

RESOLUTION NO. 23 - 18

**THE BOARD OF COUNTY COMMISSIONERS
OF HUERFANO COUNTY, COLORADO**

**A RESOLUTION TO ADOPT A POLICY FOR THE DISPOSITION OF SURPLUS
REAL AND PERSONAL PROPERTY**

WHEREAS, C.R.S. § 30-11-107(1)(a), as amended, grants the Board of County Commissioners (“the Board”) the power to make such orders concerning the property belonging to the County as it deems expedient; and,

WHEREAS, The Board believes that it is in the public interest for real property owned by the county to be returned to the tax rolls if it is not needed for some present or future government use and if it can be sold for a reasonable return.; and,

WHEREAS, The Board finds that in keeping with prohibitions against acquiring real or personal property as a speculation, the County does not have the power to retain property lawfully acquired for the use of the county when the use no longer exists; and

WHEREAS, The Board desires an orderly and transparent process for this disposition of County property and believes that such a process is in the best interests of the County and the public.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Huerfano County, Colorado that the following is hereby adopted:

Section 1. Purpose and Scope.

1. The purpose of this policy is to provide for the disposition of County-owned real and personal property in a manner that maximizes public benefit and upholds the highest ethical standards.
2. This policy applies to the entire Huerfano County Government, including elected officials and County-owned enterprises, and all property of Huerfano County Government or an enterprise thereof.
3. Easements and Rights-of-Way are specifically excluded from this policy and may only be vacated under the Huerfano County’s adopted Land Use Regulations.

Section 2. Definitions.

1. Surplus personal property - means that personal property which has been determined to be obsolete, outmoded, unusable or no longer usable by the institution, or property for which future needs do not justify the cost of maintenance and/or storage. Such property must be declared "surplus personal property" as set forth in this resolution; provided however, property need not be declared surplus when disposition is through the trade-in method.

2. Surplus real property - means that real property which has been determined, by the Board of County Commissioners, to not meet the current or future needs of Huerfano County.

Section 3. Disposition of Personal Property.

1. **Surplus Declaration Authority.** Department heads and elected officials have the authority to deem personal property to be surplus, except for:
 - a. computer and computer-related equipment, which can be declared as surplus only by the IT Department; and
 - b. vehicles and other motorized equipment, which shall be declared surplus only by Sheriff's Office, for motorized equipment under their authority, or the Road and Bridge Department for all other vehicles and motorized equipment
2. Storage, recycling, disposition or disposal of surplus personal property with a replacement cost of less than five hundred dollars (\$500.00) shall be at the discretion of the appropriate department head or elected official; provided that donation of items to county employees is strictly prohibited, except as set forth in subsections 4 and 5 below. The County Administrator, or a designee thereof, shall have the authority to determine the disposition of all surplus property which has a replacement cost of five hundred dollars (\$500.00) or more.
3. **Approved dispositions.** When surplus property cannot be sold to a bona-fide third party for value, approved dispositions, in the order of priority, include:
 - a. The exchange or trade-in of supplies as part or full payment for the procurement of new supplies.
 - b. The transfer of property no longer needed by one county department or elected official to another department or elected official. Surplus county property shall first be offered to other county departments via email. The property will be distributed on a first come, first served basis.
 - c. Transfer to another governmental agency.
 - d. Transfer of property to a registered 501(c) non-profit entity serving local needs, including any recipients of DHS contract awards or other non-profit agencies.
 - e. Sale of supplies that cannot be used by any department or elected official, by public auction or other public advertisement, as deemed appropriate by the finance director, in accordance with subsection (IV) below.
 - f. Sale at salvage or scrap.
 - g. Disposal of surplus personal property that is deemed unfit for disposition in any other manner.
4. **Prohibited dispositions.** County employees and their immediate family members are prohibited from purchasing surplus property, unless such purchases are made at a public auction or other advertised sale. Notwithstanding the foregoing, obsolete computers and computer-related equipment that is deemed by the IT director, or the director's designee, to net less than twenty-five dollars (\$25.00) in any public sale may be offered to county employees, free of charge with the approval of the County Administrator.

5. Manner of sale.

- a. **Sales under \$500.** A total sale (representing a single transaction of one or more items) estimated to be under five hundred dollars (\$500.00) should be made by informal procedures calculated to achieve the maximum financial benefit to Huerfano County.
 - b. **Sales of \$500 or more.** A total sale (representing a single transaction of one or more items) of surplus property in estimated amounts of five hundred dollars (\$500.00) or more shall be formally advertised, sealed bids shall be taken, and the bids received shall be submitted to the County Administrator, or a designee thereof, for award. Sale by public auction may be used in lieu of sealed bids.
 - i. Huerfano County employees may submit sealed bids and may bid on surplus property at public auction.
 - ii. If no monetary offers are received in the form of sealed bids or bids at public auction, the finance director may negotiate a sale. County employees may not procure any surplus county property through a negotiated sale of any type.
6. **Returns.** Nothing contained in this code shall be construed to prohibit the return of unused goods, which are surplus to the requirements of the county. Unused goods, supplies or equipment may be returned to the original contractor with or without a restocking fee if this method of disposal will result in higher benefit to the county.
7. **Refunds.** Funds received from the sale of surplus property will be credited back to the same fund from which its original purchase originated.

Section 4. Disposition of Real Property.

1. Policy

- a. The Board of County Commissioners declares that it is in the public interest for real property owned by the county to be returned to the tax rolls if it is not needed for some present or future government use and if it can be sold for a reasonable return. The Board of County Commissioners also declares that it is in the public interest to transfer county property for a public benefit or purpose consistent with the requirements of this resolution and state law. It is therefore the policy of the county to transfer parcels of property owned by the county which are determined to be surplus property pursuant to this subsection 1, where disposal of a subject parcel:
 - i. would afford the county a reasonable return from the transaction; or
 - ii. is determined by the board of county commissioners to be in the public interest for a public benefit purpose; and
 - iii. the disposal is conducted consistent with the requirements of this resolution and state law.
- b. Each sale shall be made on the conditions the Board of County Commissioners may prescribe to the best responsible bidder after the published notice of the sale.

The standard conditions set forth in section 2 below shall apply to all sales unless altered by the Board of County Commissioners.

- c. For purposes of this section, the term "sale" shall include any transfer of real property except vacation, or except as otherwise specifically excluded.
- d. Only the Board of County Commissioners may declare real property surplus. Such a declaration should be made, at minimum, in the form of a motion during a public meeting. Declarations may be made at the discretion of the Board, after a request from an Elected Official or Department Head, or after a request submitted through the public process set forth in subsection 3 below.
- e. Sales of surplus property will generally use the bid procedure set forth in subsection 4 below. At the direction of the Board of County Commissioners a property may instead be listed for sale through one or more multiple listing services in the region. Should the Board of County Commissioner choose to list a property for sale without contracting with a licensed real estate agent the County will offer 3% to the buyer's agent unless otherwise directed by the Board of County Commissioners.
- f. Surplus property should be sold for fair market value as determined by the Board of County Commissioners. The Board may rely on either (1) an outside appraisal or market analysis; or (2) an updated market value from the County Assessor. In no case should market value be less than the assessed value of a property.
- g. Real property owned by a County enterprise is subject to this resolution, except that the board of said enterprise may declare a property surplus with the consent of the Board of County Commissioners and the board of the enterprise will receive and open bids before forwarding a recommendation to the Board of County Commissioners for final action. Provided however, that should the entirety of the Board of County Commissioners constitute the entirety of the enterprise board, then the decision to declare a property surplus may be made in a meeting of either Board and bids must be opened in a meeting of the Board of County Commissioners.

2. Standard Conditions

- a. The following conditions apply to all sales unless removed or altered by the Board of County Commissioners:
 - i. The purchaser shall pay for all costs of any bid and publication procedure, appraisal, title search, surveys, report or commitment, escrow, recordation, postage and all other such transactional costs.
 - ii. The county shall sell the surface estate of any real property by quit claim deed, and may except from such estate or interest, any and all water, water rights, mineral, mineral rights, oil, gas or leases that may be associated with the land.
 - iii. The county shall reserve any known and existing public easements for sewer, access, open space, gas, water, electricity, pipelines, ditches, canals, laterals, broadband fiber, telephone cable and for similar lines and appurtenances. No easement may be removed except by the vacation process set forth in the County Land Use Regulations and State Law.

- iv. The County shall reserve easements for or retain title to any road right-of-way, drainage area, or other public utility right of way that have either been developed on the property since acquisition or previously existing in either prescriptive form or by informal agreement.
 - v. If the purchaser is an adjacent owner, the title shall vest, subject to the same encumbrances, liens, limitations, restrictions and estates as exist on the abutting land of the purchasing owner. Further, the County may require adjacent owners to consolidate lots as a condition of the sale.
 - vi. In no event shall the county sell real property so as to deprive any parcel abutting the property of preexisting access connecting the abutting land with a public road, street or other public way.
 - vii. The required terms, conditions or statutory requirements arising out of the manner in which the county acquired the property shall be observed.
 - viii. No warranties, express or implied, of any kind whatsoever shall be made as to the fitness for intended use, habitability or any other assurance.
- b. The Board of County Commissioners may prescribe such other terms and conditions as in its sole discretion it shall determine including, but not limited to, those necessary for the mitigation of adverse impacts to adjacent property owners.
 - c. County land use and dedication requirements shall be met, where applicable.
 - d. These sale procedures shall not be construed to apply to property acquired pursuant to C.R.S. § 39-11-101 et seq. (Tax Sales Treasurer's Deed), in which event those statutory procedures shall apply.

3. Request for Sale Procedure

- a. **Right to Request.** Any person or legal entity may make a request for sale of public property, except for county staff. All requests for sale of county-owned public property shall be made on a form provided by the County and received by, or transferred to, the Land Use and Building Department.
- b. **Submittal Information.** The following must be submitted with any request.
 - i. A form provided by the County that includes, at minimum, the following:
 - 1. Information to identify the parcel such as an address or preferably the Property Tax ID of the parcel;
 - 2. Contact information for the requestor;
 - 3. An opening offer for the parcel; and
 - 4. An acknowledgement that the requestor understands the request process and standard conditions.
 - ii. The Assessor's Real Estate Appraisal Card or CAMA for the property
 - iii. The deed where the County acquired the property.
- c. **Deposit Required.** Submitted requests must be accompanied by a deposit of either 5% of the proposed purchase price or \$1000, whichever is higher. The deposit will be fully refundable if the request is denied. If the request is approved the deposit will be applied to the purchase price and any closing costs.

- d. **Administrator's Review.** Upon receipt of a request for the sale of public property, the Land Use and Building Department will forward the request to the County Administrator, who may deny the request in the event that the Board of County Commissioners has given direction to reject requests for a given property; if the property is in use by the County; or if the County has active designs on the property. Such denial must be given in writing with the reasoning clearly stated.
- e. **Estimate of Value.** After the Administrator's review, the Land Use and Building Department will request the following from the County Assessor's office an estimate of the assessed value of the property and an estimate of the fair market value of the property.
- f. **Department and Interagency Review.** After receiving the Assessor's estimate of value, the Land Use and Building Department will circulate the request along with the supporting documentation and a map of the property including the surrounding area to the following referral agencies:
 - i. all County departments and elected officials
 - ii. The Planning Commission
 - iii. The school district and any other special purpose districts in which the requested sale is located
 - iv. All utility companies and municipalities potentially affected by the requested sale.

Additional referral agencies may be added at the discretion of the County Administrator. All referral agencies shall be allowed a thirty (30) day review period from the receipt of the referral materials to consider if there is a potential current or future use of the property that has public benefit. An extension period may be granted with the approval of the County Administrator. Failure to respond within the original review period or the extension period shall be considered a de facto statement that the agency does not know of a current or future beneficial use

- g. **Commissioners Review.**
 - i. After the conclusion of the review period or any extension, the Land Use and Building Department will prepare a package for Commissioner's review the request, along with all information provided to review agencies, and any feedback from review agencies to the Board of County Commissioners.
 - ii. A public hearing before the Board of County Commissioners shall be held for the purpose of determining whether the property should be put up for bid and the terms, conditions and reservations thereof. At least ten (10) days prior to a public hearing scheduled before the Board of County Commissioners to consider a request for sale, a notice of the public hearing shall be published in a legal publication in Huerfano County.
 - iii. The Board of County Commissioners may, after the conduct of the public hearing, direct that property be put out for bid using the procedures forth in subsection 4 below and under the conditions set forth in subsection 2 above.

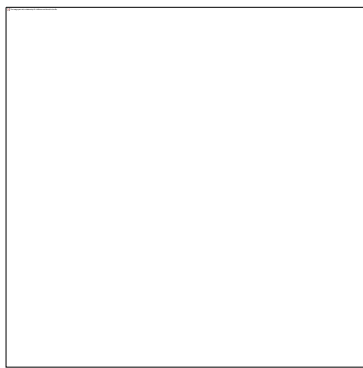
4. **Bid Procedures**

The following bid procedures shall be used for the sale of surplus County property:

- a. **Treasurer's deeds.** If the real property proposed for sale is held by the county pursuant to a treasurer's deed, the bid procedures contained in C.R.S. § 39-11-143 shall be applicable.
- b. **Other real property.** If the real property proposed for sale is held by the county, other than pursuant to the treasurer's deed, a bid notice shall be posted in a public place at the county courthouse not less than 30 days prior to the date of sale; mailed to adjoining property owners not less than 30 days prior to the date of sale; and advertised in two issues of the paper of record or, in the absence thereof, a newspaper of general circulation in the County and the notice shall appear no closer than one week apart and within 21 days. Such notice shall reserve the right to reject any and all bids. In addition, thereto, the Board of County Commissioners shall reserve the right to impose additional bid terms and conditions, and to award the bid to the bidder which shall present the bid which is, in the sole discretion of the board of county commissioners, the best bid considering all of the terms, conditions, evidence and public interest.
- c. **Bids opened publicly.** Bids shall be publicly opened at the time and place specified in the bid notice. Bids received shall be presented to the board of county commissioners for their consideration and direction.

BE IT FURTHER RESOLVED that this resolution shall be in effect upon its adoption. All resolutions and portions of resolutions in conflict with the above are hereby repealed.

INTRODUCED, READ, APPROVED AND ADOPTED ON THIS 13th day of JUNE 2023.



ATTEST:

County Clerk and Recorder and
Ex-Officio Clerk to said Board

BOARD OF COUNTY COMMISSIONERS
OF HUERFANO COUNTY, COLORADO

BY _____
John Galusha, Chairman

Arica Andreatta, Commissioner

Karl Sporleder, Commissioner