

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-056-5853-EU; N-82856; 7-08807]

Notice of Realty Action: Non-Competitive (Direct) Sale in the Las Vegas Valley, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) proposes to sell a 10-acre parcel of public land in the southwest portion of the Las Vegas Valley, Nevada to Clark County for affordable housing purposes. BLM proposes that the parcel be sold by direct sale to Clark County at less than the appraised fair market value (FMV), pursuant to Section 7(b) of the Southern Nevada Public Land Management Act (Pub. L. 105-263, SNPLMA) and the Nevada Guidance on Policy and Procedures for Affordable Housing Disposals (Nevada Guidance) approved on August 8, 2006. BLM proposes to sell the parcel in accordance with the applicable provisions in Sections 203 and 209 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 et seq. (FLPMA), and the BLM land sale and mineral conveyance regulations at 43 CFR Section 2710 and Section 2720, respectively.

DATES: On or before September 20, 2007 interested parties may submit comments concerning the proposed sale, including the environmental assessment (EA), to the BLM Field Manager, Las Vegas Field Office, at the address stated below.

ADDRESSES: Las Vegas Field Office, Bureau of Land Management, 4701 N. Torrey Pines Drive, Las Vegas, Nevada 89130.

FOR FURTHER INFORMATION CONTACT: Michelle Leiber, BLM Realty Specialist, at (702) 515-5168. For general information on BLM's public land sale procedures, refer to the following Web address: <http://www.blm.gov/nhp/what/lands/realty-sales.htm>.

SUPPLEMENTARY INFORMATION: Pursuant to a request by Clark County, BLM proposes to sell a 10-acre parcel of public land located in the southwest portion of the Las Vegas Metropolitan Area and further described below. The parcel’s southern and western boundaries abut developed residential properties. The other two sides are bound by developed roads (northern boundary is Arby Avenue; and eastern boundary is Riley Street). The subject parcel would be sold using the direct sale procedures, and under such terms, covenants, or conditions as determined necessary for affordable housing purposes by the BLM Authorized Officer in accordance with Section 7(b) of SNPLMA, and the Nevada Guidance. Pursuant to Section 7(b) of SNPLMA, BLM, in consultation with the Department of Housing and Urban Development (HUD), may make lands available for affordable housing purposes, in the State of Nevada at less than the appraised FMV. The amount administratively discounted from FMV is calculated according to the Nevada Guidance provisions.

Under SNPLMA Section 7(b), housing is “affordable housing” if the housing serves low-income families as defined in Section 104 of the Cranston-Gonzales National Affordable Housing Act ([Cranston-Gonzales] 42 U.S.C. 12704). In the Cranston-Gonzales Act, the term “low-income families” means families whose incomes do not exceed eighty percent (80%) of the average median income for the area as determined by HUD.

The appraised FMV for the 10-acre parcel is nine million five hundred thousand dollars (\$9,500,000). Under the Nevada Guidance, and after consultation with HUD, the BLM Authorized Officer has determined that discount percentages for the respective median income category will be administratively applied to the FMV by BLM in order to establish the value of the public lands to be sold under these provisions. The FMV for this property would be ninety-five percent (95%) discounted pursuant to the Nevada Guidance resulting in a federally approved

purchase price of four hundred seventy five thousand dollars (\$475,000), so long as the property is used for affordable housing purposes.

Under the Nevada Guidance, the preferred method of sale under SNPLMA Section 7(b) is direct sale. In addition, the direct sale method is supported by 43 CFR 2711.3-3(1), which authorizes direct sales when, “A tract is identified for transfer to State or local government,” and 43 CFR 2711.3-3(2), which authorizes direct sales when, “A tract is identified for sale that is an integral part of a project or public importance and speculative bidding would jeopardize a timely completion and economic viability of the project.” Since SNPLMA was passed in 1998, Clark County has invested considerable time and substantial resources in finding eligible projects for affordable housing purposes.

This project supported under SNPLMA Section 7(b) is called the “Arby Family Apartments.” If successfully sold, this project would begin to meet the tremendous demand for affordable housing recognized by the State of Nevada and the local governmental entities in the Las Vegas Valley. Clark County’s submission of the sale nomination to the BLM and HUD includes a comprehensive plan for assessment and evaluation of the need for and feasibility of this project. HUD has recommended approval of this project in accordance with the SNPLMA, the Nevada Guidance, and HUD’s Policy and Procedures for Affordable Housing Disposals Section 4(C-H).

Therefore, the following described land in Clark County, Nevada, is proposed to be sold to Clark County for affordable housing purposes under Section 7(b) of SNPLMA:

Land Proposed for Sale

Mount Diablo Meridian, Nevada

T. 22 S., R. 60 E., Sec. 5, NE1/4SW1/4SE1/4.

Clark County Tax Parcel No.: 176-05-801-013.

The land described contains 10.0 acres, more or less, in Clark County.

This parcel is within the disposal boundary adopted by Congress in the SNPLMA and is also in conformance with the BLM Las Vegas Resource Management Plan, approved on October 5, 1998. The land is not required for any Federal purpose. The sale will be made subject to the applicable provisions of FLPMA and the regulations of the Secretary of the Interior. Under 43 CFR 2711.3-1(d) and 2711.3-1(b), a deposit of not less than twenty percent (20%) of the federally approved purchase price must be submitted, thirty (30) days from the date of the sale offer, by 4 p.m. PST at the BLM Las Vegas Field Office. Payment must be made in the form of certified check, postal money order, bank draft, cashier's check, or any combination thereof, made payable in U.S. dollars to the order of the DOI – Bureau of Land Management.

Failure to submit the deposit will result in forfeiture of the sale offer. Remainder of the purchase price must be paid within one hundred eighty (180) calendar days following the date of the sale offer. Failure to pay the full price within the one hundred eighty (180) days will disqualify the sale offer and cause the entire twenty percent (20%) deposit to be forfeited to the BLM, 43 CFR 2711.3-1(d) and 2711.3-3. No exceptions will be made. BLM cannot accept the full price at any time following the expiration of the 180th day after the sale offer. Payment must be received in the form of a certified check, postal money order, bank draft, cashier's check, or any combination thereof, made payable in U.S. dollars to the order of the DOI – Bureau of Land Management. Arrangements for Electronic Fund Transfer to BLM for the balance due shall be made a minimum of two weeks prior to the date you wish to make payment.

The patent shall include the following numbered terms, covenants, and conditions:

1. *Affordable Housing*: Pursuant to Section 7(b) of SNPLMA, the term “affordable housing” as used in the sale patent, means housing that serves low-income families as defined in Section 104 of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. 12704).

2. *Affordable Housing Purpose*: For purposes of the sale patent, the term “affordable housing purpose” shall mean for the purpose of affordable housing projects, including construction, which commit fifty percent (50%), or more, of living space to affordable housing, and which are used for no purpose other than residential use.

3. *Construction*: For purposes of the sale patent, the term “construction” shall mean ongoing and substantial work dedicated to the building of the dwelling structures and other improvements necessary for the realization of low-income affordable housing projects located on lands conveyed under Section 7(b) of SNPLMA.

4. *Covenant and Restriction*: Clark County hereby covenants and binds all successors-in-interests to use the land as approved by the BLM and HUD and conveyed by the sale patent only for affordable housing purposes for a period of twenty (20) years, which will commence upon the issuance of a certificate of occupancy or its equivalent by the HUD. This affordable housing covenant shall be deemed appurtenant to and to run with the ownership of the land conveyed by the sale patent. It shall be binding on Clark County, its successors and assigns, during the time each owns the land.

5. *Time Limit: Reversion and Fair Market Value*. If, at the end of five (5) years from the date of the sale patent, any land conveyed through this proposed sale is not being used for affordable housing purposes, at the option of the United States, those lands not so used shall revert to the United States, or, in the alternative, the United States may require payment by the owner to the United States of the then fair market value.

6. *Use Restriction: Reversion and Fair Market Value*. All land conveyed by the sale patent shall be used only for affordable housing purposes as approved by the BLM and HUD during the period of affordability. If at any time all or any portion of the land conveyed by the sale patent is used for any purpose other than affordable housing purposes by Clark County as approved, or

any successor-in-interest, at the option of the United States, those lands not used for affordable housing purposes shall revert to the United States, or, in the alternative, the United States may at this time require payment by the owner to the United States of the then fair market value or institute a proceeding in a court of competent jurisdiction to enforce the covenant set forth above to use the land conveyed only for affordable housing purposes.

7. *Enforcement*: This use restriction and the reversionary interest may be enforced by the BLM or the HUD, or their successors-in-interest, as deemed appropriate by agreement of these two agencies at the time of enforcement, after reasonable notice to Clark County and landowner of record and opportunity to cure any default.

8. Clark County, upon issuance and acceptance of the sale patent, shall simultaneously transfer by deed the land conveyed by the sale patent to its successor-in-interest.

If patented, title to the land will continue to be subject to the following numbered reservations to the United States:

1. A right-of-way for ditches or canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945);

2. Discretionary leasable(s) (oil and gas only) and all saleable mineral deposits in the land so patented, and to it, its permittees, licensees, and lessees, the right to prospect for, mine, and remove the minerals owned by the United States under applicable law and such regulations as the Secretary of the Interior (Secretary) may prescribe, including all necessary access and exit rights; and

3. A reversionary interest as further defined in the above terms, covenants, and conditions.

If patented, title to the land will be subject to:

1. Valid existing rights [of record], including, but not limited to those documented on the BLM public land records at the time of sale; and

2. By accepting the sale patent, Clark County, subject to the limitations of law and to the extent allowed by law, shall be responsible for the acts or omissions of its officers, directors and employees in connection with the use or occupancy of the patented real property. Successors-in-interests of the patented real property, except Clark County, shall indemnify, defend, and hold the United States and Clark County harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind or nature arising from the past, present, and future acts or omissions of the successors-in-interest, excluding Clark County, or its employees, agents, contractors, or lessees, [or any third-party], arising out of or in connection with the successors-in-interests, excluding Clark County, use, occupancy, or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the successors-in-interests, excluding Clark County, and its employees, agents, contractors, or lessees, [or any third party], arising out of or in connection with the use and/or occupancy of the patented real property which has already resulted or does hereafter result in: (1) Violations of Federal, State, and local laws and regulations that are now or may in the future become, applicable to the real property; (2) Judgments, claims or demands of any kind assessed against the United States or Clark County; (3) Costs, expenses, or damages of any kind incurred by the United States or Clark County; (4) Other releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), as defined by Federal or State environmental laws, off, on, into or under land, property and other interests of the United States or Clark County; (5) Other activities by which solids or hazardous substances or wastes, as defined by Federal and State environmental laws are generated, released, stored, used or otherwise disposed of on the patented real property, and any cleanup response, remedial action or other actions related in any manner to said solid or hazardous substances or wastes; or (6) Natural resource damages as defined by Federal and State law. This covenant shall be construed

as running with the parcels of land patented or otherwise conveyed by the United States, and may be enforced against successors-in-interest, excluding Clark County, by the United States or Clark County in a court of competent jurisdiction.

No representation or warranty of any kind, express or implied, is given or will be given by the United States as to the title, the physical condition or the past, present, or potential uses of the land proposed for sale. However, to the extent required by law, such land is subject to the requirements of Section 120(h) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), as amended (42 U.S.C. 9620(h)).

Publication of this notice in the Federal Register temporarily segregates the above described land from appropriation under the public land laws, including the mining laws. The segregative effect of this notice will terminate upon issuance of a patent or other document of conveyance for such land, upon publication in the Federal Register of a termination of the segregation, or August 5, 2009, whichever occurs first, unless extended by the Nevada State Director in accordance with 43 CFR 2711.1-2(d), prior to the expiration date. The above described land was previously segregated from mineral entry under case file number N-66364, with record notation as of October 19, 1998. Subject to valid existing rights, the lands described for disposal are withdrawn from location and entry, under the mining laws and from operation under the mineral leasing and geothermal leasing laws until such time the Secretary terminates the withdrawal or the lands are patented. The above-described land was withdrawn from mineral entry under the SNPLMA as of October 19, 1998. This previous segregation will terminate upon publication of this notice in the Federal Register.

Detailed information concerning the proposed sale, including any environmental studies and documents, approved appraisal report and supporting documents, is available for review at the BLM Las Vegas Field Office at the address above. Interested parties may submit written

comments regarding the sale, including the EA, to the address above. No facsimiles, e-mails, or telephone calls will be considered as validly submitted comments. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment – including your personal identifying information – may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. The Field Manager, BLM Las Vegas Field Office, will review the comments of all interested parties concerning the sale. To be considered, comments must be received at the BLM Las Vegas Field Office on or before the date stated above in this notice for that purpose.

In the absence of any adverse comments, the decision will become effective on October 5, 2007.

The lands will not be offered for sale until after the decision becomes effective.

(Authority: 43 CFR 2711.1-2).

/s/ Angie Lara

Angie Lara,

Acting Field Manager, Las Vegas Field Office, Las Vegas, NV.

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