

CHAPTER 5

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5.00.00.00 - CORRIDOR PRESERVATION, HARDSHIP, AND PROTECTION

5.01.00.00 - ADVANCE ACQUISITION

5.01.01.00 General

Advance acquisition is defined as acquisition on adopted highway routes (except for other compelling circumstances) that is made prior to freeway agreement or in advance of the year in which it is programmed. S&H Code Section 100.21 prohibits acquisition prior to freeway agreement except for hardship or protection reasons. Advance acquisition may include the voluntary gift or a donation of property.

If a freeway agreement has not been signed, the District must provide prior written notice to the appropriate local governments of all hardship and protection acquisitions. Approval of all advance acquisitions is in accordance with existing delegations. The approved request shall be forwarded to Headquarters Division of Budgets, Office of Federal Resources, for approval of a Stage I Authorization (see Exhibit 5-EX-9) when required (see Section 5.01.05.00).

Advance acquisitions made prior to completion of environmental and location processes are not to influence environmental assessment of the project.

5.01.02.00 Definitions

- **Core Area** - the area of the right of way that includes full take parcels, whether or not such parcels lie entirely within the proposed right of way lines.
- **Fringe Area** - the area that is outside the core area but is within the right of way limits of any reasonable plan and includes frontage roads, interchanges, or grade separation areas. This normally is the area that cannot be precisely established prior to determining design features that are dependent on detailed engineering investigations and negotiations with the surrounding community.

5.01.03.00 Advance Acquisition Funding

Funds for advance acquisition are not usually included in the initial Right of Way capital allocations to the districts for the fiscal year. Districts may fund advance acquisition of parcels in one of two ways as follows:

- **Existing District Allocation** - the preferred option is for the District to use its existing Right of Way capital allocation since it has authority to move funds between projects to meet changing needs.
- **Advance Acquisition Funding** - funding for Hardship and Protection acquisitions is derived from projects programmed in the Department's program documents (STIP/SHOPP/TSM). In any given fiscal year, the districts identify hardship and/or protection parcels they anticipate acquiring during the year. The Division of Budgets allocates these funds to the districts directly.

In both cases, District Right of Way is responsible to ensure that all review and approval requirements are met and that FHWA signs the FNM-76, if required. Hardship acquisition prior to commencement of the regular right of way acquisition process must have a Stage I authorization from FHWA, if required, and is charged to the appropriate "H" Phase expenditure authorization. Hardship acquisitions resulting from the deferral of funding during the regular right of way acquisition process must also be included in an approved FNM-76, if required, and must be charged to the appropriate "9" phase expenditure authorization.

5.01.04.00 Federal Participation - FNM-76

Federal-aid for right of way, including Hardship and Protection, shall be requested on all Interstate (I), Interstate 4R (I-4R), and

Emergency Relief (ER) projects. Federal aid is also requested for certain categories of special projects. Since Federal aid policies change, the District should contact the District Planning and Management section or the District's Office of Federal Resources to determine current policy and whether an FNM-76 or Stage I Authorization is applicable.

Federal aid for right of way overhead is requested whenever Federal aid for right of way is requested.

5.01.05.00 Federal Authorizations

5.01.05.01 Pre-Environmental Clearance

Any advance acquisition must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended April 2, 1987; Title VI of the Civil Rights Act; and 49 CFR 24.

Properties that may be subject to Section 4(f) of the Department of Transportation Act or Section 106 of the National Historic Preservation Act may not be acquired until necessary determinations of eligibility and appropriate clearance procedures are satisfied. If there is any doubt of a property's potential eligibility, Right of Way should seek assistance from the appropriate Environmental staff.

The Regional Legal Office must review any proposed advance acquisition on a project that is not environmentally cleared to determine if the proposed acquisition would influence environmental assessment of the proposed project. Legal's written response shall be included in the approval request. Federal approval is required as follows:

- **On Projects That Have Not Had a Public Hearing** - submit an FNM-76 requesting "Stage I Authorization Only."
- **After the Public Hearing but Before Environmental Clearance of the Project** - Stage I Authorization is not required, but FNM-76 approval is required.

The packages shall be sent to Headquarters Division of Budgets, Office of Federal Resources, for processing to the FHWA. The

Office of Federal Resources will notify the District after approval so the District can initiate acquisition activities.

5.01.05.02 Post-Environmental Clearance

To obtain Federal participation in right of way costs on projects with environmental clearance, the District must submit all proposed advance acquisitions to the FHWA for approval with an FNM-76. The justification package is not sent to FHWA because these are not Stage I Authorizations but become regular acquisition. If there is no program approval for the project, however, the District may acquire the parcel with its own funds.

5.01.06.00 Local Public Agency (LPA) Funded Advance Acquisition

Although an FNM-76 is not required, LPA advance acquisitions require special processing if Federal participation is desired. The District Right of Way Local Program Coordinator should be consulted. (See LPA Manual Section 905.06.08.)

5.01.07.00 Acquisition By Donation

See Section 8.28.00.00.

5.01.08.00 Acquisition By Dedication

See Section 8.29.00.00.

5.02.00.00 - CORRIDOR PRESERVATION

5.02.01.00 General

Director's Policy Memo DP-91-1 dated January 9, 1991, entitled "Transportation Corridor Preservation," requires the Department to work on a partnership basis with local land use authorities to identify transportation corridors early and to explore all appropriate means for acquisition and preservation of those corridors.

Right of Way works with Transportation Planning to preserve corridors through a variety of means including:

- Donations.
- Dedications.
- Transportation Impact Mitigations.
- Advance Right of Way Purchase.

5.02.02.00 AB 3719 (Eaves)

Effective July 1, 1993, Government Code Section 65081.3 and Public Resources Code Section 33910 (Eaves) authorize the Department to acquire land located within a designated corridor of statewide or regional priority to be held and maintained for future transportation purposes. Acquisition may be through donations, purchase, or other means. Each land acquisition proposal is submitted for review and recommended action to the regional transportation planning agency in whose jurisdiction the land is located. The Department may approve the acquisition only after the regional transportation planning agency holds a hearing and finds that potential transportation facilities to be located on the land can be constructed in a manner that will avoid or mitigate specified environmental impacts or values.

Right of Way can acquire property for corridor preservation under AB 3719 only when authorized by the local entity.

5.03.00.00 - HARDSHIP

5.03.01.00 General

Hardship is defined as a situation where unusual personal circumstances of an owner are aggravated by a proposed transportation facility and cannot be solved by the owner without acquisition by the State. There are two types of hardships:

- Those which occur in advance of the regular right of way acquisition process.
- Those which occur when the requirements for commencing the regular right of way acquisition process have been met, but funding and activity on the project have been deferred.

The Districts are authorized to approve both types of parcels for hardship acquisition.

Departmental practice is to investigate to determine need and to appraise and acquire the property with minimal delay. In some instances this may require extraordinary efforts such as obtaining independent staff appraisals. Owners of hardship parcels should receive full consideration and service consistent with normal acquisition procedures, including appropriate relocation assistance and sufficient time to consider State's offer. The District shall make the first written offer to the applicant within 90 days from the date of the DDD-R/W's approval letter or the Federal authorization if requested.

5.03.02.00 RAP Eligibility

The District should notify the applicant in writing of the requirements for RAP eligibility when the hardship investigation commences. If the hardship application is not approved, the applicant should be informed of benefits that will be lost if applicant vacates prior to regular acquisition (first written offer). (See Exhibit 5-EX-04.) At the same time, it is important to ensure that double relocation payments are not made and Federal reimbursement is not lost. In line with this intent, if an application is approved and the applicant is forced to move prior to the time a written offer can be presented, the District must mail a Notice of Intent to Acquire to

preserve relocation eligibility. (See Forms RW 06-11, 13, and 14.) This letter should not be mailed until after approval of the hardship acquisition and should not be issued unless initiation of negotiations will commence less than 90 days subsequent to said Notice. This action will preserve the relocation eligibility of applicants and will avoid the possibility of creating more than one eligible relocatee.

5.03.03.00 Cessation of Hardship

If it determines that a hardship no longer exists, the Acquisition Branch must immediately withdraw any outstanding offer to purchase and advise the owner of the right to appeal the case to the District Hardship Appeals Board. (See Sections 5.03.06.00 through 5.03.06.03.)

5.03.04.00 Guidelines for Processing Requests

5.03.04.01 Hardship Criteria

The following minimal requirements must be met and documented if a hardship request is approved:

- Owner demonstrates need to dispose of property.
- Owner is unable to dispose of property at fair market value because of transportation facility plans.
- Owner cannot reasonably alleviate the hardship in the absence of the State's purchase.
- State's purchase will either partially or totally alleviate the hardship.

Inconveniences experienced by all or most owners along a route are not satisfactory reasons for hardship purchase (for example, an owner's simple desire to move to another area).

5.03.04.02 Need to Dispose of Property

Some of the reasons that may require an owner to sell immediately and that can result in a

significant financial loss in the absence of State purchase are listed in the table below entitled "Reasons Requiring Immediate Sale."

5.03.04.03 Hardship Application Submittal

The items listed in the table on the following page entitled "Submittal Items-Hardship Application" are considered when evaluating applications. At the initial meeting, the Agent informs the owner of the hardship criteria and

explains why it is necessary to submit this information.

To expedite requests, some of the requirements may be eliminated at the discretion of the District as indicated in the table.

If any hardship request appears to be unjustified, the District may request all the information, including a financial statement and tax returns.

REASONS REQUIRING IMMEDIATE SALE	
Reasons	Explanation
Medical	<ul style="list-style-type: none"> • Advanced Age - needs care or assistance from others • Ambulatory Defects or Diseases - where present facilities are inadequate or cannot be maintained by owner • Major Disabilities • Doctor's Recommendation - to change climate or physical environments • Other Equivalent Disabilities
Financial	<ul style="list-style-type: none"> • Litigation - e.g. probate • Loss of Employment • Financial Distress - involving personal or business circumstances • Retirement - e.g., can't afford maintenance or has purchased retirement home • Pending Mortgage Foreclosure, Tax Sale, Etc. • Substantial Burden - maintenance, taxes, and/or rehabilitation costs
Change of Work Location	Creates need to move
Non-Decent, Safe, and Sanitary Housing	For example, overcrowded living conditions if the occupancy level did not exceed DS&S standards at the time the owner originally purchased the property.
Monetary Loss - Income or Vacant Properties	<p>These properties may be acquired when the proposed project is the immediate cause of a monetary loss. The owner must demonstrate an adverse impact of the project on profitability of business or property. A careful review should be made considering such non-transportation influences as:</p> <ul style="list-style-type: none"> • Inability to obtain financing • Inherent risk of ownership associated with this type of property. • Other outside factors affecting the profitability of the business operation or property ownership. • Local governmental regulations affecting development or rehabilitation, such as requiring the owner to set aside right of way from development, without the requirement for dedication.

SUBMITTAL ITEMS - HARDSHIP APPLICATION		
Item	Explanation	Circumstance
Written Request or Statement	Outlining the reasons why owner(s) must sell the property at this time.	
Application	Completed and signed by owner(s). See Exhibit 5-EX-3.	
Financial Statement	See Exhibit 5-EX-10 or 5-EX-11	Not required (at the District's discretion) if the hardship request is due to medical problems, job transfer, advanced age, or retirement move.
Market Substantiation	Evidence of reasonable attempt to market the property: <ul style="list-style-type: none"> • Copy of valid listing. • Statement from a broker citing reasons the property has not or cannot be sold. • Evidence or information obtained by the District. 	If there have been other unsuccessful attempts to sell the property on the project at fair market value, listing the property is not required. The District should state in its recommendation that the property cannot be sold at fair market value because of the proposed project.
Income Tax Authorization	Signed authorization to obtain a copy of Federal and State income tax returns (Exhibits 5-EX-5 and 5-EX-6). The District secures copies of the latest tax returns if additional documentation is needed.	Optional if the District is satisfied with all the financial information submitted by applicant.
Doctor's Statement or Equivalent		Required if hardship request is based on a medical reason.
Verification from Employer		Required if hardship request is based on a transfer of employment.
Index Map and Plat Map	Showing affected parcel in relation to project right of way. Maps should be 11"x17" if possible.	
FNM-76	Copy of the request for Federal participation if applicable.	
Hazardous Waste Statement	Describing potential of hazardous waste at the property, if any.	
District Approval Letter		
Categorical Exemption/ Exclusion Determination	And required statement.	
Review and Written Approval of Regional Legal Office.	Determines if acquisition would influence environmental assessment of proposed project.	Required if project is not environmentally cleared.

The District is responsible for seeing that the information submitted is accurate and appropriately documents the request; e.g., a doctor's letter or affidavit from employer.

5.03.04.04 Documentation of Files

For each application, the District maintains a file that becomes part of the parcel file upon commencement of acquisition. A parcel diary is initiated when application is made. Care should be taken to ensure that reasons for recommending approval or denial of application are clearly outlined in the diary or file. The date of notification of requirements for RAP eligibility shall be entered following the initial contact with the applicant. The application and other items submitted in support of the hardship are to be retained in the file. (See Section 5.03.04.03.)

The DDD-R/W is responsible for approving or denying each application. Statements of the District's action are made by a signed entry in the parcel diary. The following should be explained and included as part of the entry:

- Basis of decision to accept or deny the application.
- Fact that file has been reviewed prior to approval or denial and that reviewer is familiar with the contents of the file.

5.03.04.05 Notification of Approval or Denial

The Department considers hardship requests to be sensitive since the outcome of a request (approval/denial) could have a significant effect on the applicant. The District must ensure that proper notification is given as follows:

- **Request Approved** - the District notifies the applicant promptly by telephone and makes an entry in the diary.
- **Request Denied** - the District sends a letter to the applicant.

When FHWA approval is required, the telephone notification is made after the FHWA has

authorized an FNM-76 for the subject parcel. The responsibility for implementing this procedure rests with the DDD-R/W in each District.

5.03.04.06 Negotiation Alternatives

If negotiations are unsuccessful, the District should either:

- Consider the merits of an Administrative Settlement.
- Explain the condemnation process to the owner. The Agent should inform the owner that if they wish the State to condemn the property, they should send a letter to that effect. The State will then proceed with an action in eminent domain. If owner wishes, the State could prepare such a letter on owner's behalf (see Exhibit 5-EX-7). A copy of the letter shall be submitted with the District's request for the CTC resolution.
- Withdraw the offer in writing. It is important that all offers of relocation assistance or payments to owners and tenants be formally withdrawn in writing no later than 10 days from the date of the determination not to acquire (see RAP Chapter for procedures to follow in withdrawing RAP offers).

5.03.04.07 Vacation of Property

The contract will require grantors to vacate the property within 120 days from the date of the close of escrow, providing replacement housing is available. See Section 8.09.15.00 of the Acquisition Chapter for appropriate clauses and commentary on application.

5.03.05.00 Disposition of Financial Information

The District shall maintain confidentiality of the financial statement and income tax returns and permit only authorized personnel to have access to this information. Authorized personnel are those who process the application and those who make the final decision to approve or disapprove the application. While processing the application, the Agent shall store this information

in the working file and shall not leave it in the open on an unattended desk.

The Agent shall note in the parcel diary when the financial information was received. This is essential to establish that the information was in State's possession before a decision was made on the application. Upon final disposition of the application, this information shall be returned by mail to the applicant and so noted in the parcel diary. If the application is denied, the applicant should be advised in the denial letter that the returned material must be resubmitted on appeal, if any. If for some reason this information cannot be returned, it shall be destroyed and so noted in the parcel diary.

5.03.06.00 Hardship Appeals

Applicants who have been denied by the Department shall have the opportunity to have their situations considered by an appeals board.

5.03.06.01 Appeals Board

Each District shall establish and maintain a Hardship Appeals Board consisting of three members:

- DDD-R/W or a Supervising Right of Way Agent.
- Project Development Branch representative.
- Legal Division representative where available.

Where legal participation is not practical, the third member shall be chosen by and serve at the discretion of the DD. If a member of the Appeals Board is unable to participate in the particular appeals case being reviewed (e.g., due to absence or being personally involved with the case so as to prevent unbiased judgment), the DD shall appoint a substitute member to the Board for the case.

5.03.06.02 Eligibility

The District shall notify all applicants whose requests have been denied that they can appeal the decision in writing to the District Appeals Board. Exhibit 5-EX-12 should be completed by the applicant. The file shall be documented that

the applicant was advised of the opportunity to appeal the request and to appear personally before the Board.

5.03.06.03 Appeals Board Action

The Board reviews the file and documents presented by the applicant, including personal presentation by the applicant if requested, to determine if minimum requirements per Section 5.03.04.00 have been met.

After a careful review of the circumstances, the Board shall prepare a summary of facts and findings and submit it with the Board's recommendation to the DORW for processing and final disposition. The DORW transmits the final decision to the DDD-R/W or a designee who shall notify the applicant of the final decision.

5.04.00.00 - PROTECTION

5.04.01.00 General

Protection is defined as an acquisition where substantial building activity or appreciation of vacant land value in excess of the STIP inflation rate for construction projects is both likely and imminent in the event early purchase is not undertaken. The STIP inflation rate can be obtained from the District Program and Project Management Branch. For vacant land, follow the guidelines in Section 5.03.04.02 covering hardship applications.

The District should maintain a full economic justification of such purchases in its files.

Usually, improved properties can be acquired as protection parcels only in those cases where a definite showing can be made that the property owner has plans to remove the existing building improvements and/or replace the same with new building improvements that will represent a large increase in ultimate highway right of way acquisition cost. Consideration may also be given in those cases where existing building improvements are definitely planned to be altered or enlarged, or additional improvements are planned, resulting in a large increase in future acquisition cost.

The DDD-R/W shall approve each protection request. (See Section 5.01.03.00.) All appraisals submitted for approval must contain a copy of the written authorization approving the protection acquisition.

5.04.02.00 Protection Criteria

To be considered a valid candidate for protection acquisition, the property must be affected by a project that satisfies the following requirements:

- If there is no environmental clearance, then a negotiated settlement should have a high probability of success since condemnation will not be permitted without owner consent or the prior concurrence of the Legal Division Chief.

- Acquisition of the parcel is in compliance with the requirements of Section 5.01.05.00.
- Substantial savings will accrue considering return on investment.

5.04.03.00 Request for Authority to Acquire

All requests should show that prompt acquisition is required to prevent development of property, which would cause substantially higher acquisition or construction costs if acquisition were deferred. Relocation costs of people or businesses should also be considered in the financial analysis. (See Exhibit 5-EX-8 for sample format.)

Each request shall contain the information and material listed on the following page entitled "Submittal Items - Protection Application."

SUBMITTAL ITEMS – PROTECTION APPLICATION	
Item	Explanation
Written Request	<p>Addressed to the DDD-R/W or the DORW, as appropriate, including but not limited to the following:</p> <ul style="list-style-type: none"> • Name of present owner • Location of property • Area of each parcel proposed for acquisition and remainders • Name of developer (owner where applicable) and the financial capability of proceeding with development • Information on progress of developers in obtaining permits and filing subdivision maps and likelihood of local authority approval • District's estimate of probability of land development as proposed and the imminence of said development • Any other information that might be useful • Statement concerning the potential that hazardous waste would/would not be present on the property. (See Exhibit 5-EX-8 for sample format.) <p>If improvements are to be purchased include:</p> <ul style="list-style-type: none"> • Pictures of improvements • Description of improvements • Breakdown of estimated value of improvements separate from land
Protection Acquisition Savings Estimate (Exhibit 5-EX-1)	<ul style="list-style-type: none"> • Project escalation rate - obtained from the District Estimating Section. This rate is applied to estimated Right of Way Costs. • STIP inflation rate - obtained from the STIP. The Department of Finance (DOF) provides the inflation estimates every two years for use in the STIP Fund Estimate. If project is not in the STIP, then District develops a rate and explains how it was determined.
Resume of Protection Request (Exhibit 5-EX-2)	Brief summary of justification package contents.
Detail Map (1 copy)	<p>Showing the property in sufficient detail to properly evaluate the proposed purchase including property remainders, if any, and the location of access lines. Coloring or outlining of the subject parcel is required.</p> <p>Map should be no larger than half-scale 8-1/2"x11" appraisal map if possible.</p>
Strip Map (1 copy)	<p>Showing the subject property in relation to surrounding area and project.</p> <p>Map should be no larger than half-scale 8-1/2"x11" appraisal map if possible.</p>
Federal Participation Request	Copy of the FNM-76 or "Stage I Authorization Only" request.
Review and Written Approval of Regional Legal Office	Required if project is not environmentally cleared.

CHAPTER 5

Corridor Preservation, Hardship, and Protection

Table of Contents

EXHIBITS

<u>Exhibit No.</u>	<u>Title</u>
5-EX-1	Protection Acquisition Savings Estimate
5-EX-2	Resume of Protection Request
5-EX-3	Advance Acquisition/Hardship Program (Application)
5-EX-4	Hardship Letter Response to Applicant
5-EX-5	Request for Federal Income Tax
5-EX-6	Request for State Income Tax
5-EX-7	Condemnation Letter
5-EX-8	Protection Request Memo
5-EX-9	Request to Federal Highway Administration (FHWA) - Stage 1 Authorization
5-EX-10	Personal Financial Statement
5-EX-11	Business Financial Statement
5-EX-12	Hardship Appeals Board Request

 Date

 Project

_____(1)_____
 Project Escalation Rate

_____(2)_____
 Year of Normal Acquisition

_____(3)_____
 S.T.I.P. Inflation Rate

Net Cost if Purchased Now: (Current Market Value)

Land	\$ _____	Mech. & Equip.	\$ _____
Imps.	_____	RAP	_____
Out of Pocket Exp.	_____		
Loss of Goodwill	_____	Total	_____(4)_____

Estimated Cost in Year of Normal Acquisition:

Land \$ _____(5)_____ x _____(6)_____ = \$ _____(7)_____

Imps. _____(8)_____ x _____(6)_____ = _____(9)_____

M&E _____(10)_____ x _____(6)_____ = _____(11)_____

RAP _____(12)_____

Less Depreciation on:

		Total Est. Cost	\$ _____(13)_____
Imps.	_____ (14) _____		
M&E	_____ (15) _____	Total Est. Deprec.	_____(16)_____

Estimated Depreciated Cost in Year of Normal Acquisition: _____(17)_____

Amount Net Cost Would Generate if Used for Highway Construction:

(4) above x (18) = _____(19)_____

Estimated Savings to State at Time of Normal Acquisition:

(17) - (19) = _____(20)_____

Present Worth of Estimated Savings:

(20) Above x (21) = _____(22)_____

Other Considerations:

Plus Worth of City/County Share of Rental Income:

No. of Yrs. _____(23)_____ x monthly rental \$ _____(24)_____

x 12 x occupancy rate _____(25)_____ x .24 = \$ _____(26)_____

Net Savings to the Public _____(27)_____

-
1. Project escalation rate - obtained from District Estimating Section (see Manual Section 5.04.03.00).
 2. Best estimate of specific year parcel would normally be acquired.
 3. STIP inflation rate - obtained from the STIP (see table in Manual Section 5.04.03.00).
 4. Sum of land, improvements, M&E, RAP, and out-of-pocket expenses.
 5. Current market value of the land.
 6. Future worth factor for applicable project escalation rate shown in (1) above and for number of years required to reach estimated year of normal acquisition shown in (2) above.
 7. Product of (5) x (6).
 8. Current market value of existing improvements plus estimated current value of proposed improvements.
 9. Product of (8) x (6).
 10. Current market value of existing machinery and equipment plus estimated current value of proposed M&E.
 11. Product of (10) x (6).
 12. Estimated RAP cost at time of normal acquisition.
 13. The sum of (7), (9), (11), and (12).
 14. Estimated amount of depreciation which will accrue to all improvements, existing and proposed, by the time estimated year of normal acquisition arrives. Depreciation should be calculated as percentage of (9) above.
 15. Estimated amount of depreciations which will accrue to all M&E, existing and proposed, by the time the normal year of acquisition arrives. Depreciation should be calculated as percentage of (11) above.
 16. The sum of (14) and (15).
 17. Difference between (13) and (16).
 18. "Amount of one" (how \$1 left at compound interest will grow) @ (use STIP inflation rate shown in (3) above), for number of years to reach normal year of acquisition shown in (2) above.
 19. Product of (4) x (18). This is amount the net cost for acquisition would generate if used for highway construction.
 20. (17) less (19) or amount saved at the normal time of acquisition sometime in the future.
 21. Present worth of one factor at 15% for number of years necessary to reach normal year of acquisition shown in (2) above.
 22. Product of (20) x (21). This represents the present worth of estimated savings. Priority criteria exists depending on amount of savings.
 23. Number of years in future proposed (clearance for rentals) (acquisition for taxes).
 24. Estimated monthly rental rate State can expect.
 25. Percentage of time property can be expected to be rented.
-

26. Product of (23) above, x (24) above, x 12, x (25) above, x (24) percent.
 27. Net savings to the public (20) + (26).
 28. If proposed acquisition involves rental property, the amount of the rental (24) should be multiplied by 12 x (23) x (25) x 76 percent and deducted from (4) before completing form.
-

RESUME OF PROTECTION REQUEST

(Form #)

District-County-Route-PM

EA

Type of Funding

Freeway Agreement: Yes ___ No ___ Date _____

Grantor:

Location:

Parcel No.:

Area:

Type of Development Proposed:

Date of Proposed Construction:

Expected Year of R/W Acquisition:

Estimated Present Value:

Estimated Value in Year of Proposed Acquisition:

Estimated Amount Generated if Present Value were Invested in Highway Construction at:

(Use Current STIP rate)

Estimated Net Savings to State:

APPLICATION

PERSONAL INFORMATION NOTICE

Pursuant to the Federal Privacy Act (P.L. 93-579) and the Information Practices Act of 1977 (Civil Code Sections 1798, et seq.), notice is hereby given for the request of personal information by this form. The requested personal information is voluntary. The principal purpose of the voluntary information is to facilitate the processing of this form. The failure to provide all or any part of the requested information may delay processing of this form. No disclosure of personal information will be made unless permissible under Article 6, Section 1798.24 of the IPA of 1977. Each individual has the right upon request and proper identification, to inspect all personal information in any record maintained on the individual by an identifying particular. Direct any inquiries on information maintenance to your IPA Office.

All questions in this application should be answered and should give complete details. If more space is required, additional pages may be attached.

DATE _____

I. NATURE OF HARDSHIP:

FINANCIAL MEDICAL OTHER _____

I request an early acquisition of my property described in Item II for reasons as stated in my letter(s) and/or statement(s) dated _____

I request an early acquisition of my property described in Item II for the following reasons:

NAME OF APPLICANT		SOCIAL SECURITY #	
MAILING ADDRESS			
RESIDENCE PHONE	BUSINESS PHONE	PRESENTLY EMPLOYED? <input type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> SELF-EMPLOYED <input type="checkbox"/> OTHER	
OCCUPATION		POSITION	
EMPLOYED BY		YEARS	MONTHS
NAME OF SPOUSE		SOCIAL SECURITY #	
PRESENTLY EMPLOYED? <input type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/> SELF-EMPLOYED <input type="checkbox"/> OTHER			
OCCUPATION		POSITION	
EMPLOYED BY		YEARS	MONTHS
DEPENDENTS (LIST, INCLUDE AGES)			

II. PROPERTY FOR WHICH ADVANCE ACQUISITION IS BEING REQUESTED

ADDRESS OR LOCATION			
CURRENT PROPERTY TAXES \$ _____			
IMPROVEMENTS: <input type="checkbox"/> YES <input type="checkbox"/> NONE <input type="checkbox"/> SINGLE-FAMILY RESIDENCE		# OF BEDROOMS	# OF BATHROOMS
ESTIMATED PRESENT TOTAL VALUE \$ _____		DATE ACQUIRED	PURCHASE PRICE \$ _____
[] RESIDENTIAL # OF INCOME UNITS		[] COMMERCIAL # OF UNITS	
DID YOU HAVE KNOWLEDGE, AT TIME OF PURCHASE, THAT A PROPOSED FREEWAY MIGHT AFFECT THE PROPERTY? <input type="checkbox"/> NO <input type="checkbox"/> YES			

* *Print on District Letterhead*

() _____

(Date)

Dear _____:

In response to your letter dated _____ our present studies, which are subject to change, show that your property located at _____ may ultimately be required for construction of Route _____.

Due to budgetary constraints, the State has limited funds available for advance property acquisition for those property owners who are experiencing hardships. Your request will be considered for advance acquisition under the Hardship Program. The investigation by the Right of Way office will determine your eligibility.

To assist us in the evaluation of your situation, please complete the enclosed forms in detail. These forms include (1) an application, (2) a financial statement and (3) requests for certified copies of your income tax returns. Completing these forms will speed consideration of your request. This information is necessary for our investigation and it will be treated in a confidential manner.

Also, send in any pertinent documentation that will support your hardship claim (medical report, job transfer notification, copies of real estate listings, etc.).

If you have any questions or need assistance regarding the application, please contact the Right of Way Office at _____.

Please be advised that to be eligible for relocation benefits under existing regulations, the claimant must occupy the required property at the time the first offer is made. The first offer, specifically, must include the dollar amount offered for the purchase as distinguished from a more general discussion of the State's need to acquire the property.

Complete information concerning relocation benefits will be given at the time of acquisition; however, should it become apparent that it may be necessary for you to move prior to the time the first offer is made, please contact our Relocation Assistance Branch for further information concerning relocation benefits. They may be reached by telephone at _____.

A self-addressed envelope is enclosed for your convenience in returning the application and any accompanying documents.

Sincerely,

Right of Way Agent

Enclosures

STATE OF CALIFORNIA · DEPARTMENT OF TRANSPORTATION
APPLICATION FOR COPIES OF DOCUMENT

EXHIBIT
5-EX-6

(Form #)

PERSONAL INFORMATION NOTICE

Pursuant to the Federal Privacy Act (P.L. 93-579) and the Information Practices Act of 1977 (Civil Code Sections 1798, et seq.), notice is hereby given for the request of personal information by this form. The requested personal information is voluntary. The principal purpose of the voluntary information is to facilitate the processing of this form. The failure to provide all or any part of the requested information may delay processing of this form. No disclosure of personal information will be made unless permissible under Article 6, Section 1798.24 of the IPA of 1977. Each individual has the right upon request and proper identification, to inspect all personal information in any record maintained on the individual by an identifying particular. Direct any inquiries on information maintenance to your IPA Office.

1. DESCRIPTION OF DOCUMENT

INDIVIDUAL	TAX YEAR
OTHER (SPECIFY)	NUMBER OF COPIES

2. TAXPAYER

NAME AS SHOWN ON RETURN	SOCIAL SECURITY NUMBER	SOCIAL SECURITY NUMBER (SPOUSE)
-------------------------	------------------------	---------------------------------

3. TAXPAYERS ADDRESS UNDER WHICH RETURN WAS FILED

4. RETURN TO BE SENT TO

STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION
ATTENTION: OFFICE OF RIGHT OF WAY

ADDRESS

CITY	STATE	ZIP CODE
------	-------	----------

I hereby authorize the Franchise Tax Board to release to the Department of Transportation copies of my personal income tax return(s) for the year or years set forth above, for the purpose of verifying financial hardship in the advance acquisition request process.

SIGNATURE	DATE
-----------	------

The Department of Transportation agrees to pay for obtaining copies of the above documents.

CONDEMNATION LETTER

(Form #)

* *Print on District Letterhead*

() _____

(Date)

Dear _____:

Negotiations for the purchase of your property located at _____ appear to have reached an impasse. One way to resolve this situation is to have the Department of Transportation initiate an eminent domain proceeding with your concurrence. Your concurrence means that you agree that the Department can acquire your property by a court action. In that event the issues involving "just compensation" will be decided through a trial.

If we proceed with eminent domain, the first step consists of the Department obtaining a Resolution of Necessity from the California Transportation Commission. The Resolution authorizes the Department to file the eminent domain suit.

Both sides ordinarily employ attorneys and appraisers to secure independent opinions of value prior to trial.

If you want the Department to file an eminent domain action, please sign in the indicated space and return this letter to me. A copy of this letter is included to be retained by you for your records.

It is, of course, our hope that purchase of your property will ultimately be through an amicable agreement. If you have any questions regarding this procedure, please call me at _____.

Sincerely,

Right of Way Agent

I concur with the Department's proposal to initiate eminent domain proceedings.

OWNER

Date

Enclosures

PROTECTION REQUEST

(Form #)

State of California**Business, Transportation and Housing Agency****Memorandum**To : Deputy District Director
Right of Way

Date :

File No.: ACQUISITION
HARDSHIP &
PROTECTION
08-Riv-60-11.6/11.8
Parcel No. 8885
E.A. 461902/H
John SmithFrom : **DEPARTMENT OF TRANSPORTATION**

Subject : Proposed Protection Acquisition

RECOMMENDATION:

Permission is requested to acquire 1.91 acres located within the City of Riverside at the proposed Route 60/91/215 Interchange on a protection basis; for an estimated cost of \$1,000,000.00.

BACKGROUND:

The voters of the County of Riverside passed Measure A in November 1988, allowing a 1/2 cent sales tax to be used in highway construction and improvement. Caltrans has been granted \$20,000,000.00 of those funds for advanced right of way acquisition for the improvement of the Route 60/91/215 Interchange, a four-quadrant cloverleaf that was constructed in 1961. The existing east-west roadbed crosses over the north-south roadbed. The north and east legs of the Interchange are designated Route 215, the west leg is Route 60, and the south leg is Route 91. All three routes in this area are constructed to six-lanes with a twenty-two foot median. This freeway-to-freeway Interchange was designed to permit a reasonably safe and efficient weaving, diverging and merging of traffic flows when constructed. Increasing traffic volume in the intervening years has resulted in high accident rates and travel delays due to the short weaving distances between the loop ramp. Because of the increased traffic, it is proposed to modify the Interchange to accommodate the travelling public.

An environmental impact study has commenced, but not been completed, along this corridor. On August 24, 1989, Mr. Duane F. Shields, Deputy Counsel Los Angeles Legal Division, concurred with the proposal to proceed with the advance acquisition. This complies with Section 5.04.02.00 of the Caltrans Right of Way Manual. It was concluded that there would be no change in land use of the area being acquired and that it could be returned to the private sector should a "no-go" decision be made in the future. Consequently, this acquisition will have no environmental impact on the E.I.S. process.

The land use surrounding the Interchange is currently for commercial development. The development project occasioning this Protection proposal is a motel and restaurant. The developer, John Smith has received approval of his tentative map and plot plan from the City of Riverside, and is awaiting issuance of building permits. Construction will begin upon issuance of the permits. An immediate acquisition by the State will save the public \$2,426,125.00 as evidenced by the attached Protection Acquisition Savings Estimate.

HAZARDOUS WASTE:

There are no hazardous waste problems on this property.

COST/SAVINGS ESTIMATE:

Tax Collector's statistics and data from the Appraisal Section indicates an annual growth rate of about 13%. The anticipated year for acquisition is in 1993 or 4 years hence.

The anticipated land cost now of \$1,000,000.00 plus future motel and restaurant improvements, if allowed to escalate at the 13% rate to a 1994 index factor, plus relocation assistance for the motel and restaurant, equals an estimated cost of \$4,096,200.00. Allowing a 2% depreciation rate for improvements during that time, which equals \$195,660.00 creates a total estimated depreciation cost in the year of acquisition of \$3,900,590.00. Considering the estimated present land cost of \$1,000,000.00 and considering that this sum could be allowed to escalate for use as highway construction funds at the STIP rate of 6%, this would equal \$1,262,500.00. The estimated savings to the State at the time of normal acquisition is \$2,638,090.00.

Chief, Right of Way Acquisition

APPROVED:

Deputy District Director
Right of Way

Date: _____

* *Print on District Letterhead*

() _____

(Date)

ACQUISITION
HARDSHIP &
PROTECTION
08-Riv-60-11.6/11.8
EA. 461902/H
Parcel No. 8885
John Smith

Mr. Peter C. Markle
Acting Division Administrator
Federal Highway Administration
980 Ninth Street, Suite 400
Sacramento, CA 95814-2724

Attention A. K. Mockus

Dear Mr. Markle:

This is to advise you that I have approved an advance acquisition for the above-referenced parcel. After a diligent review of the factual situation, it was determined that acquisition at this time would be in the best interest of the State. (See attached map).

The District will adhere to the following guidelines in order not to jeopardize any Federal participation that may become available in the future.

1. Acquisition is not to influence the environmental assessment of the project.
2. The following provisions are to be complied with:
 - a. Title VI of the Civil Rights Act of 1964.
 - b. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.
 - c. 23 Code of Federal Regulations, Part 710.301(d).
3. Properties that may be subject to Section 4(f) of the Department of Transportation Act or Section 106 of the National Historical Preservation Act may not be acquired until necessary determinations of eligibility and appropriate clearance procedures are satisfied. If there is any doubt of the property's potential eligibility, you are urged to seek assistance from the Department's Environmental Staff.

Sincerely,

Deputy District Director
Right of Way

Enclosure

PERSONAL FINANCIAL STATEMENT

(Form #)

PERSONAL INFORMATION NOTICE

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As of _____, 19__

Name _____ Age ____ Employed by _____ Years ____

Address _____ Occupation _____ Name of Spouse _____ Age ____

TO: Department of Transportation

California

The undersigned, for the purpose of obtaining consideration for advance acquisition of my transportation-affected property under the hardship program, submits the following information:

ASSETS	DOLLARS	LIABILITIES (TOTAL AMOUNT DUE)	DOLLARS
CHECKING ACCOUNTS		ACCOUNTS PAYABLE (INSTALLMENT PURCHASES)	
1. _____		1. _____	
2. _____		2. _____	
3. _____		3. _____	
SAVINGS ACCOUNTS (SCHEDULE A) _____		4. _____	
STOCKS AND BONDS (SCHEDULE B) _____		NOTES PAYABLE _____	
NOTES RECEIVABLE-GOOD _____		1. _____	
CASH SURRENDER VALUE LIFE INSURANCE _____		2. _____	
AUTOS _____		TAXES PAYABLE _____	
(Year-Make) (Year-Make)		CONTRACTS PAYABLE _____	
REAL ESTATE (SCHEDULE C) _____		(To Whom)	
OTHER ASSETS (DESCRIBE)		REAL ESTATE INDEBTEDNESS	
1. _____		(SCHEDULE C) _____	
2. _____		OTHER LIABILITIES (DESCRIBE)	
3. _____		1. _____	
4. _____		2. _____	
5. _____		3. _____	
		4. _____	
TOTAL ASSETS		TOTAL LIABILITIES	
LESS TOTAL LIABILITIES			
NET WORTH			

PERSONAL FINANCIAL STATEMENT (Cont.)

(Form #)

EXHIBIT

5-EX-10

PAGE 2 OF 3

ASSETS	DOLLARS	ANNUAL EXPENDITURES (EXCLUDING ORDINARY LIVING EXPENSES)	DOLLARS
SALARY _____		REAL ESTATE PAYMENT(S) _____	
SALARY (SPOUSE) _____		RENT _____	
DIVIDEND INCOME _____		INCOME TAXES _____	
GROSS RENTAL INCOME _____		INSURANCE PREMIUMS _____	
OTHER (DESCRIBE) _____		PROPERTY TAXES _____	
1. _____		OTHER (DESCRIBE—INCLUDE INSTALLMENT	
2. _____		PAYMENTS OTHER THAN REAL ESTATE)	
3. _____		1. _____	
4. _____		2. _____	
5. _____		3. _____	
6. _____		4. _____	
7. _____		5. _____	
TOTAL INCOME		TOTAL EXPENDITURES	
LESS TOTAL EXPENDITURES			
NET CASH INCOME			
(EXCLUSIVE OF ORDINARY LIVING EXPENSES)			

* If insurance premiums and property taxes are included in real estate payment do not duplicate here.

BUSINESS FINANCIAL STATEMENT

(Form #)

PERSONAL INFORMATION NOTICE

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PARTNERSHIP OR CORPORATION

FINANCIAL STATEMENT OF _____

RECEIVED AT _____ BRANCH

NAME _____

BUSINESS _____

ADDRESS _____

AT CLOSE OF BUSINESS _____ 19__

TO:

ASSETS	DOLLARS		CENTS	LIABILITIES	DOLLARS		CENTS
Cash In _____ <small>(Name of Bank)</small>				Notes Payable to Banks _____			
Cash on Hand _____				Notes Payable and Trade Acceptances for Merchandise _____			
Notes Receivable and Trade Acceptance (Includes \$ _____ Past Due)				Notes Payable to Others _____			
Amounts Receivable—\$ _____ Less Reserves \$ _____				Accounts Payable (Includes \$ _____ Past Due)			
Customer's (Includes \$ _____ Past Due)				Due to Partners, Employees, Relatives, Officers, Stockholders or Allied Companies			
Merchandise—Finished—How Valued _____				Chattel Mortgages and Contracts Payable (Describe Monthly Payments) _____			
Merchandise—Unfinished—How Valued _____				Federal and State Income Tax _____			
Merchandise—Raw Material—How Valued _____				Accrued Liabilities (Interest, Wages, Taxes, Etc.) _____			
Supplies on on Hand _____				Portion of Long Term Debt Due Within One Year _____			
Stocks and Bonds—Listed (See Schedule B) _____							
TOTAL CURRENT ASSETS				TOTAL CURRENT LIABILITIES			
Real Estate—Less Depreciation of: \$ _____ Net (See Schedule A)				Liens on Real Estate (See Schedule A) \$ _____			
Machinery and Fixtures—Less Depreciation of: \$ _____ Net				Less Current Portion Included Above \$ _____ Net			
Automobiles and Trucks—Less Depreciation of: \$ _____ Net							
Stocks and Bonds—Unlisted (See Schedule B) _____				Capital Stock—Preferred _____			
Due from Partners, Employees, Relatives, Officers, Stockholders of Allied Companies				Capital Stock—Common _____			
Cash Surrender Value of Life Insurance _____				Surplus—Paid In Surplus—Paid In _____			
Other Assets (Described) _____				Surplus—Earned and Undivided Profits _____			
				Net Worth (If Not Incorporated) _____			
TOTAL				TOTAL			

BUSINESS FINANCIAL STATEMENT (Cont.)

(Form #)

EXHIBIT

5-EX-11

PAGE 2 OF 4

PROFIT AND LOSS STATEMENT FOR THE PERIOD FROM _____ TO _____				RECONCILIATION OF NET WORTH OR EARNED			
Net Sales (After Return Sales and Allowances)				Net Worth or Earned Surplus at Beginning of Period			
Cost of Sales				Add Net Profit or Deduct Net Loss			
Beginning Inventory				Total			
Purchases (or cost of goods mfg)				Other Additions (Describe) _____			
TOTAL				Total			
Less Closing Inventory				Less: Withdrawals or Dividends			
Gross Profits on Sale				Other Deductions (Explain) _____			
Operating Expenses:				Total Deductions			
Salaries –Officers or Partners				Net Worth or Capital Funds on this Financial Statement			
Salaries and Wages–Other				CONTINGENT LIABILITIES (Not Included Above)			
Rent				There are no lease liabilities in existenance nor are there assets pledged to secure leases, except as listed in attached schedule.			
Depreciation				As Guarantor or Endorser or under agreements to purchase or service indebtedness _____			
Bad Debts				Accounts, Notes, or Trade Acceptances Discounted or Pledged			
Advertising				Surety on Bonds or Other Contingent Liability _____			
Interest				Letters of Credit _____			
Taxes–Other Than Income				Judgments Unsatisfied or Suits Pending _____			
Insurance				Lease Liabilities _____			
Other Expenses				Merchandise Commitments and Unfinished Contractors or Merchandise Held on Consignment From Others _____			
Net Profit from Operations				Unsatisfied Tax Liens or Notices From the Federal or State Governments of Intention to Assess Such liens _____			
Other Income				DETAIL OF INVENTORY			
Less Other Expense				Is Inventory Figure Actual or Estimated? _____			
Net Profit Before Income Tax				By Whom Taken or Estimated _____ When? _____			
Federal and State Income Tax				Buy Principally From _____			
Net Profit or Loss				Average Terms of Purchase _____ Sale _____			
(To Net Worth or Earned Srplus)				Time of Years Inventoyr Maximum _____ Minimum _____			

BUSINESS FINANCIAL STATEMENT (Cont.)

(Form #)

EXHIBIT

5-EX-11

PAGE 4 OF 4

SCHEDULE D

NAME OF PARTNERS (Indicate Special Partners)	AGE	AMOUNT CONTRIBUTED	OUTSIDE NET WORTH	OTHER BUSINESS CONNECTIONS

Date of Organization _____ Limited or General? _____ Terminates _____

If Operating Under Fictitious Trade Style. Five Date of Filing _____

SCHEDULE E Complete if Statement is of a Corporation

	AUTHORIZED	PAR VALUE	OUTSTANDING		CASH	ISSUE FOR
			SHARES	AMOUNT		OTHER (DESCRIBE)

Bonds—Total Issue \$ _____ Outstanding _____ Due _____ Interest Rate _____

Date Incorporated _____ Under Laws of State of _____

OFFICERS	AGE	SHARES OWNED		DIRECTORS AND PRINCIPAL STOCKHOLDERS	SHARES OWNED	
		COMMON	PREFERRED		COMMON	PREFERRED
President				Director		
Vice President				Director		
Secretary				Director		
Treasurer						

Complete in ALL Cases **INSURANCE**

Are Your Books Audited by Outside Accountants? Name _____ To What Date Has the U.S. Internal Revenue Department Date of Examined Your Last Audit _____ Books? Are You Borrowing From Any Other _____ Branch of This Bank? _____ Which? _____	Merchandise _____ \$ _____ Machinery & Fixtures _____ \$ _____ Buildings _____ \$ _____ Earthquake _____ \$ _____ Is Extended Coverage Endorsement Included? _____	Automobiles and Trucks _____ Public Liability \$ _____ M/\$ _____ M Collision _____ \$ _____ Property Damage _____ \$ _____ Life Insurance _____ \$ _____ Name of Beneficiary _____
Are You Applying for Credit At Any Other Source? _____ Where? _____ If So, Attach a Complete Explanation and State Basis of Settlement With Creditors _____ Lease Has _____ Years to Run, With Monthly Rental of \$ _____	Do You Carry Workmen's Compensation Insurance? Preferred _____	

The undersigned solemnly declares and certifies that the above statement (or in lieu thereof, the attached statement, as the case may be) and supporting schedules, both printed and written, give a full, true, and correct statement of the financial condition of the undersigned of the date indicated.

Signature _____

By _____

(TITLE, IF CORPORATION)

HARDSHIP APPEAL

(Form #)

PERSONAL INFORMATION NOTICE

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<p>INSTRUCTIONS TO APPELLANTS: State reasons for this appeal in space at bottom. Attach extra pages if needed, sign and date this form and mail to address shown.</p>	<p>Spaces Below To Be Completed By CALIFORNIA DEPARTMENT OF TRANSPORTATION</p>		
	<p>DIST.-CO.-RTE.-PM</p>		
	<p>PARCEL NO.</p>	<p>CORE FRINGE</p>	<p>E.A. NO.</p>
<p>PRINT OR TYPE YOUR FULL NAMES:</p>	<p>ADDRESS OF SUBJECT PARCEL</p>		
<p>PRESENT MAILING ADDRESS:</p>	<p>TYPE OF IMPROVEMENTS:</p>		
<p style="text-align: right;">Zip</p>	<p>Appellant Is</p>	<p>OWNER-OCCUPANT</p> <p>NON-RESIDENT OWNER</p>	
	<p>Type of Hardship</p>	<p>MEDICAL</p> <p>FINANCIAL</p> <p>OTHER:</p>	

MAIL TO:
CALIFORNIA DEPARTMENT OF TRANSPORTATION
DISTRICT HARDSHIP APPEALS BOARD, ROOM

This is an appeal of a determination made by the California Department of Transportation under the Hardship Acquisition Program. The nature of my complaint and the reasons why I believe the determination is improper are stated below and/or on the attached pages.

Signature of Appellant	Signature of Appellant	Date Signed
------------------------	------------------------	-------------

APPELLANT'S STATEMENT