrow to be opened with the new Selected Bidder.
 - v. This same procedure shall apply to the sequence of the County's acceptance of Bids from other responsive bidders and handling of their Deposits, in order of highest responsive Bid to lowest responsive Bid, until the list of responsive bidders is exhausted.
6. Pursuant to Government Code section 25527, the Board intends that the County will pay a broker's commission to Colliers International on the sale in an amount calculated as two and one-half percent (2.5%) of the purchase price received by the County for the Property.
7. Pursuant to Government Code section 25539, the Board hereby orders the use of a procedure alternative to that required by Government Code sections 25526 to 25535 with respect to the manner in which, and the location at which, the Property may be sold:

The Board delegates to the County Executive Officer ("CEO") the authority to designate a committee of no fewer than three and no more than five County representatives who shall serve as the Bid Selection Committee (the "Committee"). The Committee shall together, in public and at the time and place specified below, open and review all sealed Bids and carry out the following duties:

- a. Determine which Bids are responsive according to the criteria and requirements listed above and in the RFP;
- b. Announce which Bids are determined to be responsive and which Bids are determined to be non-responsive and the basis for that determination as to each Bid found to be non-responsive;
- c. Allow the non-responsive bidders an opportunity to show the Committee how the information expressly stated or contained within the four corners of their written Bid satisfies those terms and conditions and why the Bid should be determined to be responsive;
- d. Consider whether the determination of non-responsiveness as to any Bid should be changed based on the bidder's showing of where in the Bid the information satisfying the terms and conditions of responsiveness is set forth (and the Committee should not consider supplemental information not set forth in the Bid);
- e. Determine which responsive Bid offers the highest net purchase price for the Property (net of any commissions to be paid to any broker retained by the bidder);
- f. Announce publicly which responsive Bid is the highest and would thus be the Bid that the Committee would recommend to the Board of Supervisors be accepted in the absence of any oral overbids;
- g. After making that announcement, call for oral overbids in accordance with Government Code section 25531 (each of which must be at least 5 percent higher than the last highest and responsive Bid or oral overbid) from those bidders whose written Bids were determined to be responsive;
- h. If any oral overbid is made by a bidder whose written Bid was determined to be responsive, ask each of the oral bidders to confirm in writing that the oral overbid is also subject to all of the terms, conditions, statements and promises made by the bidder in its written Bid;
- i. Announce publicly, after any and all oral overbids are taken, the order of the responsive Bids, including all oral overbids, from highest to lowest in the net amount offered for purchase of the Property, which will form the sequence of acceptance of responsive Bids to be recommended to the Board;
- j. Assist the CEO in presenting the recommendations to the Board of which Bid should first be accepted by the Board, and the order of other responsive Bids to be accepted in sequence.

8. Bids and all materials required above as part of the Bids must be presented to the County no later than 12:00 p.m. on August 9, 2019, by delivery to the person and address specified in the RFP. The Committee shall open and evaluate the Bids at 1:30 p.m. on August 9, 2019, at 1195 Third Street, 3rd Floor, Board of Supervisors meeting room, Napa, California 94559. The Committee's opening of sealed bids, determination of which Bids are responsive, invitation of oral overbids, and determination of the highest responsive Bid and the order of other Bids that may be accepted in sequence from highest to lowest pursuant to the procedure specified above, shall then take place at that time and place.
9. The Committee's recommendation shall be presented by the CEO to the Board of Supervisors for consideration at the regular Board of Supervisors meeting on August 27, 2019, at 9:00 a.m., in the Board of Supervisors meeting room, 1195 Third St., Third Floor, Napa, California 94559.
10. Except for the delegation of authority to the CEO and the CEO's designated members of the Committee, as described above, all of the provisions of Government Code sections 25526 et seq., shall be applicable to the process of selling the Property and the purchase and sale of the Property shall not occur unless and until the Board of Supervisors adopts a resolution pursuant to Government Code section 25535.
11. Notwithstanding the Committee's recommendations, the Board reserves the right to reject any and all Bids.

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12. The Clerk of the Board is hereby directed to: (a) post the attached Notice of Adoption of Resolution of Intent to Sell (“Notice”), along with a copy of this resolution as signed by the Board Chair, in three public places in the County, not less than 15 days prior to August 9, 2019; and (b) to publish the Notice in a newspaper of general circulation in Napa County, in compliance with Government Code section 6063, once per week for three consecutive weeks prior to that date.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by at least a two-thirds vote of all members of the Board of Supervisors at a regular meeting of the Board of Supervisors of Napa County, State of California, held on the 21st day of May, 2019, by the following vote:

AYES: SUPERVISORS WAGENKNECHT, PEDROZA, DILLON,
RAMOS and GREGORY

NOES: SUPERVISORS NONE

ABSTAIN: SUPERVISORS NONE

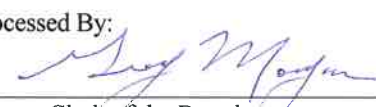

ABSENT: SUPERVISORS NONE

NAPA COUNTY, a political subdivision of
the State of California

By:



RYAN GREGORY, Chair of the
Board of Supervisors

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: <i>Chris R. Y. Apallas</i> Deputy County Counsel</p> <p>Date: May 13, 2019</p>	<p>APPROVED BY THE NAPA COUNTY BOARD OF SUPERVISORS</p> <p>Date: May 21, 2019</p> <p>Processed By:  _____ Deputy Clerk of the Board</p>	<p>ATTEST: JOSE LUIS VALDEZ Clerk of the Board of Supervisors</p> <p>By: </p>
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**NOTICE OF ADOPTION OF RESOLUTION OF INTENT TO SELL
COUNTY OF NAPA PROPERTY LOCATED AT 2344 OLD SONOMA
ROAD, NAPA, CALIFORNIA**

NOTICE IS HEREBY GIVEN that the Board of Supervisors of the County of Napa, State of California, did, on the 21st day of May, 2019, adopt Resolution No. 2019-65 (the "Resolution of Intent"), by not less than a two-thirds vote of all of its members, declaring the County's intention to sell the following real property on the terms, conditions and requirements stated in the Resolution of Intent:

A 8.6 acre parcel of real property located at 2344 Old Sonoma Road, Napa, California, Assessor's Parcel Number 004-291-015-000 (the "Property")

The complete terms, conditions and procedures for sale of the Property are set forth in the Resolution of Intent, copies of which are available to be obtained from the County Executive Office, 1195 Third Street, Third Floor, Napa, California 94559.

NOTICE IS FURTHER GIVEN that on August 9, 2019, at 1:30 p.m., in the Board of Supervisors meeting room, 1195 Third St., Third Floor, Napa, California 94559, the Bid Selection Committee shall open and evaluate Bids and call for any oral overbids (as that Committee's procedures are described and governed by the Resolution of Intent).

NOTICE IS FURTHER GIVEN that on August 27, 2019, at 9:00 a.m., in the Board of Supervisors meeting room, 1195 Third St., Third Floor, Napa, California 94559, the Board of Supervisors will consider the recommendations of the Bid Selection Committee regarding the order of responsive Bids to be accepted by the County for purchase of the Property, and will consider adoption of a resolution under Government Code section 25535 authorizing sale of the Property pursuant to the Resolution of Intent and the Committee's recommendations.

DATED: July __, 2019

ATTEST: Jose Luis Valdez
 Clerk of the Board