



## Agenda Submittal

**Agenda #:** 11 **Status:** Consent Calendar  
**Type:** Resolution **Department:** Treasurer-Tax Collector-County Clerk  
**File #:** 19-790 **Contact:** Charles Lomeli, 784-3419  
**Agenda date:** 10/22/2019 **Final action:** 10/22/2019  
**Title:** Adopt a resolution authorizing the Treasurer-Tax Collector-County Clerk to sell tax-defaulted property (APN 0136-023-140) at a Chapter 7 (Public Auction) sale via the Internet within 180 days of Board approval  
**Governing body:** Board of Supervisors  
**District:** All  
**Attachments:** 1. A - Resolution, 2. B - Authorization of Sale, 3. Adopted Resolution, 4. Minute Order

| Date   | Ver. | Action By            | Action | Result |
|--|------|----------------------|--------|--------|
| 10/22/2019   | 1    | Board of Supervisors |        |        |
| Published Notice Required? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> |      |                      |        |        |
| Public Hearing Required? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>   |      |                      |        |        |

### **DEPARTMENTAL RECOMMENDATION:**

Adopt a resolution authorizing the Treasurer-Tax Collector-County Clerk to sell tax-defaulted property (APN 0136-023-140) at a Chapter 7 (Public Auction) sale via the Internet within 180 days of Board approval.

### **SUMMARY:**

Revenue & Taxation Code §3692 requires the Tax Collector to attempt to sell tax-defaulted property within four years after the property becomes subject to sale. Property becomes subject to sale after taxes have been delinquent for at least 3 years for commercial property and 5 years for all other property. The property (APN 0136-023-140) has been delinquent for 11 years and has not been offered at any previous sales.

The Board has approved this parcel for sale five times beginning in 2015 and most recently in February of 2019. However, the parcel has not previously been through the sale process due to multiple bankruptcy filings that stay the tax sale process. The latest bankruptcy filing was recently dismissed by the court prompting this action.

The property owner or parties of interest may redeem the parcel up until 5:00 p.m., the day prior to the sale, by paying the delinquent taxes, interest, penalties and fees owing on the parcel. Revenue and Taxation Code §3692.2 allows a tax sale to be conducted via the Internet.

### **FINANCIAL IMPACT:**

The successful sale of the property at auction will recover \$59,333.52 in taxes, penalties, interest, and fees for the County if the property sells or is redeemed. It is estimated that the cost of conducting the sale will be \$798. The cost, including the publication, parties of interest search, recording fees, etc., will be paid out of the Tax Collector's budget and will be recovered from the proceeds of the sale. The amount of taxes recovered minus fees and costs will be deposited into the Tax Loss Reserve Fund to reimburse the County for money already apportioned through the TEETER program. Excess proceeds, if any, generated at the sale will be

distributed to qualified claimants for the property by the Auditor-Controller on recommendation of County Counsel.

The costs associated with preparing the agenda item are nominal and absorbed by the department's FY2019/20 Adopted Budget.

## **DISCUSSION:**

### **A. Authority to Sell Tax-Defaulted Property**

The Tax Collector assumes the power to sell after taxes have been delinquent at least 3 years for commercial property and 5 years for all other property. Revenue & Taxation Code §3692 states the tax collector must attempt to sell tax-defaulted property within four years after the property becomes subject to sale for nonpayment of taxes. Property owners or parties of interest may redeem properties up until 5:00 p.m. the day prior to the sale by paying the delinquent taxes, interest, penalties and fees owing on the property. Revenue & Taxation Code §3692.2 allows a tax sale to be conducted via the Internet.

### **B. List of Parcels for Sale**

Property 0136-023-140 has been delinquent for 11 years and during each year of delinquency, the property owner has been sent an annual tax bill in October, a delinquent notice in May and additional notices in July, November and March.

### **C. Notification to Property Owners and Parties of Interest**

As required by Revenue and Taxation Code § 3701, a Notice to Parties of Interest will be given to all owners of record and all other parties of interest via certified mail. A search for parties of interest will be conducted by First Corporate Solutions. In addition to the work to be performed by First Corporate Solutions, Tax Collector staff will search for property owners and other parties of interest by searching county records, telephone and address records, and other information available through an internet search engine used for locating individuals. This additional work by the Tax Collector's office will provide further assurances that all property owners and other parties of interest are notified of the pending sale and are aware of the procedures for redeeming the parcels, thus affording them a fair opportunity to redeem the parcel prior to the sale.

As a further effort to afford due process to persons interested in property 0136-023-140, the County's Collection Officer is in the process of personally visiting the location and providing a courtesy notice of the impending sale. While this additional step is not required by the Revenue & Taxation Code, it will assist in accomplishing the Tax Collector's goal of providing the property owner every opportunity to become aware of the delinquency, impending sale and redemption procedures.

Additionally, per Revenue and Taxation Code §3704.7(a) if the property has a homeowner's exemption or the situs and mailing address are the same, personal contact will be accomplished via a deputy sheriff prior to the sale.

The Tax Collector will also publish the property for sale and information concerning the auction in the Fairfield Daily Republic and will notify other local taxing agencies in accordance with the Revenue and Taxation Code.

### **D. Approval of the Proposed Sale**

Pursuant to Revenue & Taxation Code §3694 the Board must either approve or disapprove the proposed sale. If approved, the public auction sale will be held via the Internet within 180 days of the Board approval. If approved, the Tax Collector may re-offer the property if it does not sell, at a reduced minimum price at a second sale that will be held within 90 days of the original sale date per Revenue & Taxation Code §3692(e)

and §3698.5(c).

**ALTERNATIVES:**

The Board can elect to disapprove the sale. This option is not recommended because 1) per Revenue and Taxation §3692 the Tax Collector shall attempt to sell tax-defaulted property, within four years of the time that the property becomes subject to sale for nonpayment of taxes, 2) the sale will result in recovered income to the County, and 3) experience has shown that by conducting an annual sale, the property owner, Tax Collector, and other parties of interest are afforded the best opportunity to resolve outstanding issues in manner that gets the majority of properties redeemed prior to the auction.

**OTHER AGENCY INVOLVEMENT:**

County Counsel has reviewed the resolution and is in agreement with its form and content. Additionally, County Counsel has reviewed all notices and procedures to ensure accuracy and due process. Relevant cities, agencies and special districts will be notified in accordance with the Revenue & Taxation Code and will be afforded the opportunity to purchase the properties within their jurisdiction at a Chapter 7 Sale.

**CAO RECOMMENDATION:**

APPROVE DEPARTMENTAL RECOMMENDATION