

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: November 5, 2009

Action Agenda

Item No. 4-0

SUBJECT: Propose to Accept Offers to Purchase for Four County Properties

DEPARTMENT: Asset Management &
Purchasing Services

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

Resolution

INFORMATION CONTACT:

Pam Jones (919) 245-2652

David Cannell (919) 245-2651

PURPOSE: To consider offers to purchase four County properties offered for sale and approve a resolution initiating an upset bid process.

BACKGROUND: On August 18, 2009 the Board authorized staff to begin the divestiture process of the following properties:

- Clerk of Court Annex, 112 N. Churton Street, Hillsborough
- Graham Building, 118 N. Churton Street, Hillsborough
- Homestead Community Center, Chapel Hill
- Highway 49 old ABC store, Cedar Grove

Pursuant to Statute and Board direction, properties were advertised and bids accepted on October 20, 2009. Bid results for each property are as follows:

Name of Property	Minimum Bid	Highest Bid Received
112 N. Churton Street, Hillsborough	\$450,000	\$465,500
118 N. Churton Street, Hillsborough	\$130,000	\$159,500
Homestead Community Center, Chapel Hill	\$275,000	\$275,000
Highway 49 Old ABC Store, Cedar Grove	\$ 5,000	No Bids Received

Divestiture Procedures

As a reminder, disposal of public assets is prescribed specifically by law [G.S. 160A, Article 12]. First, the property must be declared as surplus by the governing board (**completed April 7, 2009**). Real property must always be sold using a competitive procedure. Competitive procedures include sealed bid, negotiated offer and upset bid and public auction. The Board chose to pursue sealed bids (**completed October 20, 2009**) with an upset bid.

The process steps are as follows:

- Advertise the properties for sale as required in a local newspaper. Circulate information via internet and post signs on the buildings for sale; **(completed during September 2009)**
- Accept bids and open publicly; **(October 20, 2009)**
- Present results to the Board who would “propose to accept the offer”, thereby commencing the upset bid process; **(November 5, 2009)**
- Next steps, to commence **November 6, 2009**:
 - Advertise the highest responsible bid amount as the basis for upset bids and commence the upset bid process.
 - Accept upset bids for a 10 day period after advertisement after which time a bid opening would be held. Assuming a valid upset bid was received (must be a minimum of 10% of the first \$1,000 and 5% of the balance in order to be considered) additional rounds of the upset process would be continued until no further upset bids were received.
 - Present results to the Board for consideration after the conclusion of the final upset bid process.

FINANCIAL IMPACT: No financial impact will be realized until such time properties are sold and proceeds received.

RECOMMENDATION(S): The Manager recommends the Board propose to accept the highest offers submitted as outlined and approve the attached Resolution Authorizing Upset Bid Process; and authorize the Chair to sign the resolution as appropriate.

Resolution Authorizing Upset Bid Process

WHEREAS, Orange County owns the following property at the following locations:

- Homestead Community Center, 600 Homestead Road, Chapel Hill—PIN # 9779086412
- Clerk of Court Annex, 112 N. Churton Street, Hillsborough—PIN # 9874066435
- Graham Building, 118 N. Churton Street, Hillsborough—PIN # 874065497 and;

WHEREAS, North Carolina General Statute § 160A-269 permits the County to sell property by upset bid, after receipt of an offer for the property; and

WHEREAS, the County has received an offer to purchase the referenced properties as described below:

Building Name	Group Submitting Highest Bid	Amount of Highest bid
Homestead Community Center, Chapel Hill	Chapel Hill Training Outreach Project	\$275,000.00
Clerk of Court Annex, 112 N. Churton Street, Hillsborough	Larkspur Group, LLC	\$465,500.00
Graham Building, 118 N. Churton Street, Hillsborough	Curious Sense, Inc	\$159,500.00

WHEREAS, the bidders have paid the required five percent (5%) deposit on their offers;

THEREFORE, THE ORANGE COUNTY BOARD OF COMMISSIONERS RESOLVES THAT:

1. The Board of County Commissioners authorizes sale of the properties described above through the upset bid procedure of North Carolina General Statute § 160A-269.
2. The Director of Asset Management and Purchasing Services shall cause a notice of the proposed sales to be published. The notice shall describe the properties and the amount of the offers, and shall state the terms under which the offer may be upset.
3. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of Asset Management and Purchasing Services within 10 days after the notice of sale is published. At the conclusion of the 10-day period, the Director shall open the bids, if any, and the highest such bids will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.
4. If a qualifying higher bid is received, the Director of Asset Management and Purchasing Services shall cause a new notice of upset bid to be published, and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received. At that time, the amount of the final high bid shall be reported to the Board of County Commissioners.
5. A qualifying higher bid is one that raises the existing offer by not less than ten percent (10%) of the first \$1,000.00 of that offer and five percent (5%) of the remainder of that offer.
6. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent (5%) of the bid; the deposit may be made in cash, cashier's check, or certified check. The County will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset if a qualifying higher bid is received. The County will return the deposit of the final high bidder at closing.
7. The terms of the final sale are that

- the Board of County Commissioners must approve the final high offer before each sale is closed, which it will do within 30 days after the final upset bid period has passed, and
- the buyer must pay with cash at the time of closing.

8. The County reserves the right to withdraw the property from sale at any time before the final high bid is accepted; and to reject all bids at any time.

9. If no qualifying upset bid is received after the initial public notice, the offer set forth above is hereby accepted; and the appropriate county officials are authorized to execute the instruments necessary to convey the property to the group(s) listed above.

Adopted November 5, 2009