

AGENDA
EAGAR TOWN COUNCIL
SPECIAL MEETING
OCTOBER 6, 2016



**NOTICE OF A SPECIAL MEETING OF THE TOWN OF EAGAR
OCTOBER 6, 2016
7:00 P.M.
COUNCIL CHAMBER, 22 WEST 2ND STREET**

PURSUANT TO A.R.S. 38-431.02, NOTICE IS HEREBY GIVEN TO THE MEMBERS OF THE TOWN COUNCIL OF THE TOWN OF EAGAR AND THE GENERAL PUBLIC THAT THE TOWN COUNCIL WILL HOLD A **SPECIAL MEETING OPEN TO THE PUBLIC ON THURSDAY, OCTOBER 6, 2016, BEGINNING AT 7:00 P.M., IN THE COUNCIL CHAMBERS LOCATED AT 22 W. 2ND STREET, EAGAR, ARIZONA.**

ATTORNEY WILL BE ATTENDING THE MEETING TELEPHONICALLY.

AGENDA

1. WELCOME AND CALL MEETING TO ORDER

2. ROLL CALL

3. EXECUTIVE SESSION

- A. EXECUTIVE SESSION AS ALLOWED BY A.R.S. § 38-431.03.A3 – DISCUSSION OR CONSULTATION FOR LEGAL ADVICE WITH THE ATTORNEY OR ATTORNEYS OF THE PUBLIC BODY – TOWN MANAGER CONTRACT

EXECUTIVE SESSION AS ALLOWED BY A.R.S. § 38-431.03.A4. - DISCUSSION OR CONSULTATION WITH THE ATTORNEYS OF THE PUBLIC BODY IN ORDER TO CONSIDER ITS POSITION AND INSTRUCT ITS ATTORNEYS REGARDING THE PUBLIC BODY'S POSITION REGARDING CONTRACTS THAT ARE THE SUBJECT OF NEGOTIATIONS, IN PENDING OR CONTEMPLATED LITIGATION OR IN SETTLEMENT DISCUSSIONS CONDUCTED IN ORDER TO AVOID OR RESOLVE LITIGATION – TOWN MANAGER CONTRACT

RECONVENE INTO SPECIAL SESSION

4. NEW BUSINESS

- A. CONSIDERATION OF TOWN MANAGER TAMI RYALL'S CONTRACT
- B. DISCUSSION AND CONSIDERATION OF ANY ACTION DEEMED NECESSARY FROM THE EXECUTIVE SESSION
- C. DISCUSSION AND CONSIDERATION TO APPOINT AN INTERIM TOWN MANAGER

5. UNFINISHED BUSINESS

- A. AUTHORIZATION FOR THE TOWN TO SUBMIT A BID FOR THE PURCHASE OF THE ROUND VALLEY RECREATION CENTER PROPERTY FROM ARIZONA STATE LAND DEPARTMENT IN THE AMOUNT OF \$68,382.60 (MAYOR HAMBLIN)

6. ADJOURNMENT

THE PUBLIC IS WELCOME TO PLACE ITEMS ON THE COUNCIL AGENDAS WITH THE APPROVAL OF THE MAYOR OR TOWN MANAGER. A "PROPOSED AGENDA ITEM" REQUEST FORM IS AVAILABLE IN THE TOWN CLERK'S OFFICE OR AT WWW.EAGARAZ.GOV UNDER THE COUNCIL AND CLERK LINKS. ALL REQUESTS ARE DUE INTO THE TOWN CLERK'S OFFICE BY WEDNESDAY AT 12:00 NOON THE WEEK PROCEEDING THE COUNCIL MEETING. REGULAR COUNCIL MEETINGS ARE HELD ON THE 1ST TUESDAY, AND 3RD TUESDAY OF THE MONTH AS BUSINESS ALLOWS.

IF ANYONE WISHING TO ATTEND THIS MEETING HAS SPECIAL NEEDS DUE TO A DISABILITY, PLEASE CONTACT THE TOWN CLERK AT 928-333-4128 TWENTY-FOUR HOURS PRIOR TO THE MEETING AND ACCOMMODATIONS WILL BE PROVIDED. ANYONE NEEDING INFORMATION ON THE CURRENT MEETING, PLEASE CONTACT THE TOWN CLERK AT 928-333-4128.

POSTED BY: EVA WILSON

Date: October 5, 2016

Time: 4:00 P.M.

Tami Ryall

Subject: FW: Public Auction Sale 53-118314 - Eagar Rec Center property

From: Dayna Brown [mailto:dbrown@azland.gov]
Sent: Wednesday, September 28, 2016 11:16 AM
To: 'Tami Ryall' <t.ryall@eagaraz.gov>
Subject: RE: Public Auction Sale 53-118314 - Eagar Rec Center property

Hi Tami,

It's a processing fee that all bidders have to pay. It's allowable through ARS 37-107 (B)(1).

Thanks,
Dayna

From: Tami Ryall [mailto:t.ryall@eagaraz.gov]
Sent: Wednesday, September 28, 2016 10:50 AM
To: Dayna Brown <dbrown@azland.gov>
Subject: RE: Public Auction Sale 53-118314 - Eagar Rec Center property

Thanks. This is really helpful. As a follow up question, why do we have to pay the 2% fee of the value of the improvements if we own them & are not purchasing?

From: Dayna Brown [mailto:dbrown@azland.gov]
Sent: Wednesday, September 28, 2016 10:33 AM
To: 't.ryall@eagaraz.gov' <t.ryall@eagaraz.gov>
Cc: Tom Haney <THaney@azland.gov>
Subject: FW: Public Auction Sale 53-118314 - Eagar Rec Center property

Hi Tami,

Tom forwarded your questions to me, the answers are listed below.

- *The notice instructs that if the applicant (Eagar) is the successful bidder, we need to provide a cashier's check for \$21,800. What is included in this amount?*

16,250.00	25% of the appraised value of the land;
1,950.00	3% Selling and Administrative Fee of the appraised value of the lands;
3,400.00	2% Selling and Administrative Fee of the appraised value of the improvements;
<u>200.00</u>	Patent Fee
\$21,800.00	Applicant Day of Auction Total

- *Within 30 days, we have to provide the balance. After deductions are made for all the items we have previously paid, what will be our balance due?*

If there is no competitive bidding at the auction, and if the legal advertising estimates matches the final cost, the total due in 30 days would be as follows:

48,750.00 Balance of Land Value (75% of the appraised value of the land);
(2,167.40) Overpayment of legal advertising
\$46,582.60 Total Due in 30 Days

- *Can we bring a check for the full amount to the auction and pay all at once?*
Absolutely.

I've also attached a PDF of the legal auction notice, in case your board needs further clarification. Some of the information you requested is addressed under Terms of Sale(A):

Thank you,

Dayna



Dayna R. Brown, Land Disposition Project Leader II
Sales & Commercial Leasing Section
1616 West Adams Street
Phoenix, Arizona 85007
(602) 542-2651
dbrown@azland.gov
www.azland.gov

From: Tami Ryall [<mailto:t.ryall@eagaraz.gov>]
Sent: Wednesday, September 28, 2016 9:17 AM
To: Tom Haney <THaney@azland.gov>
Subject: Public Auction Sale 53-118314 - Eagar Rec Center property

Hi. It was nice talking to you and I appreciate all your help. We are getting ready for the auction of the Rec Center property and as part of the process, I have to go to our Council for bidding authority. As part of the summary provided to them, I need some additional information listed below:

- The notice instructs that if the applicant (Eagar) is the successful bidder, we need to provide a cashier's check for \$21,800. What is included in this amount?
- Within 30 days, we have to provide the balance. After deductions are made for all the items we have previously paid, what will be our balance due?
- Can we bring a check for the full amount to the auction and pay all at once?

I need to include this summary in the Council packet that will go out tomorrow afternoon, so sorry for the late notice.

Thanks,

Tam





MEMORANDUM

To: Honorable Mayor & Council
From: Tami Ryall
Date: 28 September 2016
Subject: Public Auction to Purchase Rec Center

The Eagar Rec Center complex is located on land leased from the Arizona State Land Department (AZSLD). The Town has been working with AZSLD to purchase the property and a public auction is scheduled for 11:00 a.m. on Thursday, October 27, at the Apache County Courthouse in St. Johns. The land has been appraised at \$65,000 and consists of 17.70 acres. The value of the improvements was appraised at \$170,000. As the owner of the improvements, the Town will only be required to purchase the land. Any other bidder will be required to purchase both the land and improvements, with the Town receiving \$170,000 for the value of the improvements.

At the auction, the Town must have a cashier's check to AZSLD for \$21,800. This includes 25% of the value of the land and the required administrative fees. A balance of \$46,582.60 is due within 30 days.

402-15
107-10-CJ-022

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STATE LAND DEPARTMENT OF THE STATE OF ARIZONA
BEFORE THE STATE LAND COMMISSIONER

IN THE MATTER OF APPLICATION TO)	ORDER NO. 001 -2016/2017
PURCHASE NO. 53-118314 FOR THE STATE)	
LAND DESCRIBED AS:)	AUTHORIZATION OF SALE
M&B IN W2SW OF SECTION 1, TOWNSHIP 8)	AND ORDER CLOSING LAND TO
NORTH, RANGE 29 EAST, G&SRM, APACHE)	ENTRY AND LOCATION
COUNTY, ARIZONA, CONTAINING 17.70)	
ACRES, MORE OR LESS.)	
APPLICANT: TOWN OF EAGAR)	

The State Land Commissioner authorizes the sale of the subject lands and improvements (if applicable) according to the provisions of the law, for not less than the appraised value, with additional conditions made part of the subject sale, and on file at the Department.

The State Land Commissioner has determined that the interests of the State will not be prejudiced by the sale.

IT IS ORDERED, that the lands and improvements (if applicable) as referenced in the caption of this Order, be sold to the highest and best bidder at public auction.

IT IS FURTHER ORDERED, that pursuant to A.R.S. § 37-231(E)(2), any mineral rights reserved to the State in the subject lands shall be closed to entry and location as a mineral claim or claims, effective the date of this Order, provided that the State Land Department may issue, upon application, mineral prospecting permits embracing the reserved mineral rights when such issuance is deemed in the best interest of the state. If the subject land is not sold within six (6) months of the date this order is issued. IT IS ORDERED, that any mineral rights reserved to the State in the subject lands shall automatically be opened to entry and location as a mineral claim or claims.

GIVEN under my hand and the official seal of the Arizona State Land Department this 3rd day of August, 2016.

LISA A. ATKINS
Commissioner

by: 



Arizona
State Land Department
1616 WEST ADAMS
PHOENIX, ARIZONA 85007

4 Notice of Appealable Agency Action

5 This is an appealable agency action. Pursuant to A.R.S. § 41-1092.03(B), if a party is
6 directly or adversely affected by this decision, the party may request a hearing within thirty
7 (30) days of the date the notice is received. A request for a hearing must be in writing and
8 filed with the Department, and must state the appellant's name and address, the specific action
9 or actions of the Department which are the basis of the hearing request, and a concise
10 statement of the reasons for this appeal. The appellant also has the right to an informal
11 settlement conference pursuant to A.R.S. § 41-1092.06(A), if it is requested in writing and
12 filed with the Department no later than twenty (20) days before the hearing.

13 Pursuant to Rule 31(d)(11) of the Arizona Supreme Court, in proceedings before the
14 Office of Administrative Hearings, a legal entity may be represented by a full-time officer,
15 partner, member or manager of a limited liability company, or employee, provided that: the
16 legal entity has specifically authorized such person to represent it in the particular matter; such
17 representation is not the person's primary duty to the legal entity, but secondary or incidental
18 to other duties relating to the management or operation of the legal entity; and the person is
19 not receiving separate or additional compensation (other than reimbursement for costs) for
20 such representation.

21 The request must be sent to the Arizona State Land Department, Attention: Director
22 of Administration, 1616 West Adams Street, Phoenix, AZ 85007. If the request for a hearing
23 is not timely filed, the decision of the Commissioner may be final and not subject to further
24 review.

25 In accordance with Title II of the Americans with Disabilities Act (ADA), the Arizona
26 State Land Department does not discriminate on the basis of disability in the provision of its
27 programs, services and activities. Persons with a disability may request a reasonable
28 accommodation such as a sign language interpreter, by contacting the Department's ADA
Coordinator at (602) 542-2636. Request should be made as early as possible to allow time to
arrange the accommodation.

29 Copy of the foregoing mailed/
30 delivered this 3rd day
31 of August, 2016 to:

32 Certified No. 9171 9690 0935 0103 4906 68
33 23-117185-03

34 Town of Eagar
35 Attn: Tami Ryall
36 P.O. Box 1300
37 Eagar, AZ 85925-1300

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Order 001 -2016/2017
Authorization of Sale 53-118314
Page 3

Copy to: Minerals Section
Water Rights Section
Planning and Engineering Section
Right of Way Section
Public Notice Board
File Nos. 53-118314
23-117185-03

D. M. A. Smith

ARIZONA STATE LAND DEPARTMENT
1616 WEST ADAMS STREET
PHOENIX, ARIZONA 85007

PUBLIC AUCTION SALE NO. 53-118314

Pursuant to A.R.S. Title 37, notice is hereby given that the state of Arizona through its Arizona State Land Department (herein called ASLD), will sell at Public Auction to the highest and best bidder at 11:00 a.m. on Thursday, October 27, 2016, at the north entrance steps of the Apache County Courthouse, 70 West 3rd Street South, St. Johns, Arizona, trust lands situated in Apache County to wit:

TOWNSHIP 8 NORTH, RANGE 29 EAST, G&SRM, APACHE COUNTY, ARIZONA

PARCEL: M&B IN W2SW, SECTION 1, CONTAINING 17.70 ACRES, MORE OR LESS

LOCATION: EAST OF PARK PLACE AND U.S. ROUTE 180, EAGAR, ARIZONA

BENEFICIARY: PERMANENT COMMON SCHOOLS (INDEMNITY SELECTIONS)

For a complete legal description of the land, prospective bidders are advised to examine the purchase application file as well as all pertinent files of ASLD.

The land has been appraised at \$65,000.00 and consists of 17.70 acres, more or less. The appraised value of the improvements is \$170,000.00. The owner of the improvements is Town of Eagar. A complete list of the improvements is available for viewing at ASLD.

The above described lands are sold subject to existing reservations, easements, or rights of way.

The ASLD does not represent or warrant that access exists over lands, which may intervene respectively between the above parcel(s) and the nearest public roadway.

The complete file associated with the described land is open to public inspection at the ASLD, 1616 West Adams Street, Phoenix, Arizona, from 8:00 a.m. to 4:30 p.m., exclusive of holidays and weekends. Please direct any questions regarding this Public Auction to the Real Estate Division of ASLD at (602) 542-3000. This auction notice is available on the ASLD's web site at www.azland.gov.

Pursuant to the provisions of A.R.S. §37-231, the state of Arizona or its predecessor in title, reserve and retain all rights and all forms of access to all oil, gas, minerals, hydrocarbon substances and gaseous substances or any other material which is essential to the production of fissionable materials as provided by the rules and regulations of ASLD and the laws of Arizona.

Each potential bidder must show ASLD's representative a cashier's check made payable to the Arizona State Land Department in the amount specified under Terms of Sale Paragraph (A) below.

TERMS OF SALE:

(A) *At the time of auction* the successful bidder must pay the following by a cashier's check: (1) 25% of the appraised value of the land, which is \$16,250.00; (2)(a) A Selling and Administrative Fee of 3% of the appraised value of the lands, which is \$1,950.00; (b) A Selling and Administrative Fee of the lesser of \$5,000.00 or 2% of the appraised value of the reimbursable improvements, which is \$3,400.00; (3) 10% of the appraised value of the improvements, which is \$17,000.00; (4) Reimbursable Estimated Advertising Fee which is \$5,000.00; (5) Reimbursable Appraisal Fee which is \$5,400.00; (6) Reimbursable Costs and Expenses, not to exceed \$10,000.00; (7) Patent Fee of \$200.00. The total amount due at the time of sale is \$59,200.00 (less \$37,400.00 if the successful bidder is the applicant and owner of the improvements, for a total amount due of \$21,800.00).

(B) Within 30 days after the auction date the successful bidder must pay the full balance of the amount bid for the land and pay a Selling and Administrative Fee of 3% of the purchase price, less the amount paid under (A)(2)(a) above.

(C) Within 30 days after the auction date the successful bidder must pay the full balance of the amount owed for the improvements less the amount paid under (A)(3) above. If the successful bidder is the owner of the improvements no payment for the improvements is due.

(D) Within 30 days after the auction date the successful bidder must pay the actual legal advertising cost, less the amount paid under (A)(4) above.

ADDITIONAL CONDITION(S):

The patent for the subject property shall include the following conditions and restrictions:

- (1) All bidders are hereby notified that there may be Register Eligible Site or Sites located within the subject property, which could include information significant in this state's history, architecture, archaeology or culture and may meet eligibility criteria, which the Arizona State Parks Board has established for listing on the Arizona Register of Historic Places, or which meet eligibility criteria for listing on the National Register of Historic Places. If ground-disturbing activities will or may impact one or more Register Eligible Site or Sites, purchaser shall consult with the State Historic Preservation Office and otherwise take such actions as are necessary to avoid, preserve, protect, or mitigate impacts on the Register Eligible Site or Sites. In the event that avoidance, preservation and protection of the Register Eligible Site or Sites cannot be accomplished, purchaser shall ensure a Data Recovery Plan is developed in consultation with and acceptable to, the Arizona State Museum and the State Historic Preservation Office, or their successor agencies, and the Data Recovery is implemented and completed prior to the Register Eligible Site or Sites being affected. The artifacts and records recovered from the property shall be curated according to the Arizona State Museum (ASM) Conservation and Curation Standards as established in rules implementing the Arizona Antiquities Act. These conditions shall run with the land, and be binding on the purchaser's heirs, successors and assigns.
- (2) The use of the subject property shall be restricted to Municipal Recreation purposes only. In the event the lands cease to be put to the above referenced purpose, said real property shall immediately revert to the State Trust from which they are hereby conveyed. Said reversion may be confirmed through judicial proceedings instituted by

or on behalf of any officer or employee of the State of Arizona in a court of general jurisdiction of the State. The interest conveyed by this patent is a fee simple determinable, not a fee simple subject to a condition subsequent.

BIDDING INFORMATION:

(A) The time of sale shall be deemed to be the time of declaration of the highest and best bidder. The bidding will begin at the total appraised value of \$65,000.00. A bid for less than the appraised value of the land or by a party who has not inspected the land and/or the associated files and records of ASLD will not be considered. Additional bidding increments shall be a minimum of \$5,000.00 thereafter. Bidding will be conducted orally.

(B) All bidders must sign an affidavit stating that they have undertaken due diligence in preparation for the auction, that their representative is authorized to bid and bind the bidder and that they are purchasing the property AS IS. It is the bidder's responsibility to research the records of local jurisdictions, all ASLD files pertinent to the purchase application file including the purchase application file, and all other public agencies regarding this property. Notice is hereby given that the property shall be purchased in an "AS-IS" condition "WITH ALL FAULTS", with no representation or warranty being made by ASLD of any type or nature. All bidders shall acknowledge and agree pursuant to the aforementioned affidavit that they are purchasing the property solely upon the basis of their own due diligence and investigation of the property and not on the basis or any representation, express or implied, written or oral, made by ASLD or its agents or employees, except as set forth in writing herein. Without limiting the generality of the forgoing, notice is hereby given that ASLD makes no warranty as to the following: (a) the physical condition or any other aspect of the property, including, but not limited to, the uses to which the property may be put, the ability to construct additional improvements or modify existing improvements on any portion of the property or the ability to obtain building permits for any portion of the property, the conformity of the property to past, current or future applicable landscaping, parking, zoning or building code requirements, the existence of soil instability, past soil repairs, soil additions or conditions of soil fill, susceptibility to landslides, sufficiency of undershoring, water retention characteristics of the property, drainage onto or off of the property, the location of the property either wholly or partially in a flood plain or a flood hazard boundary or similar area, or any other matter affecting the stability or integrity of the land or any improvements constituting the property; or (b) the sufficiency of the property for purchaser's purposes or as to its continued operating conditions or usefulness. All implied warranties, including, without limitation, **WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE**, are hereby expressly disclaimed. This notice shall survive the delivery of the Certificate of Purchase and Patent for the subject property.

(C) Pursuant to A.R.S. §37-240(B), the successful bidder must be authorized to transact business in the state of Arizona no later than ten (10) business days after the auction. The successful bidder must sign an affidavit stating it is the successful bidder and sign a Certification Statement pursuant to A.R.S. Title 37 and the Rules of ASLD.

(D) If the successful bidder fails to complete the payments as stated in the auction notice together with the additional required fees within 30 days from the auction date, all amounts paid at the time of auction by the successful bidder will be forfeited.

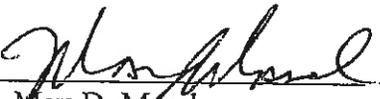
(E) In the event of forfeiture, the ASLD Commissioner may declare that the bid placed before the final bid accepted is the highest bid, and that the bidder has five (5) business days after notification by ASLD to pay by cashier's check all amounts due.

GENERAL INFORMATION:

The ASLD may cancel this auction in whole or in part at any time prior to the acceptance of a final bid.

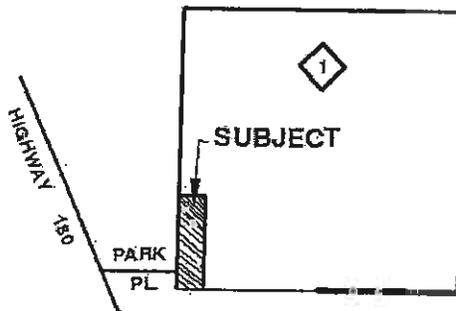
A protest to this sale must be filed within 30 days after the first day of publication of this announcement and in accordance with A.R.S. §37-301.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting the ADA Coordinator, at (602) 542-2636. Requests should be made as early as possible to allow time to arrange the accommodation.


Max D. Masel
(for) Lisa A. Atkins
State Land Commissioner



8/2/16
Date



Disclaimer: This map is designed for general overview purposes only. Unless otherwise stated all depictions are approximate. Prospective bidders should review all information in ASLD's records relating to the property and seek technical or legal advice as needed to assure the understanding of all legal descriptions, plat maps, surveys, and other documents relevant to the property. Contact ASLD, Real Estate Division at (602) 542-3000 for additional information.