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File #: 21-0280, **Version:** 1

DATE: April 27, 2021

TO: Board of Supervisors

SUBMITTED BY: Oscar J. Garcia, CPA, Auditor-Controller/Treasurer-Tax Collector

SUBJECT: Sale of Tax-Defaulted Properties to Habitat for Humanity Fresno, Inc.

RECOMMENDED ACTION(S):

Adopt a resolution approving the sale of seven tax-defaulted properties for the total minimum price of $27,900 to Habitat for Humanity Fresno, Inc., authorizing the Chairman to execute the "Agreement for Non-Profit Organization to Purchase Tax-Defaulted Property," and authorizing the Auditor-Controller/Treasurer-Tax Collector to transmit the agreement to the State Controller for approval.

Approval of the recommended resolution authorizes the sale of seven tax-defaulted properties to the non-profit organization Habitat for Humanity Fresno, Inc. (HFHF) under Chapter 8 of Part 6 of Division 1 of the Revenue and Taxation Code (Chapter 8), so that the properties may be used for the benefit of low-income persons or families. Finally, approval of the recommended resolution would also allow the Tax Collector to transmit the signed agreement to the State Controller's office for their approval.

In general, all delinquent taxes, penalties, and costs of the sale are recovered through the sale of properties. Depending on when the sale becomes effective, the total price would increase to the redemption amount for each of the properties covered by the agreement.

ALTERNATIVE ACTION(S):

Your Board may choose not to approve the recommended resolution. HFHF would not be allowed to purchase the specified tax-defaulted properties to be used for the benefit of low-income persons or families. Instead, those properties would be offered for sale at the County's annual public auction of tax-defaulted properties in 2022, if they are not redeemed before then.

FISCAL IMPACT:

By selling tax-defaulted properties at the statutory minimum price of $27,900, the County recovers the cost of the sale and enough to pay the outstanding delinquent taxes, penalties and costs.

DISCUSSION:

Under Revenue and Taxation Code section 3691, the Tax Collector has the power to sell properties that have been tax-defaulted for five or more years in an effort to return these parcels to an active property tax paying status. Ordinarily, the Tax Collector sells tax-defaulted properties at a public auction.

Chapter 8 of Part 6 of Division 1 of the California Revenue and Taxation Code (Chapter 8) provides, however, that eligible non-profit organizations may object to the sale of tax-defaulted properties by public auction so that they can purchase those properties by agreement for certain limited purposes allowed by law. Those limited purposes include the following uses for the benefit of low-income persons or families, or dedication to public use:

- An eligible non-profit organization may purchase tax-defaulted residential property to rehabilitate and sell or rent to, or otherwise use the property to serve, low-income persons or families.

- An eligible non-profit organization may also purchase tax-defaulted vacant property upon which to construct residential dwellings to sell or rent to low-income persons or families, or otherwise use the property to serve low-income persons or families, or to dedicate the vacant property to public use.

For those purposes, the law defines “low-income persons” to mean persons and families of low or moderate income as defined in Health and Safety Code section 50093, in the Zenovich-Moscone-Chacon Housing and Home Finance Act. “Rehabilitation” means repairs and improvements to a substandard building, as defined in Health and Safety Code section 17910 in the State Housing Law, so that it is no longer a substandard building.

To be eligible to purchase tax-defaulted property for those purposes, a non-profit organization must be incorporated for one or both of the following purposes:

- To acquire single family or multifamily dwellings for rehabilitation and sale or rent to low-income persons, or for other use to serve low-income persons

- To acquire vacant land for construction of residential dwellings and subsequent sale or rent to low-income persons, for other use to serve low-income persons, or for dedication of that vacant land to public use

To purchase tax-defaulted property under Chapter 8, an eligible non-profit organization must file a timely written objection to the sale at public auction of specified tax-defaulted property, as well as a written application to purchase that property. To be timely, those things must be filed before the first newspaper publication to the general public regarding the public auction of tax-defaulted properties. In the written application, the eligible non-profit organization must state that it will use the property for one of the purposes described above. If an eligible non-profit organization satisfies those requirements, then the Tax Collector may not sell the specified tax-defaulted property at public auction.

The Tax Collector reviews each objection and application for eligibility requirements. If the non-profit organization is eligible, the Tax Collector prepares an agreement for review and signature by the eligible non-profit organization. A sale of tax-defaulted property to an eligible non-profit organization under Chapter 8 must be approved by the Board of Supervisors, and must be subject to conditions including requiring compliance by the eligible non-profit organization with the relevant jurisdictions consolidated or community redevelopment plan. The conditions are provided in the sale agreement.

After execution by the Chair of the Board of Supervisors, the sale agreement must be submitted to the State Controller’s office for approval. After the State Controller’s office has approved the sale agreement, the Tax Collector must notify parties of interest a minimum of 45 days before the Chapter 8 sale becomes effective. In addition, the Tax Collector must publish a notice of the Chapter 8 sale agreement for three consecutive weeks with the first publication occurring at least 21 days before the Chapter 8 sale becomes effective. Under the sale agreement, the purchaser is required to pay the cost of that publication. During that notice period, interested parties will have an opportunity to redeem the tax-defaulted property. If the tax-defaulted property is not redeemed before the Chapter 8 sale becomes effective, then the sale is completed and the Tax Collector records a deed to the eligible non-profit organization.

HFHF filed a timely written objection and written application to purchase a Chapter 8 sale of tax-defaulted parcels to rehabilitate and sell or rent to qualified low-income persons. See Attachment A for the list of the tax-defaulted parcels. Originally, HFHF applied to purchase nine tax-defaulted parcels. Before the County's annual public auction of tax-defaulted property, however, two of those parcels were redeemed, leaving only seven available for purchase by HFHF.

The Tax Collector has reviewed HFHF's written objection and written application and determined that they satisfy the requirements for a Chapter 8 sale. The purchase price to be paid by HFHF will be the same amount that would be necessary to redeem the property, which means the County will receive all of the property taxes due on the properties to be purchased by HFHF. The purchase price of $27,900 is based on an expectation that the sale will become effective in July. If the sale becomes effective in a later month, the agreement provides that the purchase price will increase to the statutory minimum price for that month.

The sale agreement obligates HFHF to sue the tax-defaulted properties for the limited purposes provided by law as described above. The sale agreement also obligates HFHF not to discriminate in the selection of low-income persons or families under the Civil Rights Act of 1964, the Americans with Disabilities Act, and all other applicable laws and regulations prohibiting discrimination. All of those requirements are also stated in the forms of the deeds to HFHF, which are attached to the sale agreement.

In the sale agreement, the County expressly makes no representations or warranties regarding the condition of title to the tax-defaulted properties, the physical condition of the tax-defaulted properties, or the environmental condition of the tax-defaulted properties. The sale agreement provides that HFHF acquires the properties "as is," and that the County is not liable for known or unknown conditions of the tax-defaulted properties to the same extent the County is not liable when it sells tax-defaulted properties at public auction.

If any of the tax-defaulted properties are redeemed before the sale become effective, the sale agreement is null and void as to that property, but it remains in full force and effect for every remaining property listed in the sale agreement.

<u>REFERENCE MATERIAL:</u>

BAI #25, December 10, 2020

<u>ATTACHMENTS INCLUDED AND/OR ON FILE:</u>

Attachment A
On file with Clerk - Resolution
On file with Clerk - Agreement for Non-Profit Organization to Purchase Tax-Defaulted Property

<u>CAO ANALYST:</u>

Yussel Zalapa