
UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

RAPOWER-3, LLC; INTERNATIONAL
AUTOMATED SYSTEMS, INC.; LTB1,
LLC; R. GREGORY SHEPARD; NELDON
JOHNSON; and ROGER FREEBORN,

Defendants.

**ORDER APPROVING (1) PUBLIC
SALE OF PROPERTIES AND GRANT
OF PURCHASE OPTION FREE AND
CLEAR OF INTERESTS, (2) METHOD
AND FORM OF PUBLICATION
NOTICE, AND (2) PUBLIC AUCTION
PROCEDURES (DOC. NO. 1109)**

Case No. 2:15-cv-00828-DN-DAO

Judge David Nuffer

Magistrate Judge Daphne A. Oberg

Before the court is a Motion Requesting Order Approving (1) Public Sale of Properties and Grant of Purchase Option, Free and Clear of Interests, (2) Method and Form of Publication Notice, and (3) Public Auction Procedures (Doc. No. 1109) filed by R. Wayne Klein, the court-appointed receiver. The motion relates to the grant of an option to purchase certain real property located in Millard County, Utah (“Property”), identified by parcel numbers HD-3511, HD-3511-1, and MA-2662-B and described as follows:

1. A 600-acre parcel (“3511 Property”), identified by parcel number HD-3511, and also described as follows:

Section 16, Township 16 South, Range 8 West, Salt Lake Base and Meridian.

Less: Beginning at the Southwest Corner of Section 16, Thence North 1320 Feet; Thence East 1320 Feet; Thence South 1320 Feet; Thence West 1320 Feet to the Point of Beginning.

Subject to a 30 Foot Easement Around the Perimeter of Said Property. (HD-3511)

2. A 40-acre parcel (“3511-1 Property”), identified by parcel number HD-3511-1,

and also described as follows:

Beginning at the Southwest Corner of Section 16, Township 16 South, Range 8 West, Salt Lake Base and Meridian; Thence North 1320 Feet; Thence East 1320 Feet; Thence South 1320 Feet; Thence West 1320 Feet to the Point of Beginning. (HD-3511-1)

3. A 360-acre parcel ("2662 Property"), identified by parcel number MA-2662-B, and also described as follows:

The Southeast Quarter and the North Half of the Southwest Quarter and the Southeast Quarter of the Southwest Quarter and the South Half of the Northwest Quarter of Section 27, Township 15 South, Range 8 West, Salt Lake Base and Meridian. (MA-2662-B)

Excepting Therefrom: That Portion Within the Boundary of the Millard County Road Right-of-Way.

The Receiver seeks (1) authorization to grant an option to purchase the Property after offering the Property at public sale to the highest and best offeror (either pursuant to an outright purchase of the property or an option purchase agreement), free and clear of all interests, (2) approval of the form and method of publication notice, and (3) approval of the proposed auction procedures.

No opposition to the motion was filed. The court reviewed the motion and all attached exhibits, and for good cause appearing, GRANTS the motion and ORDERS:

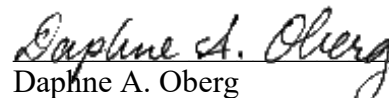
1. The grant of a purchase option (or sale for cash) of the Property, free and clear of interests as set forth in the Motion to the proposed buyer or a higher and better offeror at auction is APPROVED.

2. The method and form of the publication notice as set forth in the Motion are APPROVED. The following notice shall be published in the Millard County Chronicle Progress, a newspaper of general circulation throughout Millard County, Utah, once a week for a period of four weeks prior to the public sale:

3. R. Wayne Klein, the court-appointed receiver (“Receiver”) for RaPower-3, LLC, International Automated Systems, Inc., and LTB1, LLC, as well as certain of their subsidiaries and affiliates, and the assets of Neldon Johnson and R. Gregory Shepard, in the civil case (“Case”) styled *United States v. RaPower-3, LLC*, No. 2:15-cv-00828-DN (D. Utah) gives notice of his intent to sell certain real property (“Property”) constituting a total of 1,000 acres located in Millard County, UT, including 600 acres with parcel number HD-3511, 40 acres with parcel number HD-3511-1, and 360 acres with parcel number MA-2662-B. The intended sale of the Property is in the form of granting an option to purchase the Property. The Receiver has accepted an initial bid (“Stalking Horse Bid”) to sell to the Stalking Horse Bidder a four-year option to purchase the Property. The Stalking Horse Bidder will pay \$40 per acre option fees in the first year, \$45 per acre for the second year, \$50 per acre for the third year, and \$55 per acre for the fourth year. If the Stalking Horse Bidder exercises the purchase option, the purchase price will be \$1,500 per acre (and higher if the option is exercised in years three or four). The Receiver will conduct a public auction (“Auction”) to determine whether any other bidder will pay a higher cash price for the property or an option purchase proposal more favorable than proposed by the Stalking Horse Bidder. The auction will be held on _____, 2021, at ___:___m. at the Fourth Judicial District Court in Millard County, 765 S. Highway 99, Ste. 6, Fillmore, UT, or as may be continued from time to time by the Receiver. The Property will be sold at the Auction free and clear of all interests, “as is,” with no representations or warranties. The Receiver invites any bids at the auction for the Property for cash purchase or an option purchase agreement that is more favorable than that of the Stalking Horse Bidder. Only “Qualified Bidders” may participate in the Auction. To be a Qualified Bidder, you must, at least five business days before the Auction, comply with the “Auction Procedures” that have been approved in the Case, which Auction Procedures may be obtained upon request made to attorney Michael S. Lehr, Parr Brown Gee & Loveless, 101 S. 200 E., Ste. 700, Salt Lake City, Utah 84111, mlehr@parrbrown.com.
4. The Auction Procedures described in the Motion and attached to the Motion as Exhibit C are APPROVED.

DATED this 20th day of April, 2021.

BY THE COURT:


Daphne A. Oberg
United States Magistrate Judge