



TITLE: Sale of Excess Tax Foreclosed and Surplus Real Property		PROCEDURE #: 809-A
DEPT: Finance		PROGRAM: N/A
EFFECTIVE DATE: 11/11	REVIEWED:	REVISED: 10/18

OBJECTIVE: To establish procedures for selling parcels of excess tax foreclosed and surplus real property to the prior owner of record, the adjacent property owners, the general public, or local municipalities, in a fair and equitable manner for the benefit of the taxing districts, the county, and the public interest.

REFERENCE: Policy # 809

POLICY STATEMENT: It is Marion County’s policy to first review all property obtained by the county to determine any county needs, such as right-of-way, easement, program use, etc. Once all county needs have been identified and executed, any property remaining and available for sale is determined to be excess property. The county’s primary goal for excess property is to have it reinstated to the county tax roll or into public use. To achieve those goals, the county will offer parcels of excess tax foreclosed and surplus real property for sale, with a minimum sale price sufficient to at least recover unpaid property taxes on the property and any costs incurred by the county while in ownership of the property. The Board of Commissioners has established a preference for the order of priority for the use or sale of excess tax foreclosed and surplus real property as follows:

1. Retention by the county for ongoing county use.
2. Sale to prior owner if requested and qualified.
3. Sale to neighboring property owners subject to statutory limitations.
4. Sale at public auction.
5. Sale by private sale.

The county may also choose to consider the sale or transfer of tax foreclosed or surplus real property to a local municipality within Marion County when the municipality submits a written request to the board of commissioners requesting such consideration. Sale or transfer of property to a municipality may occur at any point in the above noted “order of priority” for property sales. In determining a sales price for sale or transfer of property to a local municipality, the price is solely at the board’s discretion. However, as a general guideline, it is the county’s goal to obtain a price that at least recovers the amount of previously unpaid property taxes and any other costs incurred by the county during ownership of the property to the extent affordable by the local municipality.

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In accordance with ORS Chapter 271.330, the county, upon written request may also choose to consider to relinquish title to excess tax foreclosed or surplus property to a qualifying non-profit or municipality for low income housing, social services, or child care services. In addition, the county may convey real property title to a non-profit or municipality for the creation of open space, parks or natural areas for perpetual public use.

The board reserves the right to determine a different order of priority in any given circumstance to best meet the needs of the county, local taxing districts, and the public interest.

Tax foreclosed real properties are deeded to the county in accordance with ORS Chapter 312 for the nonpayment of real property taxes. Surplus real property is county owned property that was acquired by the county through purchase or donation and the board of commissioners has decided that the property is not required to be kept for any county purpose. This policy and the associated procedures shall be utilized for the sale of both excess tax foreclosed real property and surplus real property.

APPLICABILITY: All county departments.

PROCEDURES:

1. The Finance Department will oversee all property to be offered for sale by Marion County.
2. A listing of real property proposed to be sold will be distributed at least annually to all county departments for review and recommendation as to whether the property is to be kept, exchanged, set aside for right-of-way or other action taken.
 - 2.1. Each incorporated city within the county will receive information regarding any properties to be sold that are found within the city's boundaries.
 - 2.2. If a city has an interest in one or more of the properties, the city may submit a written request to purchase the property to the Finance Department.
 - 2.3. The Finance Department shall follow procedures in accordance with ORS Chapter 271 and as set forth in these procedures.
3. Properties may also be offered for sale to the prior owner of record.
 - 3.1. If the prior owner of record of the property indicates an interest to reacquire a tax foreclosed property, the Finance Department shall follow procedures in accordance with ORS Chapter 275.180 and as set forth in these procedures.
4. The Board of Commissioners shall make all final decisions regarding the sale of excess tax foreclosed and surplus real property including any and all situations of conflict or of multiple requests for the same piece of property.

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5. Properties that are not retained by the county or sold to the prior owner may be sold at public auction or by private sale as set forth in the associated statutes ORS Chapters 275.110 and 275.225 and in sections 9 and 10 of these procedures.
6. Properties not sold as set forth in section 5 may be offered for sale or transfer to a local municipality as set forth in section 10.5 of these procedures.
7. The following guidelines are to be followed for all properties being considered for sale by Marion County:
 - 7.1. All property shall be sold "AS IS". Marion County transfers by quitclaim deed its interest in the property and makes no representation about the value, zoning, suitability for any purpose, building feasibility, environmental condition, wetland designation, forest zones, easements, city ordinances and regulations or any other matter.
 - 7.2. Property sales shall be for cash or land sale contract as follows:
 - 7.2.1. Sale for a purchase price of \$5,000 or less shall be for cash only.
 - 7.2.2. Some sales may require the purchase to be cash only if the property has been advertised as "Cash Only".
 - 7.2.3. Contracts may be offered for sales of a purchase price of \$5,001-\$9,999 and shall be paid in monthly payments for no more than 2 years.
 - 7.2.4. Contracts may be offered for sales of a purchase price of \$10,000-\$19,999 and shall be paid in monthly payments for no more than 5 years.
 - 7.2.5. Contracts may be offered for sales of a purchase price of \$20,000 or over and shall be paid in monthly payments for no more than 10 years.
 - 7.2.6. The interest rate for land sale contracts shall be set at prime rate, on the day of the sale, plus 3%. The monthly payment will be calculated by the Marion County Finance Department and will include principal and interest.
 - 7.2.7. A 25% down payment is required for any land sale contract. Specific information on whether a down payment is refundable is detailed in each of the various sale procedures.
 - 7.2.8. The Finance Department shall review the land sale contract with the purchaser and have purchaser sign a land sale contract summary acknowledging that the purchaser understands the contract.
 - 7.3. Marion County reserves the right to refuse to enter into a contract with any buyer who has failed to perform his or her obligations on any previous purchase of real property from Marion County.
 - 7.4. Marion County reserves the right to retain any real property or any interest in a piece of property it deems to be in the public interest to do so.
8. Sale of Excess Tax Foreclosed Real Property to the Prior Owner of Record
 - 8.1. If the prior owner of record has an interest in reacquiring the property, the property may be sold as described below:
 - 8.1.1. The prior owner of record shall request to purchase the property by submitting a letter to the board of commissioners, via the Finance Department.
 - 8.1.2. The letter shall detail the specifics of why the prior owner wants to purchase the property and explain how they have the financial ability to purchase the property from the county and keep the property taxes current.

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- 8.1.3. If the board of commissioners denies the request, sale of the property shall follow the guidelines of Policy 809.
 - 8.1.4. If the board approves the request to sell the property to the prior owner of record, the Finance Department shall execute the sale.
 - 8.2. The sale price shall be the total of the amount of:
 - 8.2.1. Taxes and interest accrued against the property at the time the property was deeded to the county;
 - 8.2.2. Plus 6% per annum on the accrued taxes and interest since the county's date of acquisition;
 - 8.2.3. Plus any taxes and interest which would have accrued through the date of purchase but for the county's ownership; and
 - 8.2.4. Any fees assessed by the tax collector and an administrative fee of 10% of the purchase price.
9. Sale of Excess Tax Foreclosed and Surplus Real Property at Public Auction
- 9.1. At least annually, an auction shall be conducted to return property to the tax rolls, reduce surplus property and to benefit the county and the taxing districts.
 - 9.2. The Finance Department shall recommend to the board of commissioners a list of properties to be sold at auction.
 - 9.3. In accordance with ORS Chapter 275, the board of commissioners shall enter an order for the sale, with the public notice containing the list of properties and the setting of the public auction date.
 - 9.3.1. A public notice of the sale shall be published in a newspaper within the county once a week for four consecutive weeks prior to the auction and the auction will be held no earlier than ten days after the last advertisement.
 - 9.3.2. The public notice shall contain the time and location of the sale; the date of the order directing the sale; and the list of properties to be sold detailing the tax lot number, street address or a description of location, approximate acreage, real market value, and minimum bid for each property.
 - 9.4. The above noted list of properties and the rules of the auction will also be noticed on Marion County's website, Property Auction Information page <http://www.co.marion.or.us/FIN/Pages/propertyinfo.aspx> when there is an auction scheduled and the public notice has been published.
 - 9.4.1. The Finance Department will also maintain a notification list to notify interested prospective buyers of an upcoming auction.
 - 9.5. A reference guide will be available at the Marion County Finance Department's reception desk for a nominal fee and can also be obtained on the county website.
 - 9.5.1. This guide will contain a reference map, legal description and other pertinent information as available.
 - 9.5.2. The guide is only a reference for prospective buyers to make their own determination as to the existence, value and usability of the interest in the property the county is offering for sale.
 - 9.6. Prospective buyers are responsible for researching any and all conditions concerning the properties offered.

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- 9.6.1. Marion County makes no representation about the value, zoning, suitability for any purpose, building feasibility, environmental condition, wetland designation, forest zones, easements, city ordinances and regulations or any other matters.
- 9.6.2. The county transfers any interest it may hold in these properties by quitclaim deed, not warranty deed.
- 9.7. Property will be auctioned by the sheriff or his duly appointed representative at a designated location.
 - 9.7.1. Bidders shall register at least half an hour prior to the auction to receive a bidder's identification number.
 - 9.7.2. The auctioneer will not recognize unregistered bidders.
- 9.8. Properties are normally sold with the minimum bid set at 75% of the current real market value (RMV) as estimated by the county and verified by physical inspection by the assessor's office or qualified appraiser or realtor within 120 days of the date of the public auction, unless specifically advertised otherwise.
 - 9.8.1. When property left unsold from a previously offered auction is to be offered for sale at a future auction, the minimum bid may be set at an additional discount as recommended by the Finance Department.
- 9.9. Bidding
 - 9.9.1. Bids less than the advertised minimum bid will not be accepted.
 - 9.9.2. Bidding shall be increments of \$100.00.
 - 9.9.3. If no satisfactory bid is received for the parcel announced for sale, the parcel shall be removed from the sale and the parcel shall not be offered again at the same auction.
 - 9.9.4. After bids have been called for three times and no further acceptable bids are offered, the auctioneer shall sell the parcel to the highest bidder.
 - 9.9.5. The sale will terminate after bids have been called for on all parcels whether the parcels have or have not been sold.
- 9.10. Successful bidders will be required to sign a certificate of sale immediately after the close of the auction and a copy will be provided.
 - 9.10.1. The certificate of sale shall include the terms of the sale and the name that is to be recorded on the deed.
 - 9.10.2. When a corporation signs the certificate of sale, Marion County will require evidence that the person signing is the president or authorized signer along with the corporation resolutions authorizing the transaction.
- 9.11. Marion County reserves the right to remove any property from public sale and/or retain any real properties when it deems it to be in the best interest of the county and the public.
- 9.12. Sales will be for cash and/or land sale contract as designated for each property.
- 9.13. A 25% non-refundable down payment is required on all sales.
- 9.14. Payment shall be received within one hour after the close of the auction and shall be by cash, cashier check, money order or certified check.
- 9.15. Failure to present the 25% down payment within one hour of the closure of the auction is a breach of contract.
- 9.16. Personal checks will be accepted provided a certified bank check is furnished to replace the personal check within 24 hours after the termination of the sale.
 - 9.16.1. Failure to replace the personal check is also a breach of contract.
- 9.17. Cash sales require a 25% non-refundable down payment.

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- 9.17.1. The full payment of the bid sale must be received within 30 days from the date of the auction.
 - 9.17.2. If the buyer fails to consummate the sale, the down payment will be retained by Marion County. The property will then be offered to the next high bidder.
 - 9.17.3. If the second high bidder does not exercise the purchase option, the property shall be placed on the available property list or offered at future auctions by recommendation from the Finance Department.
 - 9.18. Properties identified in the newspaper advertisement as “CASH ONLY” sales shall not be offered on contract nor will a sale for a purchase price of \$5,000 or less be offered on contract.
 - 9.19. Land sale contracts require a 25% non-refundable down payment.
 - 9.19.1. If a buyer fails to enter into a contract within 30 days, the down payment will be retained by Marion County and the property will be offered to the next high bidder.
 - 9.19.2. If the second high bidder does not exercise the purchase option, the property shall be placed on the available property list or offered at future auctions by recommendation from the Finance Department.
10. Sale of Excess Tax Foreclosed and Surplus Real Property By Private Sale
- 10.1. The Finance Department shall be responsible for the overall planning and execution of private sales through sales negotiations or offered through a sealed bid process.
 - 10.2. A private sale shall be utilized for the sale of three different categories of property:
 - 10.2.1. Property unsold after public auction in accordance with ORS Chapter 275.200 when the Finance Department deems it to be in the best interest of the county and the taxing districts;
 - 10.2.2. Property to be offered to only the adjacent property owner(s) and sold in accordance with ORS Chapter 275.225 and pursuant to these procedures; and
 - 10.2.3. Property sold or transferred to a local municipality in accordance with ORS Chapter 271.310 and ORS Chapter 271.330.
 - 10.3. Private Sale of Property Unsold After Auction by Sealed Bid
 - 10.3.1. This sale type may be utilized when the county has property unsold from an auction and the Finance Department deems that it is in the best interest of the county and the taxing districts to sell the property by sealed bid to the general public.
 - 10.3.2. The list of properties to be offered for sale will be available at the Marion County Finance Department reception desk and on the Marion County website, Property Auction Information page. <http://www.co.marion.or.us/FIN/Pages/propertyinfo.aspx>
 - 10.3.3. A reference guide containing a reference map, legal description of the property, and other pertinent information will be available at the Finance Department reception desk for a nominal fee and will be posted on the county’s website.
 - 10.3.3.1. The guide is only a reference for prospective buyers to make their own determination as to the existence, value and usability of the interest in the property the county is offering for sale.
 - 10.3.3.2. Prospective buyers are responsible for researching any and all conditions concerning the properties offered.
 - 10.3.4. All offers to purchase available real property must be submitted in the following manner:

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- 10.3.4.1. All offers must be submitted in writing using the sealed bid form found on the Marion County Finance Department website or image copies thereof and
- Mailed to: Marion County, Finance Department
PO Box 14500
Salem OR 97309
- OR -
- Delivered to: Marion County, Finance Department
555 Court St NE, Suite 4247
Salem OR 97301
- 10.3.4.2. A Finance Department representative shall notate the envelope with the date and time that the envelope has been received.
- 10.3.4.3. All offers must be sealed in an envelope.
- 10.3.4.4. Each offer must be for a single parcel of real property.
- 10.3.4.5. The exterior of the envelope must set forth the name, address and telephone number of the maker of the offer, the date of the offer and the tax lot number for the real property.
- 10.3.4.6. If the offer is to be mailed, the envelope with the offer shall be placed inside another envelope that has the county's mailing address.
- 10.3.4.7. All offers of \$5,000 or less must be accompanied by a cashier's check, certified check or money order in the full amount offered for the real property.
- 10.3.4.8. Offers on properties to be sold by cash that are greater than \$5,000 must be accompanied by a cashier's check, money order or certified check for at least 25% of the bid amount as a down payment.
- 10.3.4.9. This down payment will be refunded if the offer is not accepted by the board of commissioners.
- 10.3.4.10. The payment in full amount of the offer is due and payable within 30 days from the date of the board of commissioner's decision to sell (accept the offer). If the buyer fails to make payment in full to complete the sale, then the down payment will be forfeited to Marion County.
- 10.3.4.11. Offers on properties to be sold on contract that are greater than \$5,000 must be accompanied by a cashier's check, certified check or money order for at least 25% of the amount bid, as a down payment.
- 10.3.4.12. This down payment will be refunded if the offer is not accepted by the board of commissioners.
- 10.3.4.13. Contracts will be executed no later than 30 days after the board of commissioner's decision to sell (accept the offer).
- 10.3.4.14. Failure to enter into a contract within 30 days will cause the down payment to be forfeited to Marion County.
- 10.3.4.15. All offers must be physically received before the close of the last business day of the sale as advertised.
- 10.3.4.16. On the first business day following the close of the sale, two Finance Department representatives will open all offers, document the offers as

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submitted and prepare a recommendation to the board of commissioners for action at the next available board meeting.

10.3.4.17. If identical offers are received within the deadline prescribed herein, the valid offer received first in time will be the offer considered by the board of commissioners.

10.3.4.18. No offer for less than 15% of the minimum bid set for the real property at the preceding public auction at which the real property was offered will be considered as a valid offer in accordance with ORS Chapter 275.200.

10.4. Private Sale to Adjacent Property Owner(s) by Sealed Bid

10.4.1. Properties that meet the following conditions may only be offered for sale to the adjacent property owner(s) if:

10.4.1.1. The property has a real market value of less than \$15,000 as listed on the assessment roll; and

10.4.1.2. The property is unsuited for the construction or placement of a dwelling under applicable zoning ordinances and building codes.

10.4.2. The Finance Department shall send a letter detailing the sale to all adjacent property owners of the subject county owned property.

10.4.3. Adjacent property owners interested in purchasing the subject property shall submit their bid as specified in section 10.3.4. above.

10.4.4. If identical offers are received within the deadline prescribed herein, the valid offer received first in time will be the offer considered by the board of commissioners.

10.4.5. The successful bidder shall be required to consolidate the parcel with their current tax lot(s) as applicable. The Finance Department shall assist the bidder to accomplish this action with the assessor's office.

10.5. Private Sale to a Local Municipality or Nonprofit

10.5.1. A local municipality or non-profit may make a request to purchase excess tax foreclosed or surplus real property. A request must be submitted in writing to the Marion County Board of Commissioners or the Marion County Finance Department.

10.5.2. Excess tax foreclosed and surplus real property may be transferred or sold to a local municipality providing that the property shall be used for a public purpose for not less than 20 years.

10.5.3. Excess tax foreclosed and surplus real property may be transferred to a nonprofit corporation only under specific circumstances as defined in ORS 271.330(2)(a)(low income housing, social services, or child care services) and(3)(open space, parks, or natural areas).

10.5.4. All such sales and transfers must be advertised in a newspaper of general circulation in the county for a minimum of two successive weeks indicating the intent to sell or transfer the property and set a public hearing date to hear any potential objections.

10.5.5. The real property shall be conveyed by deed, subject to a reversionary interest (when applicable) retained by Marion County in the event the property is not used for a public purpose. The reversionary interest may be waived by the board of commissioners.

10.5.6. The board of commissioners may determine the price at which the property will be sold with no minimum amount required by statute.

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- 10.5.7. The board of commissioners will consider the best interests of the taxing districts and the county when deciding the appropriate action to take in response to any offer.
 - 10.5.8. The Finance Department will submit all valid offers to the board of commissioners with a staff recommendation as appropriate.
 - 10.5.9. If the Finance Department has not physically received an offer that meets any specified criteria, or if no offer is accepted by the board of commissioners, the property will remain available for the next sale.
 - 10.5.10. If an offer is accepted, no subsequent offers for that property will be considered.
 - 10.5.11. All offers submitted and accepted by the board of commissioners are binding; no money submitted will be refunded if the board of commissioners accepts the offer.
 - 10.5.12. The person/entity making the offer is responsible for applicable recording fees.
 - 10.5.12.1. All fees must be paid within 10 days of the date of the Marion County Board of Commissioners acceptance of the offer and notification is made to the maker of the offer.
11. Marion County reserves the right to remove any property from public sale and/or retain any real properties when it deems it to be in the best interest of the public.