PURPOSE
This manual change rescinds Right of Way Manual Section 16.10.00.00 in its entirety. It also revises Sections 16.01.03.11 and 16.01.03.13 to remove any references to “Section 16.10.00.00.”

Formatting update was applied to Sections 16.02.00.00, 16.03.00.00, 16.05.00.00, and 16.09.00.00. No change was made to its contents, except for the following: (1) Where applicable, general typographical errors were corrected. (2) References to “Section 16.10.00.00” were removed at 16.02.05.01, in the table entitled “Inventory Matrix,” 16.03.05.00, 16.05.04.18, and 16.09.06.00.

BACKGROUND
Procedural guidance in Section 16.10.00.00 has been superseded by Government Code Section 54235, et seq.

EFFECTIVE DATE
Immediately.

MANUAL IMPACT
• Remove the superseded pages and insert the attached pages in the Manual.
• Record the action on theRevision Record.

REVISION SUMMARY

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CHAPTER 16

EXCESS LAND

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16.00.00.00 - EXCESS LAND

16.01.00.00 GENERAL

16.01.01 Function and Responsibility

The Excess Land function is responsible for administering the inventory and disposition of Department-owned real property that is no longer required for rights of way or other operational purposes.

District and Region Excess Land staff have full delegation to operate and approve within the parameters outlined herein, and as discussed in R/W Manual Section 2.05.00.00. Any activities outside the scope of this Manual and/or the delegation matrix shall be subject to approval by HQ R/W. Such approval may be conveyed either in writing or by electronic means. A copy of said approval shall be placed in each Excess Land parcel file to which it applies.

16.01.02.00 Creation of Excess Land

Excess land may be created in several ways. Landlocked or uneconomic remnants not required for the right of way may have been acquired. Downscoped projects, superseded highway segments, route rescissions, route unadoptions by legislative action, and lands decertified at the request of adjoining owners may also create excess. Properties no longer required for operating purposes, such as maintenance facilities or material and disposal sites, may be declared excess.

16.01.03.00 Definitions

16.01.03.01 Excess Land

Excess land is real property rights, title to which is vested in the State of California, Department of Transportation, and which is determined and certified to be not required for rights of way or other operational purposes of the Department. The requirements for rights of way are established by the certificate of sufficiency contained in the appraisal report. Requirements for real property for other operational purposes are established and authorized by approval of specific Project Reports.

Excess land does not include:

- Airspace under or over State highways
- Hydrocarbon, mineral, or water rights
- Personal property
- Operating material and disposal sites

16.01.03.02 Inventory Parcel

An inventory parcel is excess land that is carried on the accounting inventory as an asset. Each inventory parcel has a VTA, Value at the Time of Acquisition. Inventory parcels are all excess land, as defined above, except those parcels specifically defined as non-inventory. Inventory parcels include land decertified at the request of adjoining owners.
16.01.03.03 Non-Inventory Parcel

A non-inventory parcel is excess land the Department intends to convey to a specific entity under the terms of a written agreement, and decertified access rights. These parcels are not part of the Division of Accounting (Accounting) inventory and do not have a VTA.

Examples of non-inventory parcels of excess land include:

- Property rights to be conveyed pursuant to an executed utility agreement for facility relocations.
- Property specifically acquired for another agency under terms of a written agreement.
- All decertified access rights where no other property rights are involved.
- Property rights, including underlying fee in local streets, to be conveyed to a local agency under terms of a freeway and/or cooperative agreement.
- Parcels acquired for exchange pursuant to a written agreement.
- Parcels acquired for replenishment housing facilities.
- Parcels acquired for functional replacement (see Section 8.30.00.00).

16.01.03.04 Planning Parcel

A planning parcel is a parcel identified only for planning purposes. It represents unacquired or undeclared excess land which may or may not eventually become excess. These parcels are not part of the Accounting system.

16.01.03.05 Disposal Unit

A disposal unit is the number given to the property for disposal purposes. It may consist of one or more parcels. When parcels are grouped for disposal, the lowest parcel number becomes the disposal unit number. Multiple parcel disposal units may be split or combined along the original parcel lines ONLY at the discretion of the Excess Land Manager to optimize marketability or disposal potential as necessary.

16.01.03.06 Inventory Value (VTA)

Inventory Value (VTA) is the fair market value of the excess at the time of acquisition, considered as a separate parcel. The inventory value may not exceed the pro rata cost of the parcel.

16.01.03.07 Acquisition Price (Pro Rata Cost)

The amount paid by State for the excess parcel at the time of original acquisition.

16.01.03.08 Direct Conveyance of Easements

This category is limited to the State’s conveyance of easements to public utility companies and political subdivisions, special districts, etc., or by direct sale where grantee has the power of eminent domain.
16.01.03.09  **Direct Conveyance Pursuant to Cooperative Agreement**

Pertains to the State’s conveyance of property acquired pursuant to an agreement under which the public body and the State agree to jointly share in the acquisition and construction of an improvement jointly benefiting the State and the public body, with the fee or easement title to be conveyed to the public body for their future maintenance of the facility.

16.01.03.10  **Direct Fee Sale to Government Agencies**

Used when excess fee-owned property is sold to public entities without calling for competitive bids for consideration equal to the appraised fair market value of the property (CTC Resolution G-98-22 – as amended).

16.01.03.11  **Direct Sale to Eligible Present Occupants**

Direct sale, either at fair market value to present occupants (tenants) who meet the eligibility requirements under CTC Resolution G-98-22 - as amended, commercial tenants in accordance with California Streets and Highways Code 118, or at less than fair market value (i.e., at an affordable price), to present occupants subject to Government Code Section 54235.

16.01.03.12  **Direct Sale to Former Owners**

Direct sales, at fair market value, to former owners who have remained in occupancy (CTC Resolution G-98-22 – as amended).

Direct sales to former grantors in accordance with California Code of Civil Procedure 1245.245. The Department can sell directly to a former grantor if the Department acquired the property subject to a resolution of necessity and the property is not used for the public purpose stated ten years following passage of the resolution.

16.01.03.13  **Direct Sale to Housing Entity**

Direct sale, at less than fair market value (i.e., at a reasonable price), to a housing entity that will use the property for low- and moderate-income housing purposes pursuant to Government Code Section 54235, et seq.

16.01.03.14  **Exchange Per Contract**

Authorized by S&H Code Section 118, whereby excess land is conveyed to a party from whom the State is acquiring right of way and by using the value of the excess land as whole or part consideration for the required property or interest needed for State highway purposes.

16.01.03.15  **Finding “A” Sales**

Direct sale to adjoining owner, without calling for competitive bids, of small, odd-shaped, fee-owned parcels incapable of independent development and having a higher and better use as part of the adjoining property or, if sold to other than the adjoining owner, would cause an undue or unfair hardship to such adjoining owner in the normal development or operation of their property (CTC Resolution G-98-22 - as amended).

16.01.03.16  **Finding “B” Sales**

The sale of such excess parcels to other than the adjoining owner would deprive such adjoining owner of vested right of access to a public highway and would create a possible cause for action against the Department (CTC Resolution G-98-22 - as amended).
16.01.03.17  Miscellaneous Conveyances

Pertains to the sale of State’s interests (such as access rights, mineral rights, or easements outside of the operating right of way) no longer required for operation of the highway facility.

16.01.03.18  Fair Market Value

A conclusion of value as defined in R/W Manual Section 7.01.01. Excess land appraisals are discussed in R/W Manual Sections 7.14.00.00 and 16.04.00.00.

16.01.03.19  Nominal Value Appraisals

A conclusion of value as discussed in R/W Manual Sections 7.02.14.00 and 16.04.00.00.

16.01.03.20  Public Sale Estimate (PSE)

An estimate of current market value, in brief written form as discussed in R/W Manual Sections 7.14.03.00 and 16.04.00.00.

16.01.03.21  Private Sale

When property is sold by sealed bid after Notices of Sale have been mailed only to adjoining owners due to the peculiar size, shape, or landlocked condition of the property which precludes its independent development.

16.01.03.22  Public Sale

Public sales are by voice auction, sealed bid, or continuous bid after Notices of Sale are mailed to prospective purchasers.

16.01.04.00  Organization

The DDC-R/W shall establish a District Excess Land Unit, hereinafter referred to as Excess Land, to efficiently and expeditiously dispose of excess land and improvements thereon in accordance with S&H Code Section 118.6. Responsibilities for all parcels in the Excess Land Inventory shall be properly assigned to ensure disposal in accordance with the principles outlined herein. HQ R/W will evaluate the effectiveness of the Excess Land Unit through periodic reviews and audits of district procedures.

In accordance with community planning and environmental values, sound business practice, integrity, and State law, Excess Land will:

- Minimize the number of parcels on the Excess Land Inventory.
- Minimize the holding period from date of acquisition to date of disposal.
- Maximize the return from sale of the land or interest conveyed.
16.01.05.00  Review of Appraisal Maps

Subject to final approval of the District Director (DD), Excess Land is responsible for reviewing and approving the location of right of way lines to assure that fragmentary remainders are minimized. Right of Way approval is required prior to:

- Issuance of any appraisal map that contains excess land.
- Revision of any appraisal map that affects or creates excess land.

The appraisal certification should contain documentation of the review of appraisal maps for minimizing excess.

Excess Land reviews all initial right of way requirements and any design changes in accordance with criteria in the table entitled “Review Criteria.”

Excess Land coordinates with Airspace to identify potential excess that should be included in the right of way for airspace use. Airspace reviews initial right of way requirements and design changes that create excess land adjacent to or within interchanges or adjacent to viaduct sections for potential airspace uses.

<table>
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<th>Type of Parcel</th>
<th>Action</th>
<th>Considerations</th>
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<tr>
<td></td>
<td>Meets the minimum standards of local zoning ordinances, or may be granted zoning variances, and is capable of independent development.</td>
<td>Should not be incorporated in the right of way at the time of appraisal map review.</td>
<td>In evaluating potential for independent development, consider such factors as topography, size, shape, and access as well as zoning requirements.</td>
</tr>
<tr>
<td></td>
<td>Not capable of independent development, but may be plotted to adjoining ownerships with reasonable expectation of enhancement to the adjoining property.</td>
<td>Should not be incorporated in the right of way at the time of appraisal map review.</td>
<td>In evaluating enhancement, consider the extent to which existing improvements and development on the receiving property would have to be rearranged to make suitable use of the plotted excess parcel. Also consider the potential for rezoning and redevelopement and the interest of adjoining property owners in purchasing such excess parcels.</td>
</tr>
<tr>
<td></td>
<td>Not capable of independent development and not considered to have potential for reasonable enhancement to adjoining properties if plotted.</td>
<td>Should be incorporated in the right of way.</td>
<td>Consider the costs of maintenance and weed abatement and the aesthetic effect on both the community and the highway if the parcel is not incorporated and subsequently determined to be unsalable.</td>
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</tbody>
</table>
16.01.06.00 Map Review Prior to Plans, Specifications, and Estimates (PS&E)

A second review of maps is required prior to submission of PS&E to Headquarters if the project involves purchase of right of way or the creation of excess land. Parcels not originally incorporated into the right of way and parcels offered for sale with unsatisfactory results should be reconsidered for incorporation. At the conclusion of the review, Excess Land includes a statement in the PS&E submittal that it has completed a review of the contract plans and maps.

16.01.07.00 Parcel File

Excess Land maintains a file on every parcel in the Excess Land Inventory until final disposition is completed, including full reconveyance. The parcel file shall contain as a minimum the items listed in Exhibit 16-EX-23.

16.01.08.00 Parcel Diary

A parcel diary sheet is required for each disposal unit. The diary is maintained in sufficient detail to document the steps taken towards ultimate disposal of the property. It is part of the Excess Land parcel file and includes the following information as a minimum:

- **Name of Assigned Agent**
- **Signed and Dated Entries** - documenting verbal and written inquiries, review dates and suggested actions, personal contacts regarding design studies and proposed routes, and personal contacts involving sales attempts.
- **Public Sales** - dates and results.
- **Other** - any information necessary to understand the handling of the disposal unit.

The diary and/or file shall contain documentation that prior to public sale, “FOR SALE” sign(s) were posted on the property, advertisements were placed in newspaper(s) and other real estate advertisement resources when appropriate and cost effective, notices of sale were sent to appropriate governmental agencies, notices posted on Caltrans’ excess land auction Web site, and copies of brochures were mailed to all owners adjoining the property being sold.

16.01.09.00 Excess Land Parcel Acquisition/Disposal Summary (Form RW 16-1)

An Excess Land Parcel Acquisition/Disposal Summary (Form RW 16-1) is prepared and maintained for each individual parcel of excess land and retained in the Excess Land parcel file during the Department’s ownership.

Districts are to provide a copy of the RW 16-1 to Accounting after recordation of the Director’s Deed. The Form RW 16-1 notifies Accounting to remove the VTA from the Accounting inventory.

16.01.10.00 Excess Land Inventory Memorandum (Form RW 16-28)

Excess Land prepares Form RW 16-28 and sends it to Accounting to record the VTA. This form is also used to make changes to the VTA. VTA additions or expenditure adjustments are due to actions district staff takes to create, adjust, return, incorporate, or delete excess parcels.
**16.01.11.00 Excess Land Fiscal Transmittal (Form RW 16-29)**

Excess Land prepares Form RW 16-29 to document fiscal transmittals to Accounting:

- **Cashiering Unit** - funds received from a buyer in connection with sale of excess land, decertification deposit, or miscellaneous fees.
- **Accounts Receivable Unit** - request regarding related adjustments, such as refunds or forfeiture of deposits.

**16.01.12.00 Discriminatory Rezoning**

Excess Land investigates and monitors local agency master plan and zoning proposals that affect the Department’s excess property and property held for future construction. Notification of a planning action may be by direct correspondence from the local agency or by formal notice in a newspaper of general circulation pursuant to Government Code Sections 65854 and 65856. Although formal notices are usually required, Section 65858 provides local agencies with authority to adopt certain interim zoning ordinances as urgency measures without the above notice requirements.

Excess Land shall notify the Legal Division when it appears a loss in value will result from a proposed planning or zoning action affecting the Department’s property. Legal and Right of Way jointly evaluate the proposed action as promptly as practicable to allow an appropriate departmental response.

The DDC-R/W shall notify the DD immediately of any proposed master plan or rezoning activity that is unreasonable, would discriminate against the Department, or would reduce the value of the property.

Active opposition to discriminatory planning and rezoning activity is the Department’s standard policy. Active opposition includes appearing at public hearings to present arguments and consulting with local agency staff. Opposition should not include efforts amounting to political pressure on individuals involved in the local planning process.

The CTC is concerned about this subject. The district may ask HQ R/W to request assistance from the Deputy Director, CTC and the CTC.

Legal shall initiate action unless the DD decides that it is not in the best interest of the Department to oppose a local agency’s planning or rezoning activity. The DD shall document by memorandum the reasons for not contesting the local agency’s proposed action and forward a copy of the memorandum to the Deputy Director Project Development.

Excess Land should notify HQ R/W if Legal’s opposition is unsuccessful. HQ R/W will refer the matter to the Director to determine whether the case warrants filing a lawsuit against the local agency.
16.01.13.00  Initiating Zoning Upgrades of Excess Land

Agency Action Request approved April 16, 1997 allows the district, with prior approval from HQ Right of Way, to initiate zoning upgrades of excess land.

The district may consider hiring consultants to obtain zoning upgrades and entitlements for excess property in limited cases. The district must prepare a marketing analysis demonstrating the benefits clearly exceed the risks and costs. The analysis is retained in the district and a copy must be forwarded to HQ Right of Way. HQ approval of the analysis is not required.

The district may ask HQ Right of Way to request that the Deputy Director, CTC provide advisory assistance to the district in developing the plan.
16.02.00.00 - EXCESS LAND INVENTORY

16.02.01.00  Inventory

Excess Land maintains records in the Excess Land Management System (ELMS) of all parcels defined as “excess land,” inventory and noninventory. There are three independent records of excess land that constitute the official inventories:

- **Accounting Records** - General ledger accounts maintained by the Accounting Service Center (ASC). ASC records do not include noninventory parcels.
- **Right of Way Record Maps** - maintained by Right of Way Engineering.
- **Excess Land Parcel Files** - maintained by Right of Way.

Each record serves a separate purpose; together they provide a comprehensive record of accountability that facilitates management and disposition of excess land. The respective functions independently input data to the inventory from the three basic records. The three records must be kept current and the Right of Way Record Maps and Excess Land Parcel files (see Section 16.02.06.00) must be reconciled.

On federal-aid projects, all excess land files and documents, including maps, Inventory Disposal Records, correspondence, options, leases, notices, contracts, and agreements, shall carry the federal-aid project number for federal vouchering purposes.

ELMS is used to record, monitor, reconcile, and report the status of the excess land inventory. The ELMS User’s Handbook for use of this system is available in the district or from HQ R/W on request. All parcels in the ELMS are carried in “disposal units” consisting of one or more parcels. Multiple parcel disposal units may be split or combined (along original acquisition parcel lines ONLY) at the discretion of the Excess Land Manager to optimize the marketability or disposal potential as necessary. Each parcel has an inventory or noninventory category. Disposal units may be comprised of both inventory and noninventory parcels.

16.02.02.00  Inventory Categories

The inventory categories are as follows:

- **1 - Disposable Category**
  - 1A - Available for immediate sale

- **2 - Hold Category**
  - 2A - Engineering Hold
  - 2B - Public Agency Hold
  - 2C - Administrative/Legal Hold
  - 2D - Environmental Hold

- **3 - Entry Category**
  - 3 - New excess land pending immediate clearance or pending hold category assignment
16.02.03.00  Inventory Process and Control

New excess parcels are placed in Category 3 pending clearance and transfer to another category. (See 16.03.00.00 for clearance procedures). Parcels can remain in Category 3 no longer than 90 days and are automatically classified as 1A (available for sale) at 90 days.

Parcels in Category 1A should be disposed of as soon as possible. In accordance with Streets & Highways Code Section 118.6, property must be offered for sale within 12 months from the time it is determined to be surplus. Parcels in Category 1A that do not have clearances, valuations, and/or maps and deeds are NOT available for immediate sale, and should be transferred immediately to the appropriate hold category. Authority to transfer excess from 1A to a hold category requires specified approvals by the district Real Property Retention Review Committee (RPRRC).

16.02.04.00  RPRRC and Transmittal of Hold Requests

The DD appoints the RPRRC to evaluate properties to be retained. The committee meets at least annually, or more frequently as required.

At least two weeks prior to the RPRRC meeting, Excess Land staff transmits requests for approvals to hold excess land to RPRRC with:

- Map of the property.
- Signed Form RW 16-3.
- Any other data that could facilitate review.

Upon request, the RPRRC Chair can extend a hold up to 12 months by entering the extension date on the current RW 16-3 and initialing and dating the form.

New holds required before a scheduled meeting shall be placed in the appropriate hold category with approval of the RPRRC Chair. The “release date” on the RW 16-3 will be the meeting date plus one month.

Excess Land staff is responsible for updating entries into the ELMS upon approval of hold requests.

Headquarters staff is responsible for reviewing ELMS reports and periodically auditing district files of RW 16-3 forms to assure procedures and approvals are correctly being followed.

See the “Inventory Matrix” on the following pages for additional information.

16.02.05.00  Inventory Value - Value at Time of Acquisition (VTA)

Inventory value is the fair market value at the time of acquisition of the excess considered as a separate parcel. The inventory value may not exceed the acquisition cost (pro rata cost) of the excess parcel.

ASC practice requires carrying the VTA as the parcel value on inventory; it is the lower of cost or market value at the time of acquisition.

An arbitrary VTA of $1.00 may be used in the following situations:

- The Department acquired title to the excess by donation or legislative enactment.
- The value at the time of acquisition cannot be determined or estimated (e.g., lost records).
- The actual cost is less than $1.00.
16.02.05.01 Items Not Included in VTA

The following items are not included in the VTA even though they may be part of the Department’s capital cost of acquisition:

- Cost of easements (see Section 16.03.07.00 for special treatment of easements).
- Cost of personal property since these are inventory items in the property management files.
- Damage payments on partial acquisition parcels.
- Relocation assistance payments.
- Demolition costs incurred in the removal of improvements.

<table>
<thead>
<tr>
<th>INVENTORY VALUES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Type of Parcel</strong></td>
</tr>
<tr>
<td>Regular Excess Parcels Acquired Through Acquisition</td>
</tr>
<tr>
<td>Rescinded Route Parcels</td>
</tr>
<tr>
<td>Excess Created by Design Change or Adjoining Owner Request</td>
</tr>
<tr>
<td>Former Maintenance Stations and Material or Disposal Sites</td>
</tr>
</tbody>
</table>
### INVENTORY MATRIX

<table>
<thead>
<tr>
<th>CATEGORY</th>
<th>DESCRIPTION</th>
<th>PROCESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 - Disposable</td>
<td>Parcels Available for Immediate Sale - placed in Category 1A and disposed of as soon as possible. Parcels in Category 1A that do not have clearances, valuations, and/or maps and deeds are NOT available for immediate sale, and should be transferred immediately to the appropriate hold category. Authority to transfer excess to any other category requires approvals as described in Section 16.02.04.00.</td>
<td>Dispose of in accordance with guidelines set forth in Section 16.05.00.00. Handle improved properties occupied by former owner or on rescinded routes in accordance with CTC Resolution G-2 and Government Code Sections 54235, 54237, and 54238.6.</td>
</tr>
</tbody>
</table>
| 2 - Hold   | Parcels held at the specific request of an engineering branch for possible additional right of way requirement or mitigation purposes:  
- On the same project for which the parcel was acquired.  
- For possible additional right of way requirement for another project.  
- Parcels required for operational purposes, for example:  
  - To provide the contractor with improved access to a construction site.  
  - For a batch plant site or similar use.  
  - For parking space for trailers to be used by engineering personnel (vacant land only).  
  - For temporary detours.  
  - For temporary material/disposal sites | Each application must contain the STIP year and number and the PSR approval date. In addition, each application must specifically identify the planned use for the property and the date by which the parcel will be transferred to the project or released. A parcel map must be attached to each application. Hold approval subject to the review process in Section 16.02.04.00. |
<table>
<thead>
<tr>
<th>CATEGORY</th>
<th>DESCRIPTION</th>
<th>PROCESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 - Hold (Cont.)</td>
<td>Parcels Held for Sale to a Public Agency - parcels shall not be held for a public agency unless an official authorized to bind the agency to buy the land submits a written, signed request within 60 days after the property is offered. With RPRRC’s approval, the property may be held up to a maximum of one year after receipt of the written request and deposit. This allows the agency time to arrange financing. The request must contain:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Property description or map.</td>
<td>Coastal Zone Property (Section 9, Article XIX State Constitution):</td>
</tr>
<tr>
<td></td>
<td>• The public purpose to which the land will be put.</td>
<td>Order maps and legal descriptions if not previously requested.</td>
</tr>
<tr>
<td></td>
<td>• The agency’s intent to buy the property.</td>
<td>Other:</td>
</tr>
<tr>
<td></td>
<td>• The date the sale will be concluded and reason for delay, if any.</td>
<td>Order maps, deeds, and appraisals if not previously requested.</td>
</tr>
<tr>
<td></td>
<td>Authority for direct sales to public agencies is contained in Government Code Section 54220, et seq.; State Constitution, Article XIX, Section 9; S&amp;H Code Sections 104.15 and 118.6; and CTC Resolution No. G-2.</td>
<td>Offer property at market value after appraisal approved and give 60 days to respond.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>If official written acceptance not received within 60 days, transfer to Category 1A and sell.</td>
</tr>
</tbody>
</table>
## INVENTORY MATRIX

<table>
<thead>
<tr>
<th>CATEGORY</th>
<th>DESCRIPTION</th>
<th>PROCESS</th>
</tr>
</thead>
</table>
| 2 - Hold (Cont.) | 2C Parcels Held for Administrative or Legal reasons - examples are:  
- Clearances, valuations, maps/deeds not completed.  
- Relocation assistance or replenishment housing purposes.  
- Pending resolution of potential claims against the Department.  
- Judicial or legislative actions.  
- Routes that are candidates for rescission or downscoping.  
- Written instructions to hold received from CTC, the Director, or the HQ R/W Program Manager.  
- Parcels held for optimum return or for exchange. Examples include:  
  - Other acquisition of adjacent land will provide access or make salable unit,  
  - Access will not be available until construction is completed,  
  - Exchange for needed right of way requested by Acquisition. | Document holds by written communication from the appropriate department including the reason for the hold and the release date.  
Hold approval subject to the review process in Section 16.02.04.00.  
Document economic justification where optimum return claimed as basis for hold.  
Document hold request for exchange with a memo from Acquisition justifying the hold. |
| 2D | Parcel held for environmental compliance or for mitigation purposes. | Document reasons for the hold. |
## INVENTORY MATRIX

<table>
<thead>
<tr>
<th>CATEGORY</th>
<th>DESCRIPTION</th>
<th>PROCESS</th>
</tr>
</thead>
</table>
| 3 - Entry | Temporary Hold for Clearance - place new parcels in this category pending clearance and transfer to another category. Parcels cannot remain in this category longer than 90 days. The ELMS will automatically place Category 3 disposal units in 1A after 90 days. To subsequently transfer from 1A to a hold category, follow the approval process in Section 16.02 04.00 | Upon entry, immediately obtain internal functional clearances; e.g.,  
- Relocation Assistance  
- Property Management  
- Park and Ride  
- Utilities  
- Environmental  
- Maintenance  
- Project Development  
- Planning  

Obtain clearances from other governmental agencies, where appropriate:  
- Department of General Services  
- Division of Aeronautics  
- OPR and HCD  
- Departments of Parks and Recreation, Fish and Game, and the Wildlife Conservation Board and the State Coastal Conservancy  
- Local agencies  

Select disposal method, where possible.  
Select category.  
Obtain approvals for holds, where appropriate. Request maps, deeds, appraisals, etc.  
Transfer to appropriate category within 90 days whether clearances have been obtained or not. |
**16.02.05.02 Adjustments to VTA**

Adjustments to the VTA may be required in the following situations:

- Improvements have been sold or removed.
- A portion of the property has been sold as excess land.
- The cost includes prepaid bond assessments and refunds have been received.
- Portions of the property have been encumbered with public roads under cooperative agreement or encroachment permits in anticipation of the proposed project.
- The property has been encumbered with utility easements.
- The property has been encumbered with private easements for access or other purposes.

**16.02.06.00 Annual Inventory Review**

The State Administrative Manual Section 8652 requires that a physical inventory be conducted at least once every three years for all parcels with a VTA over $5,000. This inventory is to assure that records are accurate and that all parcels have had a field review.

A district “Excess Land Record Review Team” to review records should consist of one member from Right of Way Engineering/Land Surveys, and one from Excess Land. The “Excess Land Field Review Team” to review parcels in the field may have the same members, or at the option of the district, consist of one member from Property Management and one from Excess Land.

The teams must determine that right of way record maps, excess land inventory, and excess land sales files depict ownership of the same land. See the table entitled “Review Process.”

The Excess Land member is the team leader and is responsible for ensuring that:

- An annual review is completed to assure covering the entire inventory within a three-year period;
- All discrepancies are identified and brought to the attention of Right of Way district management for resolution.

The team members are responsible for reviewing the inventory, files, record maps, and parcels in the field. The team members shall sign a verification statement confirming that the review was completed according to this section.

The review is based on current fiscal year data. The Excess Land member assures that the annual review is done by June 30, and that a report of the results is completed no later than July 31 of the same year. A computer-generated “Right of Way Inventory Review Worksheet (RWM 834-A)” is available to assist in both record reviews and field reviews.
<table>
<thead>
<tr>
<th>Step No.</th>
<th>Action</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Selection</td>
<td>Select sufficient excess land annually to allow a review of the total inventory within a three-year period. The RWM 834-A, organized by route and post mile, should be used to compare the Right of Way Record Maps and Excess Land Parcel files. Depending on the size of the inventory, a 100% review may be feasible in one annual review. In this instance, the next review would not be due for three years, unless a significant number of parcels are added in the intervening years.</td>
</tr>
<tr>
<td>2</td>
<td>Review of Records</td>
<td>The following records must be reviewed for each parcel selected. Each should contain the listed minimum information:</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Right of Way Record Maps:</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• The total excess parcel delineated.</td>
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<tr>
<td></td>
<td></td>
<td>• The excess parcel identified by a ten-digit number.</td>
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<tr>
<td></td>
<td></td>
<td>• The area of the excess shown, either on the map proper or in the property box.</td>
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<td><strong>Excess Land Parcel Files:</strong></td>
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<tr>
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<td>• A copy of a map denoting the excess.</td>
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<td></td>
<td>• Form RW 16-1, “Excess Land Parcel Acquisition/Disposal Summary.”</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Excess Land Inventory:</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td>A ten-digit parcel number must appear on the RWM 834-A.</td>
</tr>
<tr>
<td>3</td>
<td>Comparison</td>
<td>Compare the three sets of records:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Record Maps - find a corresponding number on the inventory and an excess land parcel file for each parcel.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Excess Land Files - find a corresponding number on the inventory and identification of the parcel on the record maps for each parcel.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Identify any discrepancies found between the records and note them on the RWM 834-A.  Minor discrepancies in area should be corrected by R/W Engineering prior to disposing of the parcel. A major discrepancy may require a field review by the Records Review Team.</td>
</tr>
<tr>
<td>4</td>
<td>Physical Inventory</td>
<td>The Field Review Team conducts a field review of parcels. Selection should be by route for optimum results per travel day. The same RWM 834-A used for the record review should also be used for the field review. Field reviews determine whether the parcel:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Requires any weed abatement;</td>
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<tr>
<td></td>
<td></td>
<td>• Is littered or is becoming a dump site;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Has no obvious presence of hazardous waste;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Appears to be unsafe;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Has any encroachments or unauthorized occupants; and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Appears to be the same size and configuration as shown on record maps.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Note any problems found on the RWM 834-A. Photos can be useful for documentation purposes.</td>
</tr>
</tbody>
</table>
## REVIEW PROCESS

<table>
<thead>
<tr>
<th>Step No.</th>
<th>Action</th>
<th>Description</th>
</tr>
</thead>
</table>
| 5        | Documentation | The RWM 834-A serves as the working papers. It shall include:  
  - Names of team members. List Records Review Team and Field Review Team members separately as necessary.  
  - Signed team verification and dates of inspection.  
  - Date next review is required.  
  - List of elements checked and identification of discrepancies in the records.  
  - Identification of deficiencies in physical condition. |
| 6        | Report | The report summarizes by county, route, and post mile limits:  
  - How many parcels were reviewed;  
  - How many parcels were in compliance;  
  - How many parcels were not in compliance;  
  - Any discrepancies found among the two record sources, such as area differences, are noted on the RWM 834-A. Major discrepancies will need to be researched and corrected as part of a follow-up process;  
  - Deficiencies in the physical condition of the parcels are noted on the RWM 834-A;  
  - A follow-up plan and schedule to correct any deficiencies is noted on the RWM 834-A.  
  The Team Leader prepares the report for review by the Excess Land Manager. The final report is sent to the DDC-R/W, with informational copies to the HQ offices for R/W Engineering, Property Management, and Excess Land. |
| 7        | Corrections | The districts are responsible for correcting the discrepancies, errors, and deficiencies. |
| 8        | Certification | HQ R/W will send a certification letter to the Chief of the Cashiering, Assets, and Special Funds Branch of the ASC annually, as of August 1. This letter summarizes the results for all districts and:  
  - Certifies that the annual review has been completed and complies with the State Administrative Manual Requirements;  
  - Gives the date of the next annual review required to meet the three-year total inventory review requirement; and  
  - States that the report and working papers are on file in the district for any subsequent audit review. |
16.03.00.00 - CLEARANCE PROCEDURES

16.03.01.00   Various Functional Reviews

Excess Land establishes clearance procedures to assure that the property is not required for a definite use by other units in the Department. The various functional units are consulted, including:

- **Acquisition** - to determine if the excess is needed for exchange.

- **Relocation Assistance** - to determine if an eligible relocatee is in possession of an improved property or if the property can be used by a displacee.

- **Property Management** (Rentals and Clearance) - to determine whether a State tenant occupies the property. If a property will be sold subject to a tenancy, no State property shall be removed without full knowledge of its removal being given to prospective purchasers. If the State is leasing or renting the property to be sold, Property Management attaches a copy of the lease or rental agreement to the clearance document.

- **Utilities** - to determine if the excess parcels are needed for utility purposes.

- **Park and Ride** - to determine if the excess is suitable for use as a Park and Ride lot. Selected and approved parcels are incorporated into the right of way for the Park and Ride project.

- **Environmental** - to determine if the excess has potential for use as a mitigation site, either for projects currently being developed or for mitigation banking purposes. The District Environmental Branch will determine which parcels are suitable for such use. These parcels will be transferred to Category 2D.

- **Planning** - to determine if the excess is required by any planning project.

- **Project Development** - to determine if the excess is needed for a project.

- **Maintenance** - to determine if the excess is needed for maintenance purposes.

16.03.02.00   Environmental Compliance

Excess properties are analyzed prior to disposal to determine if they are categorically exempt from the requirements of the California Environmental Quality Act (CEQA). Environmental and Excess Land jointly determine the CEQA requirements for excess land sales. CEQA requirements for surplus government property are contained in Class 12, CEQA Guidelines 15312. (See Section 16.12.02.00.)

Excess Land should initiate environmental compliance procedures as soon as it knows property may become excess. Although most parcels can be cleared in less than 30 days, the process may require several months if an environmental document is required.

See the table entitled “Environmental Compliance Process” on the following page for additional information on environmental clearance.
# ENVIRONMENTAL COMPLIANCE PROCESS

<table>
<thead>
<tr>
<th>All Excess</th>
<th>Excess Land</th>
<th>Environmental</th>
</tr>
</thead>
<tbody>
<tr>
<td>Circulates all excess parcels through Environmental for completion of a preliminary survey.</td>
<td></td>
<td><strong>Conducts preliminary survey to identify any factors that may disqualify the proposed sales from being categorically exempt.</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Categorically Exempt</th>
<th>Retains the Categorical Exemption Determination Form in the Excess Land file.</th>
<th>Notifies Excess Land promptly upon determination that a parcel is categorically exempt and completes a Categorical Exemption Determination Form.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assesses the real estate market to determine an appropriate time frame for disposal that avoids significant disruption of the market. Careful planning is required to assure the disposal program avoids adverse cumulative effects. The sale of property that is categorically exempt shall not be delayed because other parcels in the area may not be exempt. The Sales Notice to Bidders should clearly state that sale of the excess is exempt from CEQA, but that future development or alteration of the property may be subject to CEQA and other environmental permit processes. (See Section 16.05.04.00.)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Not Categorically Exempt</th>
<th>Offers properties with notable environmental value to other governmental agencies, pursuant to S&amp;H Code Section 118.6, at their current appraised fair market value. Transfer of such properties normally does not require an environmental document if the existing use of the property is expected to remain the same. Properties that require an environmental document are not advertised for sale or sold until the environmental document is completed and the Notice of Determination (NOD) is filed and the 30-day legal challenge period has expired. The Sales Notice shall state whether an ND or EIR was prepared.</th>
<th>Prepares an environmental document, Negative Declaration (ND) or Environmental Impact Report (EIR), as appropriate, if governmental agencies are unwilling or unable to purchase the properties within a reasonable time. Prepares and files the NOD with the Office of Planning and Research.</th>
</tr>
</thead>
</table>

16.03 - 2 (REV 1/2013)
16.03.03.00  Hazardous Substances

Excess parcels may not be offered for sale until the District Hazardous Substances Coordinator has provided a Hazardous Substances Disclosure Document allowing sale of the parcel. The disclosure document will certify one of the following three conditions:

1. The parcel is clear of hazardous substances and may be offered for sale; or

2. That hazardous substances exist on the property but the property may be offered for sale with appropriate and full information disclosure regarding the nature and extent of the contamination; or

3. That hazardous substances exist/may exist on the property and further investigation or remediation is required, and the disclosure document is an attachment to an Excess Land Hold Request.

The Hold Request must show the Project Manager an estimated schedule for the investigation or remediation. The responsible unit for the investigation or remediation will normally be the unit that controlled or maintained the property (e.g., Facilities, Maintenance, Traffic Operations).

16.03.03.01  Lead-Based-Paint Disclosure

For properties constructed prior to 1978, Excess Land must disclose the possible exposure to lead-based paints. See Excess Land Reference File 96-06 for procedures, forms, and requirements.

16.03.04.00  Notices to Other State Agencies

Notification to other State agencies of the proposed sale of excess land is required as shown on the table entitled “Notice Requirements for Other State Agencies” on the following pages.

Offers of direct sale to federal agencies may be made at the discretion of the Excess Land Manager based on knowledge of interest by a federal agency or physical proximity to a federal facility.

16.03.05.00  Offers to Local Public Agencies and State Resources Agency

Before any excess real property, except surplus residential property as defined in Government Code Section 54236, is offered for sale to the public, it must be offered for sale or lease to local public agencies, housing authorities, or redevelopment agencies within whose jurisdiction the property is located. (See Streets & Highways Code Section 118(a)(2).)

Excess Land must send Offers to Sell or Lease Surplus Land, Exhibit 16-EX-4, as shown below on the table entitled “Requirements for Offering to Local Public Agencies.” The important elements of the offer are shown on the table entitled “Elements of Offer.”

Other than the offers as required by statute for low/moderate income housing or park/recreational use, offers of direct sale to local public agencies are at the discretion of the Excess Land Manager.
<table>
<thead>
<tr>
<th>Purpose</th>
<th>Sent to</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Developing low- and moderate-income housing</td>
<td>Any local public agencies including, but not limited to, housing authorities or redevelopment agencies within whose jurisdiction the surplus land is located.</td>
<td>With respect to any offer to purchase or lease, priority shall be given to offers for development of the land to provide affordable housing for lower income elderly or disabled persons or households, and other lower income households.</td>
</tr>
</tbody>
</table>
| Park and recreational or open-space         | • Any park or recreation department of any city within which the land is situated.  
• Any park or recreation department of the county within which the land is situated.  
• Any regional park authority having jurisdiction within the area in which the land is situated.  
• The State Resources Agency or any agency that may succeed to its powers. |                                                                                                                                 |
<p>| Enterprise zone                             | Nonprofit neighborhood enterprise association corporation if the surplus is within such jurisdiction. | Pursuant to Government Code Section 7073. (See Section 16.12.03.00.)                                                                     |
| Designated program area                     | Program area agent.                                                    | As defined in subdivision (i) of Government Code Section 7082. (See Section 16.12.03.00.)                                               |
| School purposes                             | Public school districts whose jurisdiction is involved.                | Pursuant to Government Code Section 54222.                                                                                               |</p>
<table>
<thead>
<tr>
<th>State Agency</th>
<th>Description of Property</th>
<th>Process</th>
<th>Minimum Information Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of General Services Real Estate Services Division Attn.: Real Estate Sales Section 400 R Street, Suite 5000 Sacramento, CA 95814</td>
<td>• Any parcel, regardless of size, that abuts property owned by another branch of State government  • Any parcel, one acre or larger in size, that has access to a public road  • Any parcel, regardless of size, that in the district’s opinion may be of value or use to another State agency</td>
<td>Send a letter to DGS. (See Exhibit 16-EX-2.) If a response is not received within the 60 days, dispose of the property in the normal manner.</td>
<td>• General location or vicinity map  • Detailed parcel map showing local roads and streets and any adjoining property owned or controlled by any branch of State government  • Appraised value, if available, or a statement that a fair market value appraisal will be made if there is an affirmative response</td>
</tr>
<tr>
<td>Department of Transportation Aeronautics Program P.O. Box 942873 Sacramento, CA 95273-0001</td>
<td>Any parcel within a two-mile radius of any public airport.</td>
<td>Send a notice to Aeronautics. (See Exhibit 16-EX-2.) Aeronautics notifies the appropriate Airport Director of the availability of properties. The notification prescribes a 60-day response time and specifies the name and phone number of a contact person. During the prescribed 60-day period, the Airport Director should notify the district directly of their needs for the parcel. If a response is not received within the 60 days, dispose of the property in the normal manner.</td>
<td>• Present zoning  • Highest and best use  • Topography  • Improvements, if any  • Encumbrances or copy of State’s policy of title insurance  • Other remarks as appropriate, e.g., access, utilities available</td>
</tr>
</tbody>
</table>
| Housing and Community Development (HCD) 1800 Third Street Sacramento, CA 95814 | Parcels that local public agencies have not expressed interest in purchasing but that may have unique affordable housing potential, as determined by HCD in isolated cases. | Send copies to HCD of all offers of property to local public agencies in accordance with statutory requirements outlined in Section 16.03.05.00. HCD notifies Caltrans within the prescribed 60-day period on a case-by-case basis and requests that the parcel be withheld from immediate sale for a specific time. | Copy of the offer to the local public agency.
## NOTICE REQUIREMENTS FOR OTHER STATE AGENCIES (Continued)

<table>
<thead>
<tr>
<th>State Agency</th>
<th>Description of Property</th>
<th>Process</th>
<th>Minimum Information Required</th>
</tr>
</thead>
</table>
| Department of Parks and Recreation P.O. Box 942896 Sacramento, CA 95814 | Excess parcels that meet the requirements of Section 9, Article XIX, State Constitution  
- Coastal Zone land as defined in Section 9  
- Lands within 1000 yards of any property that has been listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places  
- Lands within the Lake Tahoe region as defined in Government Code Section 66905.5 | Notify the listed State agencies. Any proposed sale of such land requires authorization by the Legislature.  
If the agencies do not respond within 60 days, dispose of the property in the normal manner.  
Notification requirements do NOT apply to “exempt surplus land.” To be considered exempt, the surplus land must be sold to an owner of contiguous land and must meet one of the following criteria:
1. Less than 5,000 square feet in area.
2. Less than the minimum legal residential building lot size for the local jurisdiction or 5,000 square feet in area, whichever is less.
3. Has no record access; is less than 10,000 square feet in area; is not contiguous to land owned by a State or local public agency that is used for park, recreational, open-space or low- and moderate-income housing purposes; and is not located within an enterprise zone pursuant to Government Code Section 7073 nor a designated program area as defined in Government Code Section 7082. (See Section 16.12.03.00.) |  
- Parcel number  
- Area  
- Location  
- Acquisition cost  
- Overhead to acquire the property |
| Department of Fish and Game 1416 Ninth St., 12th Floor Sacramento, CA 95814 |  
| Wildlife Conservation Board 801 K Street, Suite 806 Sacramento, CA 95814 |  
| State Coastal Conservancy 1330 Broadway, Suite 1100 Oakland, CA 94612-2530 |  

Excess parcels that meet the requirements of Section 9, Article XIX, State Constitution
- Coastal Zone land as defined in Section 9
- Lands within 1000 yards of any property that has been listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places
- Lands within the Lake Tahoe region as defined in Government Code Section 66905.5

Notify the listed State agencies. Any proposed sale of such land requires authorization by the Legislature. If the agencies do not respond within 60 days, dispose of the property in the normal manner. Notification requirements do NOT apply to “exempt surplus land.” To be considered exempt, the surplus land must be sold to an owner of contiguous land and must meet one of the following criteria:
1. Less than 5,000 square feet in area.
2. Less than the minimum legal residential building lot size for the local jurisdiction or 5,000 square feet in area, whichever is less.
3. Has no record access; is less than 10,000 square feet in area; is not contiguous to land owned by a State or local public agency that is used for park, recreational, open-space or low- and moderate-income housing purposes; and is not located within an enterprise zone pursuant to Government Code Section 7073 nor a designated program area as defined in Government Code Section 7082. (See Section 16.12.03.00.)
<table>
<thead>
<tr>
<th>Element</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leasing Property To Be Sold at Fair Market Value</td>
<td>Any direct sale pursuant to Government Code Sections 54220 et seq. must be at current fair market value.</td>
</tr>
<tr>
<td></td>
<td>The Department may only lease surplus real property pending the sale or exchange of such property (see S&amp;H Code Section 118.6). The lease rate must be high enough to ensure that the eventual sales price of the parcel, when sold subject to the lease, is no less than the fair market value of the property if sold unencumbered by such lease.</td>
</tr>
<tr>
<td>Notification of Intent To Purchase or Lease Surplus Land</td>
<td>The entity desiring to purchase or lease surplus land must notify the Department in writing of its intent within 60 days after receipt of the Offer to Sell or Lease Surplus Land.</td>
</tr>
<tr>
<td>Resales of Land for Development of Low- and Moderate-Income Housing</td>
<td>A local public agency, housing authority, or redevelopment agency that purchases land from the Department may reconvey the land to a nonprofit or for-profit housing developer for development of low- and moderate- income housing as authorized by law.</td>
</tr>
<tr>
<td>Payment Period</td>
<td>Government Code Section 54225 allows the Department to provide for a payment period of up to 20 years in any contract of sale or sale by trust deed for:</td>
</tr>
<tr>
<td></td>
<td>• Surplus land to be used for park, recreation, open-space, or school purposes.</td>
</tr>
<tr>
<td></td>
<td>• Improved surplus land to be used for low- and moderate-income housing purposes.</td>
</tr>
<tr>
<td></td>
<td>S&amp;H Code Section 118 allows the Department to provide a longer payment period of up to 40 years in any contract of sale or sale by trust deed for improved and unimproved surplus land to be used for low- and moderate-income housing purposes.</td>
</tr>
<tr>
<td>Multiple Offers</td>
<td>If the Department receives offers to purchase or lease from more than one eligible entity, first priority shall be given to the entity that agrees to use the site for housing for persons and families of low- or moderate-income. By exception, first priority shall be given to an entity that agrees to use the site for park or recreational purposes if the land being offered is already being used and will continue to be used for park or recreational purposes, or if the land is designated for park and recreational use in the local general plan and will be developed for that purpose.</td>
</tr>
</tbody>
</table>

The preferred disposition for these properties is a direct sale, and when notice is received from two or more public agencies, preference shall be given to an agency that proposes to purchase the property.
When a notice is received from any entity desiring to purchase or lease surplus land, the district prepares:

- **Appraisal** - of the fair market value if sold.
- **Lease rate** - if the property is to be leased pending sale or exchange.

After completion of an appraisal or lease rate determination, the district and the entity negotiate to determine mutually satisfactory sales or lease terms (sales price must be based on the fair market value appraisal). If the price or terms cannot be agreed upon after 60 days, Excess Land may dispose of the surplus land.

**16.03.06.00 Outdoor Advertising Signs**

Excess Land must assure that the Department has no obligation for outdoor advertising signs located on excess property that continues beyond the sale of such property. Excess Land determines whether or not a sign is located on the property prior to sale by:

- Reviewing the appraisal and acquisition documents.
- Clearing the property for sale through Property Management.
- Visually inspecting the property.

To determine the status of any existing signs, Excess Land sends a Request for Information on Signs, Exhibit 7-EX-11 to HQ R/W, Outdoor Advertising Unit, and proceeds as shown on the table on the following page after receiving a response.

If previously-sold excess property involves outdoor advertising signs where the Department retains a contractual obligation to ultimately pay when said signs are removed, Excess Land should review the situation in detail and coordinate with the Outdoor Advertising unit for clearance.

**16.03.07.00 Clearance of Other Items**

Excess Land should ensure that a parcel is not conveyed until it determines the State has no unfilled contractual obligations to convey easements or other rights for utility or other purposes over the property. If any such unfilled obligations exist, appropriate exceptions or reservations shall be included in the Director’s Deed. Such items should be brought to the attention of prospective purchasers in the Sales Notice.

Procedures for clearance of other items are shown in the table entitled “Procedures for Clearance of Other Items.”
<table>
<thead>
<tr>
<th>Sign Status</th>
<th>No Executed R/W Contract and Quitclaim Deed</th>
<th>Executed R/W Contract &amp; Quitclaim Deed Covering Sign Relocation/Removal</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Illegal Sign</strong> - Sign that was illegally placed on State highway right of way and one that does not have a current State Outdoor Advertising Permit.</td>
<td>Notify sign owner to remove the sign. Removal must be accomplished prior to sale of the property.</td>
<td>If sign owner refuses to remove sign, Clearance and Demolition has sign removed and bills owner for cost.</td>
</tr>
<tr>
<td><strong>Nonconforming Sign</strong> - Sign was lawfully placed but does not conform to current law.</td>
<td>Have the sign removed as a right of way obligation prior to sale of the excess property.</td>
<td>Have sign owner execute an Advertising Structure Agreement and a rescinded Right of Way Contract. Consult with Legal about filing an action to rescind the existing contract if sign owner refuses to execute an agreement and/or a rescinded contract.</td>
</tr>
<tr>
<td><strong>Old Advertising Structure Agreement</strong></td>
<td></td>
<td>As an alternative to expedite sale of the excess property, order sign owner to remove the sign. The Department shall pay the amount set forth in the existing Right of Way Contract.</td>
</tr>
<tr>
<td>- Nonconforming Signs - Sign occupies property under an old agreement with a termination clause but no reference to highway construction.</td>
<td>Sell the property subject to the sign interest.</td>
<td>Property Management has sign owner execute a new Advertising Structure Agreement prior to sale. Consult with Legal on the next appropriate action if sign owner refuses to execute a new agreement.</td>
</tr>
<tr>
<td>- Conforming Signs - Sign conforms to current law. Occupies property under an old agreement with ambiguous termination clauses, e.g., one clause provides termination by 30-day notice; another ties removal of sign to future highway construction.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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### PROCEDURES FOR CLEARANCE OF OTHER ITEMS

<table>
<thead>
<tr>
<th>Item</th>
<th>Procedure</th>
</tr>
</thead>
</table>
| **Fee Conveyances Prior to Easement Conveyance Over Same Parcel** | Where the State has easements that cross excess land that have not yet been conveyed to a third party pursuant to a contractual obligation, it is permissible to include the clause below in the fee Director’s Deed of the affected excess parcels. The clause is to be used only when a Director’s Deed easement across excess has not been recorded and posted on the Right of Way Record Maps at the time the Director’s Deed for conveyance of the excess is prepared. When the easement deed is recorded and posted prior to preparation of the Director’s Deed for conveyance of the fee excess, the Director’s Deed of fee will make no mention of the easement except for the clause printed on the Director’s Deed form that states “…subject to special assessments, if any, restrictions, reservations and easements of record.”  

“Subject to an easement granted or to be granted to (name of company) for (purpose of easement) and incidents thereto upon, over and across: (Description of easement area).”  

It is essential that the “name of company,” “purpose of easement,” and “description of easement” are identical in the Director’s Deed for the easement and the Director’s Deed for the excess fee.  

Under normal circumstances, property or other rights acquired expressly pursuant to a contractual obligation or easements being conveyed over excess lands are not part of the Excess Land Inventory. |
| **Easements No Longer Needed for Transportation Purposes** | Easements no longer required for transportation purposes may either be vacated or sold pursuant to S&H Code Section 118.6, depending on the circumstances. The DDC-R/W determines the method of disposal after considering the facts. Although easements are normally vacated, they can be appraised and disposed of in the normal manner where circumstances warrant, such as when easements are acquired for a transportation use but are never used.  

When easements are no longer needed, they are added to the ELMS. The decision on whether they are classified as inventory or non-inventory is based on definitions contained in the user’s handbook. |
| **Superseded Fee-Owned Right of Way** | When title to a superseded right of way is owned in fee, it may be conveyed to a private owner only by Director’s Deed. Salable segments of such right of way may be used in exchange the same as any other fee-owned property. |
| **Excess Property That Has a History of Soil Instability** | The clause below is included in all Director’s Deeds, Sales Contracts, and Sales Notices used in the disposal of excess properties that have a history of soil instability caused in part or entirely by State highway construction.  

“It is mutually agreed and understood that this property may be subject to soil instability and that the grantees, for themselves and their successors or assigns, hereby waive any and all claims for damages resulting from further earth movement or soil instability which may occur because of prior actions by the State of California, its officers, agents and employees.” |
## PROCEDURES FOR CLEARANCE OF OTHER ITEMS (Continued)

<table>
<thead>
<tr>
<th>Item</th>
<th>Procedure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parcel Contractual Obligation Review</td>
<td>All excess land resulting from partial acquisitions is subject to a contractual obligation review prior to sale. Evidence of a completed contractual obligation review is first noted in the Parcel Diary and then in the property description portion of Form RW 16-1 at the time the résumé package is submitted for CTC approval by the following statement:</td>
</tr>
<tr>
<td></td>
<td>“A parcel review has been completed and there are no contractual obligations”.</td>
</tr>
<tr>
<td></td>
<td>If contractual obligations are found, their disposition must be explained in full.</td>
</tr>
<tr>
<td>Flood Hazard Notice</td>
<td>The following notice is placed in all Sales Notices when there is a potential for flood hazards:</td>
</tr>
<tr>
<td></td>
<td>“CAUTION: We are hereby putting you on notice that this property may be subject to potential flood hazards. The Department of Transportation does not assume any liability for any damage which may be caused by such flood hazards. We recommend that you fully investigate the potentiality of such hazards with the appropriate Federal, State and local agencies.”</td>
</tr>
<tr>
<td>Excess Property Located in Fault Hazard Zones</td>
<td>Section 2621.9 of the Public Resources Code (See Section 16.12.04.00) requires any person who is a seller or acting as an agent for a seller of real property located within a “delineated special studies zone” to disclose to any prospective purchaser of such property the fact that it is located within such a zone. To ensure the Department complies with all statutory requirements, the following statement is added to all contracts and agreements and to all Sales Notices used to notify prospective purchasers of the Department’s intent to dispose of real property located within a special studies zone:</td>
</tr>
<tr>
<td></td>
<td>“The real property which is the subject of this sale may be situated within a Special Studies Zone as so designated under the Alquist-Priolo Special Studies Zones Act Sections 2621-2625, inclusive, of the California Public Resources Code. As such, approval of any future construction or development of any structures for human occupancy on this property may be subject to the findings contained in a geologic report prepared by a geologist registered in the State of California. No representations on this subject are made by the Department of Transportation, and any prospective purchasers should make their own inquiry or investigation into the potential effects of this Act on this Property.”</td>
</tr>
<tr>
<td></td>
<td>The California Division of Mines and Geology’s Special Publication No. 42 contains an index to individual quadrangle maps that can be used to determine if excess property is located in a Fault Hazard Zone.</td>
</tr>
</tbody>
</table>
16.05.00.00 - DISPOSAL METHODS AND PROCEDURES

16.05.01.00  General

Excess property shall be disposed of as soon as possible commensurate with sound business practices, statutes, and CTC Resolution G-2 (as amended), so the number of parcels on inventory is maintained at minimum levels.

Property is not to be withheld from sale without full justification, including economic, environmental, and community considerations. Parcels shall be offered for sale within one year of becoming available for sale, pursuant to Streets & Highways Code Section 118.6. All efforts made to sell the property shall be documented in the file, and all offers are input into the ELMS.

16.05.02.00  Methods of Disposal

Excess real property can be disposed of as follows:

- **Internal transfers**
- **Public sale** - by auction, sealed bid, or continuous bid
- **Direct sale** - to adjoining owner (Findings A and B), to former owners in occupancy, and to eligible present occupants
- **Private sale** - between adjoining owners
- **Exchange** - by Right of Way Contract
- **Functional Replacement** - by agreement (see Section 8.30.00.00)
- **Other direct conveyances:**
  - To other governmental agencies
  - Pursuant to utilities agreement
  - Pursuant to cooperative agreement
  - Pursuant to legislation
- **Leasing** - pursuant to S&H Code Section 104.15
- **Lease-Purchase**
- **Transfer of Control and Possession** - to other State agencies
- **Private Brokers**

All conveyances of excess property are subject to the CTC’s final approval, except where statutory or delegated authority vests with the Director. (See also Section 16.07.01.00.) Incorporations of property within State highway operating rights of way are at the discretion of the DDs.

All sales of inventory property valued at $1 million or more, whether by direct sale or public sale, are subject to Airspace Advisory Committee (AAC) review prior to submittal to the CTC. (See also Section 16.07.05.00.)

All printed matter, including the terms of sale, must clearly state that the sale is subject to Department approval, AAC review (if required), and CTC approval, and is not binding upon the State prior to such approval.
16.05.03.00 Internal Transfers

16.05.03.01 Incorporation of Excess Parcels Within Operating Right of Way

Excess Land initiates appraisal map reviews, as set forth in Sections 16.01.04.00 and 16.01.05.00, to eliminate small remnants of excess land that can be included within the right of way. Examples include:

- **Park and Ride** - If any excess land is selected for a possible Park and Ride lot, a feasibility study should be undertaken comparing the economics of using the excess land to purchasing alternate sites. The study includes an analysis of the savings resulting from fewer cars on the road because of the facility. A determination is made of the lot size necessary for the particular location and the estimated time necessary to complete a project report.

- **Enhancement of Air Space** - Excess land situated adjacent to air space may be incorporated into the right of way to enhance utility of the air space. The file must be documented with an economic justification.

- **Unsalable Excess Parcels** - Consideration should be given to incorporating small unsalable parcels into the right of way.

Once the location and size of a possible Park and Ride lot are determined, Excess Land holds the area necessary for the lot for the time needed to process a project report, normally less than six months. Any remaining excess should be released and processed for sale as soon as possible. Special consideration should be given to the sale of any remaining excess. Particular attention should be given to access and economic enhancement since the Park and Ride site will be deleted if the project report is not approved.

Excess land is not to be transferred into the right of way until a project report for the Park and Ride facility is approved.

The Ridesharing Coordinator is responsible for working with Excess Land to determine the best site available for the cost. The project report discusses use of alternate sites and includes reasons for using the excess land.

16.05.03.02 Inter-Program Transfers

Excess property may be transferred within the Department to another program, such as Maintenance or Administration. An accounting transaction transfers the property at its VTA to the appropriate program. Excess Land initiates the transfer by completing RW 16-1 and RW 16-28 with the required supporting data and submitting them to ASC.

16.05.03.03 Charging Excess Land to Projects

The following rules apply to projects on which construction has not been completed:

- If there is no Federal participation in the project cost, the amount to be charged to the project is the VTA.

- If a non-Federally participating excess parcel or portion thereof was acquired on a Federally participating project and it will be included in the right of way for the same or any other Federally participating project, the amount to be charged to the project receiving the excess land is the prorata cost of the parcel if the parcel is approved in an E-76 covering the original project. Where FHWA approval has not been obtained (i.e., no E-76), the project should be charged the VTA.

- If an excess parcel acquired on a nonparticipating project will be included in the right of way for a participating project, it is not eligible for Federal participation. This is because it was acquired before Federal approval of the project for which it is used.

- If fragmentary excess land will be incorporated in the right of way of completed projects with a closed EA, the amount charged is the VTA.
Charges to EAs on active projects for incorporation of parcels require the EA to be adequately funded to receive the charges. Charges exceeding $10,000 could surpass the programmed amounts for any given project. Charges should not be made until it has been verified that the project can adequately receive the amount to be charged, or until a program supplement has been approved.

16.05.04.00 Public Sales

16.05.04.01 General

Excess Land shall develop sales procedures to attract the widest possible market and to obtain the maximum return. The sales standards described in R/W Manual Section 16.05.04.08 and 16.05.04.14 are the minimum necessary to ensure adequate exposure of public sale property.

16.05.04.02 Purchase Agreement (RW 16-5 and RW 16-6)

Generally if an excess parcel is capable of independent development compatible with its environment, it should be disposed of by public sale. Public sale may be by oral auction, sealed bids, or continuous bid, whichever provides the greatest return. Bids that fall below the published minimum shall be rejected. If no bids are received, the minimum is reanalyzed before the property is again offered for sale.

The right to purchase is awarded to the highest responsive bidder. If the highest bidder defaults, consideration should be given to awarding the right to purchase to the second highest bidder at the second high bid amount.

The right to purchase is for a definite period commencing on the first day after the date of sale. The usual right to purchase period is 60–90 days; the maximum right to purchase period is 180 days. Extensions of the right to purchase period must be approved in accordance with the current Executive Order Delegation Matrix in Section 2.05.00.00, and a 1% per month penalty is assessed (NOT to be applied to the purchase price). Refer to Sections 16.05.13.00 and 16.05.14.00 for alternative sales methods utilizing an Option-Purchase Agreement or a Lease-Purchase Agreement.

The purchase deposit must be sufficient to cover out-of-pocket costs of the sale, e.g., printing and mailing the Sales Notice and advertising. The minimum deposit shall be:

<table>
<thead>
<tr>
<th>Minimum Bid Amount:</th>
<th>Minimum Deposit Required:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Over $5,000</td>
<td>10% of minimum bid rounded down to the nearest $100</td>
</tr>
<tr>
<td>$500 to $5,000</td>
<td>$500</td>
</tr>
<tr>
<td>Under $500</td>
<td>Actual amount of bid</td>
</tr>
</tbody>
</table>

16.05.04.03 Default or Withdrawal of Highest Bidder

If the highest bidder fails to exercise the purchase rights within the prescribed period or fails to comply with the sale terms, the Region/District retains the deposit until damages and costs are determined. Damages and costs include but are not limited to staff time and overhead, costs associated with advertising and marketing the property again, and the reduction in the market value, if any, at a subsequent sale. See Section 16.07.07.00 for procedure when a bidder requests cancellation of a sale prior to CTC approval.
Upon default, Excess Land notifies the highest bidder that the deposit is being retained until damages are determined through subsequent resale of the property. The remainder of the deposit, if any, is refunded to the bidder. Excess Land has the implied responsibility to schedule another sale as soon as practicable. If Excess Land determines that it is in the best interests of the State not to schedule another sale attempt, the deposit (less appropriate costs) is to be refunded to the bidder immediately.

If the highest bidder defaults or withdraws from the sale pursuant to Section 16.07.06.00 prior to recordation of the deed, Excess Land may offer to award a right to purchase to the second highest bidder. If the second highest bidder accepts award, the deposit required and the terms of right to purchase are the same as stated in the Sales Notice. However, the right to purchase period shall commence on the first day following the date Excess Land receives written notice of acceptance by the second highest bidder.

16.05.04.04 Minimum Bids

The following guidelines apply to property available for public sale and property previously offered to public agencies in accordance with S&H Code Section 118.6.

- **First Offering** - As soon as possible after the property becomes available, offer it for sale within a range of 75-100% of PSE. The Excess Land Manager should consider the expected demand for the property, its shape and conformity of use with the neighborhood, and development potential when setting the minimum bid within the range.

- **Subsequent Offering** - If the property is not sold at first attempt, the Region/District shall prepare a marketing plan that outlines and substantiates the marketing effort and justifies the minimum bid for subsequent offerings. A copy of the marketing plan must be retained in the Region/District’s excess land parcel file. If the marketing plan indicates a minimum bid below 75% of the PSE, the Region/District shall request a revised PSE.

After receipt of the revised PSE, if Excess Land believes that a minimum bid between 60% and 75% of PSE is warranted, that decision will be fully documented by memorandum to the file, signed by a Supervising R/W Agent or above. Properties are not to be offered with minimum bids below 60% of PSE. This authority may not be delegated below the Supervising R/W Agent level.

- **Marketing Plan** - The Region/District must consider the following while preparing the marketing plan:
  - Reducing the minimum bid.
  - Using an unannounced minimum.
  - Reviewing appraisal/PSE for concepts that may be inappropriate and revising appraisal/PSE as necessary.
  - Combining with other parcels.
  - Reducing the number of parcels in the disposal unit.
  - Expanding advertising.
  - Using other innovative marketing techniques.
  - Alternate sales methods.
  - Holding the disposal unit until market conditions improve. (See Section 16.02.04.00 for Hold Request procedures.)
16.05.04.05 Unannounced Minimum Bid

Parcels may be auctioned with an unannounced minimum bid, in which case all the foregoing requirements apply, with the following additional conditions and exceptions:

- All other terms of the sale, including required deposit, are indicated in the Sales Notice with the word “unannounced” after the term “Minimum Bid.” **NOTE:** Deposit amount should vary from the 10% standard in order to keep bidders from determining the minimum bid.
- The PSE and the unannounced minimum bid are confidential information and shall not, under any circumstances, be divulged to a prospective bidder or the general public. Excess Land is responsible for the actual amount of the minimum bid, which shall be established in writing by concurrence between the Excess Land Manager and his/her immediate supervisor. The minimum bid amount must be kept in a confidential and secure file. If the PSE or minimum bid is given to a prospective bidder, Excess Land shall cancel the sale and initiate a resale of the parcel using the PSE as the basis for the minimum acceptable bid.
- The Sales Notice shall include a provision allowing 10 days to evaluate the bids received. Excess Land has discretionary approval to accept any bid that exceeds 80% of the unannounced minimum acceptable bid. Otherwise HQ/R/W approval is required prior to acceptance of the bid. Requests for acceptance will include the total number of bids, the bid amounts, and the Region/District’s recommendation with reasons therefor.
- Bids accepted by Excess Land that are less than the unannounced minimum bid shall be justified by an Administrative Authorization memorandum signed by a Supervising R/W Agent. This authority may not be delegated.
- Unannounced minimum bids must be at least 75% of PSE.

16.05.04.06 Credit Term Agreement (RW 16-5)

The Credit Term Agreement provides that the purchaser has a prescribed number of days during the right to purchase period to open an escrow at purchaser’s expense. Purchaser shall deposit a sum that equals 30% of the successful bid when added to the initial bid deposit. The total period for making final payment shall be no longer than the right to purchase period prescribed in the Sales Notice.

It may be in the Department's best interest to extend the right to purchase period if requested by the purchaser. Excess Land may extend the period as supported by a full analysis (to be retained in the Region/District files) on the following terms:

- A right to purchase extension charge of 1% per month on the bid amount is made for the period of the extension. If the transaction closes prior to the end of the extension period, Excess Land may prorate the extension charges allowing monies for the unexpired term of the right to purchase period to be credited to the purchase price or refunded.
- The extension charge is not applied to the purchase price.
- If the right to purchase is not exercised, neither the bid deposit nor the extension charge is refunded.

16.05.04.07 Notice of Surplus Real Estate Sale (RW 16-4)

A Notice of Surplus Real Estate Sale (Sales Notice) is used for properties sold by public auction, sealed bid, or continuous bid. Deviations from the standard terms and conditions require documentation and DDC-R/W approval. Innovation in preparing the front covers of these notices is encouraged, particularly for those properties having specialized uses or high values. The Sales Notice shall clearly state if credit terms are being offered, and, if so, all sales are subject to satisfactory proof of the buyer’s creditworthiness. Credit reports will be obtained at buyer expense.
Accuracy about access, zoning, and availability of utilities is important when describing the characteristics of the property. Investigations regarding such factors should be thorough so the Sales Notice is reliable.

Copies of the Sales Notice shall be mailed or delivered to ASC, all adjoining owners, and all other persons who may be interested in purchasing the property. Emphasis should be on reaching those segments of the market that specialize in the particular class of property.

If a public sale is by sealed or continuous bid, the appropriate bid form shall be attached and mailed with the Sales Notice.

16.05.04.08 Posting of Property and Physical Inspection

Real estate type “For Sale” signs shall be placed on excess land offered for public sale and shall contain information about the parcel, the words “For Sale,” and the address and phone number of the appropriate Region/District office. Signs should be of sufficient size and shape to be readily identifiable by the public and constructed of materials that will withstand the elements. Where high value or special purpose properties are for sale, consideration should be given to more extensive signing, or other types of display, to assure maximum exposure.

At the time of the appraisal and again upon posting, an Agent shall physically inspect the property to determine existence of any adverse interests, advertising signs, hazardous material/waste, persons in possession (trespassers or State’s tenants), or easements. These interests shall be checked against the State’s title policy and either cleared or brought to the attention of prospective bidders in the Sales Notice or during the auction.

Excess Land should check the property periodically during the advertising period to assure that “For Sale” signs are still posted.

16.05.04.09 Public Sales of Landlocked Parcels

Excess Land should undertake public sales of landlocked parcels of substantial area or value only after it has attempted to secure an access option from adjoining owners. Negotiations should be based on securing adequate rights commensurate with the highest and best use of the parcel.

The parcel diary should contain a notation that Excess Land reviewed the landlocked parcel with Design and no alternate means of access was or could be made available.

Résumé packages for sales of landlocked parcels must include a statement in the remarks section of the résumé form about attempts made to secure an access option. If an option is secured, a copy of the option agreement is included in the package.

Options to purchase access may only be obtained on a voluntary basis, and the following guides should be used in attempts to secure options:

- **Option Period** - Sufficient to allow grantee to exercise the option within the terms prescribed in the Sales Notice. Allow sufficient time to advertise and complete all aspects of the sale.
- **Option Value** - Appraisals shall certify that the price to be paid for the optioned property is reasonable and that the optioned rights are adequate to serve the excess land.
- **Consideration for Option** - Shall normally be $500.
- **Form of Agreement** - The option agreement follows the form shown in Exhibit 16-EX-5. (To be issued.)
16.05.04.10  Transfer Costs
The Department shall not pay fees for recording, escrow, title insurance, documentary stamp tax, or any other charges involved in the transfer of title to excess property. This policy should be stated in the Sales Notice and brought to the attention of prospective bidders.

16.05.04.11  Oil, Gas, and Mineral Reservations
Excess Land shall avoid retention of oil, gas, and mineral rights at the time a fee-owned parcel is disposed of. In areas where active community oil and/or gas leases are in effect, the income or royalties therefrom are considered in the valuation of the excess property.

16.05.04.12  Delinquent Taxes
Excess Land shall investigate the status of taxes and assessments and report the status on Form RW 16-1 under “Fee Title” information section. Although property will generally not be subject to delinquent taxes, cancellation should be requested if they do exist. If property must be sold subject to delinquent taxes or assessments, this fact shall be brought to the attention of prospective bidders in the Sales Notice.

16.05.04.13  Mailing List
Excess Land in each Region/District shall maintain a comprehensive mailing list or file with names and addresses of persons and firms who are interested in purchasing State property. These lists must be reviewed and purged annually in accordance with Government Code Section 14911. (See Section 16.12.03.00.)

A separate, return-addressed verification card may be attached to the material mailed. The card should state that the mailing list is reviewed annually as required by State law. It should provide a space for the recipient to affix postage when returning the card as an indication of desire to remain on the mailing list.

Suggested text for the message side of the verification card:

“Your name is on our mailing list to receive notice and terms of sale for lands to be sold at public sale. If you wish to continue to receive these notices, please sign this card, place adequate postage on the reverse side, and mail immediately. If this card is not returned by (specify date), your name will be removed from our list. This notice is required annually by Government Code Section 14911. Please correct the address shown if incorrect; be sure to include zip code.”

The mailing list is confidential and shall not be made available to the general public.

16.05.04.14  Advertising Excess Property - Public Sale
Since advertising is the key to successful sales of real property, Excess Land must be thoroughly familiar with advertising practices of the local and national real estate markets.

Prior to the sale, Excess Land must take the following actions as a minimum, and document them in the file:

- Send notifications to appropriate governmental agencies.
- Post “For Sale” sign on property.
- Place advertising in newspaper(s).
- Provide copy of Sales Notice to adjoining owners.

Use of advertising should be maximized with attention given to specialized publications, notices, or other information outlets (e.g., the Internet) for properties with special uses or characteristics. Format and placement of real estate advertisements, as well as cost, shall be in conformance with normal real estate
transactions. Minimum advertising requirements are listed in the table below entitled “Minimum Advertising Requirements.”

<table>
<thead>
<tr>
<th>MINIMUM ADVERTISING REQUIREMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Bid</td>
</tr>
<tr>
<td>Less than $5,000</td>
</tr>
<tr>
<td>More than $5,000</td>
</tr>
<tr>
<td>More than $50,000 or Special Purpose Properties</td>
</tr>
</tbody>
</table>

Minimum content includes size, location, zoning, topography, other pertinent information, and date, time, and method of sale. In the case of public auctions, the location of the auction should be carefully specified. If sale is by sealed bid, the advertisement shall include date and time for receipt of bids and information on where bid proposal forms may be obtained. It should be made clear that bids must be made on the Department’s bid forms. The address and telephone number of the office where additional information may be obtained should be included.

16.05.04.15 Conduct of Public Auction Sales

When excess property is sold by public auction, the auction shall be conducted by two Agents from Right of Way, one of whom shall act as the auctioneer. The auction may be held on the premises or at another location. Sufficient copies of the Sales Notice must be available for people attending the auction.

At the time of the auction, the auctioneer ascertains that everyone present has at least one copy of the Sales Notice and is familiar with the terms and conditions. The auctioneer should be prepared to provide any additional or special information that affects the property and to answer any questions from prospective bidders. Upon reading the breach of contract provisions and the minimum bid and deposit requirements, the auctioneer requalifies bidders, if practical, by asking for the showing of deposit/registration checks. The auctioneer then announces, “The bidding is now open.”

The auctioneer shall assure that adequate time is allowed for bidding before closing the sale. A right to purchase shall be awarded to the highest responsive bidder.

One of the Agents secures all necessary signatures on the proposal. The highest bidder signs the original proposal sheet, showing address and telephone number. The Agent accepts the deposit/registration remittance by cashier’s check or certified check and delivers a receipt and a duplicate proposal sheet to the high bidder. Personal checks are not acceptable. Cash deposits should be discouraged. The Agent transmits the monies to Accounting with a RW 16-29, which places the funds in the special deposit account.

The highest bidder must furnish the required deposit at the time of the auction as prescribed by the Sales Notice, otherwise the auctioneer may reopen the bidding and award the right to purchase to the second highest bidder. Alternatively, the sale may be canceled and rescheduled.

One of the Agents shall obtain the name, address, and telephone number of the second highest bidder to be used in the event the highest bidder defaults. (See R/W Manual Section 16.05.04.03 for procedures when the highest bidder defaults.)
16.05.04.16  Personal Checks

Excess Land may not accept personal checks.

16.05.04.17  Conduct of Sealed Bid Sales

When sales are by sealed bids, a representative of Right of Way opens the bids at the prescribed time and place in the presence of prospective purchasers. The representative tabulates all bids and announces the highest bidder.

Immediately after the bid opening, deposits shall be returned to the unsuccessful bidders. If an unsuccessful bidder is present when the deposits are released, the check may be hand delivered if a receipt is obtained.

See Section 16.05.04.03 for procedures when the highest bidder defaults.

The number of bids received shall be kept confidential prior to opening bids, and no additional bids shall be accepted after the bid submission deadline. Bidders may withdraw or revise their bids prior to the bid submission deadline.

16.05.04.18  Notification of Tenants

To meet statutory requirements and maintain good public relations, Excess Land should advise tenants of progress made toward the sale of the property they occupy. Written notification shall be sent as follows:

- Notify tenants on rescinded routes that they may have a right to purchase pursuant to CTC Resolution G-2 (as amended) or Government Code Section 54237.
- Send a copy of the appropriate Sales Notice to each occupant so they can bid on purchasing the parcel, if they so desire.
- Immediately notify each occupant of the name, address, and phone number of the purchaser upon completion of the public sale. Notify each occupant if the parcel does not sell at the public sale.
- Notify each occupant of the specific date of the recording of the Director’s Deed that divests the State of ownership of the particular property.

16.05.04.19  Sale of Excess Land and Improvements Leased as Resident Engineer’s Offices

The procedures in this section apply to properties proposed to be leased back to the State as Resident Engineer’s Offices after a sale subject to the lease.

The proposed lease is attached to a consent memorandum from Construction to Right of Way. Two copies of the proposed lease are made part of the Sales Notice and are executed by the State’s purchaser at the time the purchase agreement is executed. Execution of the lease by the State is in accordance with the subdelegation matrix in R/W Manual Chapter 2, Policy.

After approval by the CTC of the Director’s Deed, HQ R/W returns the deed to Excess Land for execution and recordation. These leases should not be recorded, but may be delivered to the escrow holder with the Director’s Deed for recordation and delivery of the lease to the purchaser.

The property must be advertised and offered for sale within 90 days of the date of the consent memorandum. Rent payments to the purchaser commence on the date of recordation of the Director’s Deed.

See RW 11-2 in the Property Management Chapter for the lease form to be used in these circumstances.
16.05.04.20 Public Sale of Fragmentary Remainders

Whether landlocked or not, fragmentary remainders of nominal value are normally sold under Finding A procedures. If the adjoining owners have refused to purchase the parcel, it may be sold at public sale after a public sale estimate has been obtained. A documented refusal must be obtained from all adjoining owners within a reasonable time prior to public sale of the parcel. It is not appropriate to spend inordinate amounts advertising these parcels.

16.05.04.21 Protection of Improvements on Excess Land Following Public Sale

It is the Department’s policy to minimize losses resulting from vandalism of improvements located on excess property on which a sale has been awarded. The policy is considered satisfied if the improved property is occupied by tenant(s) under a Department rental agreement.

For sales of unoccupied improved excess parcels, Excess Land should include terms in the purchase agreement obligating the purchaser to execute an agreement that results in:

- Immediate possession of the property by the purchaser.
- Elimination of the Department's liability for claims for damage resulting from injury to any person or property.
- Cancellation on the date of expiration or extension of the sale period or recordation of the Director’s Deed, as applicable.
- Return of possession of the property to the Department in the event of default in a condition equivalent to that which existed on the date the sale was awarded.

These provisions may be satisfied by minor modifications to a standard rental agreement, but the Department must receive a fair rental for the property for the specified use. Temporary access for one day or less may be given to purchasers to facilitate sale of the property. Property Management shall assist Excess Land in preparing the agreement and establishing a fair rental rate.

Property Management is responsible for notifying Excess Land immediately of the receipt or issuance of a 30-day termination notice involving tenants of improved excess property on which escrow is still open. Excess Land notifies the purchaser of the pending termination date of the tenancy. If the property will become vacant more than 15 days prior to the last day of the right to purchase period, the purchaser is requested to accept a Right of Entry. If the purchaser will not accept a Right of Entry, Excess Land should make all efforts to either expedite close of escrow or ensure security of the improvements. “No Trespassing” signs and periodic checks by local police, the California Highway Patrol, and Excess Land personnel may be necessary in high-risk areas.

Improvements that contribute a zero or negative value to the property may be removed prior to public sale of the parcel with proper documentation and a request to the Clearance Agent.

16.05.04.22 Change in Terms and Conditions of Sale Subsequent to Publication of Sales Notice

Occasionally it is necessary to alter the terms and conditions of sales after initial publication of the Sales Notice. Maintenance may request reservation of a slope easement; Right of Way may discover a zoning change. Or, some other significant change may occur that has a direct bearing on the price a purchaser may be willing to pay. If time permits, Excess Land should mail an addendum to the Sales Notice to all persons known to have received the original Notice. In addition, the State representative must announce the changes at the sealed bid opening or at the public auction. The highest bidder shall be required to execute a written statement of understanding that the sale is made subject to those specific terms and conditions, as well as the terms and conditions contained in the original Notice.
16.05.04.23 Eviction of Occupants of Excess Property

Excess land is normally sold subject to the occupancy of existing tenants since a Department-initiated eviction may create renewed RAP eligibility, unless the eviction is for cause. Relocation Assistance and Excess Land must agree to all proposed evictions of former eligible occupants. Evictions of former RAP eligibles should only take place where there is a clear economic advantage or other compelling reason.

The sale of occupied excess to another public entity for ultimate clearance and use may also create RAP eligibility. All sales agreements with other public agencies must contain a clause specifying that the purchasing agency assumes responsibility for relocation benefits that may accrue to existing occupants. If agreement cannot be reached, Excess Land should request a legal determination of liability before consummation of the sales agreement.

16.05.05.00 Direct Sale to Adjoining Owners, Finding A and B

Excess Land may sell small, odd-shaped, fee-owned, excess parcels directly to adjoining owners without calling for competitive bids under the provisions of CTC Resolution No. G-2, Exhibit 16-EX-6. Finding A and B parcels are defined as follows:

- **Finding A** - Direct sale to adjoining owner, without calling for competitive bids, of small, odd-shaped, fee-owned parcels incapable of independent development and having a higher and better use as part of the adjoining property or, if sold to other than the adjoining owner, would cause an undue or unfair hardship in the normal development or operation of such adjoining owner’s property.

- **Finding B** - The sale of such excess parcels to other than the adjoining owner would deprive such adjoining owner of vested right of access to a public highway and would create a possible cause for action against the Department.

Upon making either a Finding A or B determination, Excess Land may sell the excess parcel to the adjoining owner. The minimum consideration shall be the appraised fair market value of the parcel considered as part of the adjoining property.

If the adjoining owner refuses to purchase the excess for such consideration, Excess Land may sell it by competitive bid at public auction. The Department shall retain title to the excess if sale to another party would deprive an adjoining owner of an existing vested right of access to a public highway (Finding B).

All offers of direct sales made to an adjoining owner are confirmed in writing. Any refusal to purchase at the offered price shall be documented and, if possible, signed by the adjoining owner.

16.05.05.01 Adjustment of Sales Price to Adjacent Owners

The DDC-R/W has the authority to approve Finding A and B sales when there is a difference between the proposed sales price and the approved market value appraisal. The DDC-R/W provides a memorandum of administrative authorization for the file, approving the sale, in the overall public interest for social, environmental, or economic purposes. The memorandum shall fully justify the sale and state the reasons, based on sound business judgment and in accordance with statute and policy, for selling the parcel for less than the approved market value appraisal. Such justification shall include an economic analysis of the cost of incorporating and maintaining a property or holding for future sale as opposed to selling for less than market value. Criteria based on specific or local conditions addressing social or environmental perspectives must be quantified economically to the greatest extent possible. Generally speaking, the greater the variance between the sale price and the appraised value, the more substantial the justification needs to be.
By federal law, sales of federally participating excess land at less than fair market value requires either prior FHWA approval OR federal reimbursement. Compliance with this section shall constitute compliance with FHWA regulations regarding prior approval.

All sales are subject to CTC approval, and Excess Land must fully justify and document the reasons for selling the parcel below the approved market value appraisal.

16.05.05.02 Payment of Recording Fees - Purchase Consideration $100 or Less

When the total consideration is $100 or less, Excess Land may pay recording fees in consideration of the savings in maintenance costs. The sales agreement must contractually obligate the Department to pay the recording fees.

16.05.05.03 Finding A and B Sales to Other Governmental Agencies

Finding A and B sales may be made to other governmental agencies in the same manner and under the same conditions that apply to privately-owned adjoining property.

Sales made to other governmental units for public road or street widening or extension purposes shall be treated as direct sales.

16.05.05.04 Informal Time Payment Sales, Finding A or B

CTC Resolution G-2 provides for an informal time payment plan for a period not to exceed 18 months when the adjoining owner is unable to pay the value of the subject property in one payment. When property is sold under this plan, no interest is charged and a letter form of agreement is satisfactory. The signed acceptance of the conditions shall be made on one copy of the letter to be retained in the parcel files.

This letter shall include:

- Description of the property or attached map.
- A statement that the purchaser is in fact an adjoining owner.
- A statement that the sale must be approved by the CTC.
- A statement about purchase price and monthly payments.
- A statement that the sale may be canceled if payments become delinquent, in which case the Department retains one month’s installment and returns the balance to the adjoining owner.
- Provision that the purchaser will pay the recording fee.
- A statement about the vesting of the Director’s Deeds.
- A statement about the Department’s reservations, if any.
- A listing of any title encumbrances affecting the conveyed property.

Excess Land requests Director’s Deeds and makes entries for removal of the parcel from the Excess Land Inventory after the adjoining owner executes the agreement (Exhibit 16-EX-7).
16.05.06.00  Direct Sale to Eligible Present Occupants

16.05.06.01  Direct Sale of Commercial Property Pursuant to S&H Code Section 118.1

Except as provided in S&H Code Section 118.6, Excess Land must first offer commercial property on rescinded routes to the State’s tenant if the tenant has made improvements that are valued in excess of $5,000 and are consistent with the terms of the Rental Agreement. In the clearance procedure for excess land created by route rescission, Property Management identifies all improved excess commercial properties where the present tenant, at their own expense, has made authorized capital improvements valued in excess of $5,000.

Commercial property is defined as real property used for the production of income through the sale of products or services, and excludes agricultural, industrial, or residential uses. Typical commercial properties are banks, service establishments, restaurants, parking lots, retail stores, and office buildings.

Improvements must be capital improvements that add value to the real property. The term does not include expenditures for maintenance and repair. In addition:

- The value must be documented.
- The tenant must not have been reimbursed for improvements through rental offsets.
- The improvements were made consistent with terms of the Rental Agreement.

Excess Land must determine if the eligible tenant is interested in purchasing the property at current fair market value and must document the tenant’s intention in the parcel file. When there is more than one eligible tenant, the opportunity to purchase at fair market value by direct sale must be offered to each tenant.

- If waivers can be obtained from the other tenants, the property may be offered to one tenant.
- If waivers cannot be obtained, tenants may purchase property jointly or Excess Land can offer the property at a private sale.

When an eligible tenant indicates a desire to purchase at a direct sale, Excess Land shall obtain two independent appraisals of fair market value from qualified staff or fee appraisers and offer the property at the approved appraised value. The Excess Land Transaction Résumé must contain a description of the improvements and must fully document the qualifying conditions set forth in the above definition of improvements.

If the eligible tenant refuses the offer to purchase at the approved appraised value, Excess Land should immediately schedule the parcel for public sale.

Excess Land should refer legal issues or questions that occur because of unusual circumstances to HQ R/W for reference to the Legal Service Center for resolution prior to committing the Department to a course of action.
16.05.06.02 Direct Sale to Present Residential Tenant-Occupant at Fair Market Value

CTC Resolution G-2 (as amended) (Exhibit 16-EX-6) authorizes the direct sale to present residential tenant occupants provided that:

- The purchase price shall be at fair market value, as supported by an approved appraisal prepared for such sale;
- The tenant is current in all rent obligations; and
- The tenant has been in occupancy as a tenant of the State for a minimum of five consecutive years.

Excess Land must determine whether an eligible residential tenant is interested in purchasing the property at fair market value, and must document the offer of direct sale and the tenant’s intentions in the parcel file.

If an eligible residential tenant refuses the offer to purchase at the approved appraised value, Excess Land should immediately schedule the parcel for public sale.

16.05.07.00 Private Sale Among Adjoining Owners

Excess Land shall offer an excess parcel that qualifies under Finding A procedures for direct sale to more than one adjoining owner by private sale, sealed bid, or auction among all adjoining owners if:

- The parcel can be properly used by two or more adjoining owners, and the sale is consistent with normal land use and would not impose a hardship on any of the remaining adjoining owners.
- Written waivers cannot be obtained from all but one of the adjoining owners.

Waivers from adjoining owners are retained in the Excess Land files. Where written waivers cannot be obtained, certified letters to the adjoining owners confirming their noninterest will suffice.

The value of the excess land may differ depending upon which adjoining ownership it is considered a part of for appraisal purposes. In this case, the minimum bid is set at the lowest appraisal value as plottage to the owners who have expressed interest in bidding.

When a parcel is offered by private sale among adjoining owners, Excess Land shall send a Sales Notice to all adjoining owners by certified mail whether waivers have been obtained or not. The Notice sets forth the terms and conditions of sale and contains sales terms in the manner detailed in Section 16.05.04.00 for public sale parcels. Sale by sealed bid or auction is discretionary.

16.05.08.00 Exchange by Right of Way Contract

The Department is authorized by S&H Code Sections 104.1 and 104.2 to acquire lands in excess of its needs and to exchange the same for other property needed for State highway purposes. Information regarding exchange transactions is contained in the Appraisal and Acquisition Chapters. Appropriate documentation of exchange transactions is found in the table in R/W Manual Chapter 16.07.00.00 entitled “Excess Land Disposal File Documentation.”
16.05.09.00 Other Direct Conveyances

16.05.09.01 Governmental Agencies

CTC Resolution G-2 governs direct conveyances of excess land to public agencies, including redevelopment agencies and Federal agencies. This does not apply to conveyance of fee-owned land to public agencies that:

- Qualify for direct sale under Finding A and B procedures.
- Qualify for direct conveyance pursuant to special legislation.

In negotiating with another public agency for direct sale, it is important for the agency to understand that the agreed sale price is subject to final approval by:

- **CTC** - if a Director’s Deed is required.
- **Director** - if a Transfer of Control and Possession Agreement is required.

16.05.09.02 Direct Sales to Governmental Agencies

Direct sales to public agencies shall be for a public use, and generally at fair market value. The governing body of the public agency must provide a resolution that states the excess land will be used for public purposes. “Public purposes” means the preponderant area of the property shall be substantially for government, as opposed to proprietary, functions. The intended specific use of the property shall be stated in the resolution. A copy of the resolution shall be submitted with the résumé package to the CTC for approval.

For direct sales to public agencies at less than fair market value, Excess Land shall include a reversionary clause in the Director’s Deed. The clause shall require substantial public use for a period of 15 years to control use and resale of the property consistent with the intent and language of the statute or other authority authorizing or mandating the direct sale. Refer to R/W Manual Engineering Chapter, Section 6.13.13.04, for approved clause. A direct sale to a redevelopment agency MAY be exempt from this section if the property is within the redevelopment agency’s jurisdiction and identified in the redevelopment plan.

Proposed public sales at less than the approved market value appraisal shall be in accordance with R/W Manual Section 16.05.05.01.

The sales agreement with a governmental agency for the purchase of real property may be in the form of a one-year exclusive right to purchase. This requires a minimum 10% nonrefundable cash deposit that will be applied to the purchase price if the right to purchase is exercised.

If the agency wishes to extend the option, it must request the extension prior to expiration. The exclusive right may be extended for an additional one year provided:

- The appraisal is updated to reflect the current market value of the property and the sale price adjusted accordingly.
- The agency pays the Department an additional 10% nonrefundable deposit, also to be applied to the purchase price.
16.05.09.03  Conveyances to Utility Companies

Land acquired in the State’s name for replacement of public utilities facilities pursuant to a Utilities Agreement is disposed of in accordance with the terms of the Agreement. The acquisition appraisal shall stand in lieu of the excess land appraisal.

Where the property was not acquired specifically for replacement purposes but by terms of the Utilities Agreement it is necessary to relocate a utility facility on excess land, an excess property appraisal shall be provided and the degree of title required by the Utilities Agreement shall be conveyed pursuant to terms of the specific agreement.

If the excess parcel is sold before the easement is conveyed to the utility company and the easement was acquired in the State’s name, an easement shall be reserved to the State. The easement is subsequently conveyed to the utility company.

To avoid processing these items through the CTC, every effort should be made to acquire these replacement facilities easements directly in the name of the utility company involved. If possible, use the utility company’s easement form.

If a utility was located in a public street or highway that was incorporated into a State highway pursuant to S&H Code Section 83, and the area occupied by the utility is subsequently declared excess, an easement should be reserved to the utility company in the Director’s Deed conveying the excess.

16.05.09.04  Cooperative Agreements

Land acquired in the name of the State for use or partial use by another agency pursuant to a Cooperative Agreement is conveyed under the terms of the Agreement. The acquisition appraisal serves as the excess appraisal.

If the Agreement provides for conveyance of lands acquired for other purposes, an excess property appraisal shall be provided.

When the Agreement provides for conveyance of land or lesser interests for nonmonetary consideration (such as construction work to be performed by the other agency or savings in future maintenance costs to the Department), the functional unit responsible for originating the Agreement must provide an evaluation of the benefits or savings accruing to the Department. This assures that the consideration being received is commensurate with the value of the property being conveyed.

16.05.09.05  Joint Exercise of Powers Agreement With Department of Parks and Recreation (Exhibit 16-EX-8)

Transfers made pursuant to the above agreement are subject to the Property Acquisition Law; they are transmitted pursuant to the procedures specified in Section 16.05.11.00.
16.05.10.00 Coastal Zone

Article XIX of the State Constitution, Section 9, requires the Department to offer excess land parcels in the Coastal Zone, as defined by Section 30103 of the Public Resources Code (see Section 16.12.04.00), to the following agencies and departments (see Section 16.03.04.00):

- Department of Parks and Recreation
- Department of Fish and Game
- Wildlife Conservation Board
- State Coastal Conservancy

These parcels may be transferred for a consideration at least equal to the Department’s acquisition costs, including overhead. Any proposed sale requires authorization by the Legislature, and the acquiring agency is responsible for pursuing Legislative authorization.

16.05.11.00 Transfer of Control and Possession

All transfers are authorized by Government Code Section 14673. However, the Public Works Board must approve proposed payment to the Department of Transportation for transfers subject to the Property Acquisition Law (PAL), Government Code Sections 15850, et seq. It is the responsibility of the agency acquiring property to inform Caltrans if the transfer of excess land is subject to PAL.
Procedures for preparing and approving Transfer of Control and Possession Agreements are shown in the following two tables:

<table>
<thead>
<tr>
<th>TRANSFERS NOT SUBJECT TO THE PROPERTY ACQUISITION LAW</th>
<th>Government Code Section 14673</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Responsible Party</strong></td>
<td><strong>Action</strong></td>
</tr>
</tbody>
</table>
| Requesting State Agency | Responds within 60 days of Region/District’s Notice of Intent to Sell Excess Land. Informs the Region/District of the following:  
1. To transfer the excess parcel to them at fair market value and for a specified purpose.  
2. The budget authority to pay for the excess parcel and that payment is NOT subject to the PAL.  
3. Legislative authority if for less than fair market value. |
5. Requests ASC to prepare Accounts Receivable Bill (or credit to the appropriate land bank account after the Transfer is recorded*) in the amount of the agreed purchase price. |
| Accounting Service Center | Provides Accounts Receivable Bill to Region/District. |
| Region/District | 1. Has the Region/District Director or designee sign the original and one copy of Agreement.  
2. Transmits agreements, maps, and the A/R Bill to the requesting agency for execution.  
| Requesting Agency | Signs the original and one copy of Agreement and sends both along with maps to DGS for approval. |
| DGS, Real Estate Services Division | 1. Reviews the transaction and has the Director of General Services approve and sign the original and one copy of the Agreement.  
2. Returns one of the fully-executed Agreements to the Region/District for recording.  
3. Retains the second signed Agreement for conforming recording reference on the Agreement and for the State Proprietary Index (SPI) and archives. |
| Region/District | 4. Sends one copy of executed Agreement to HQ R/W.  
5. Records the Transfer Agreement.  
6. After recorded, sends original Transfer Agreement to requesting agency.  
7. Sends a copy of the recorded Agreement to DGS. DGS can then conform recording reference on their original signed agreement.  
8. Retains one copy of recorded Agreement in file.  
10. Forwards RW 16-1 to ASC to record transaction and remove parcel(s) from inventory. *If this is a credit to a land bank account, provide ASC a memo of explanation at this point. |
| HQ R/W | Enters the date the Agreement was approved by the Director of General Services in the CTC Approval field on the Disposal Unit Screen. |
## TRANSFERS SUBJECT TO THE PROPERTY ACQUISITION LAW

Government Code Sections 15850, et seq., and 14673

<table>
<thead>
<tr>
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<td>Requesting State Agency</td>
<td>Responds within 60 days of Region/District’s Notice of Intent to Sell Excess Land. Informs the Region/District of the following:</td>
</tr>
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<td></td>
<td>1. To transfer the excess parcel to them at fair market value and for a specified purpose.</td>
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</tr>
<tr>
<td></td>
<td>3. Legislative authority if for less than fair market value.</td>
</tr>
<tr>
<td></td>
<td>4. Provides billing information to be sent to DGS.</td>
</tr>
<tr>
<td>Region/District</td>
<td>Prepares an appraisal, legal description, and maps, and sends copies of each to DGS, Real Estate Services Division (RESD) using RESD’s Form Std. 29, Exhibit 16-EX-25.</td>
</tr>
<tr>
<td>DGS, Real Estate Services Division</td>
<td>Reviews the appraisal and maps and uses the legal description to prepare the Transfer Agreement. Returns the original and one copy of the Agreement to the Region/District.</td>
</tr>
<tr>
<td>Region/District</td>
<td>Requests ASC to prepare Accounts Receivable Bill in triplicate in the amount of the agreed purchase price.</td>
</tr>
<tr>
<td>Accounting Service Center</td>
<td>Provides Accounts Receivable Bill to Region/District.</td>
</tr>
<tr>
<td>Region/District</td>
<td>1. Has the Region/District Director sign the original and one copy of the Agreement and transmits both signed Agreements, together with A/R Bill, to the requesting agency for execution.</td>
</tr>
<tr>
<td></td>
<td>2. Retains a copy of the Agreement and A/R Bill for reference during processing.</td>
</tr>
<tr>
<td>Requesting State Agency</td>
<td>Signs the Agreement and transmits original and one signed copy of Agreement to DGS for approval. Sends the original and one copy of Agreement and sends both to DGS for presentation to the State Public Works Board for approval.</td>
</tr>
<tr>
<td>Public Works Board</td>
<td>Approves payment for the Agreement.</td>
</tr>
<tr>
<td>DGS, Real Estate Services Division</td>
<td>1. Records the original Agreement (if required).</td>
</tr>
<tr>
<td></td>
<td>2. Sends the original recorded copy to the requesting agency.</td>
</tr>
<tr>
<td></td>
<td>3. Conforms recording reference on the second signed copy and retains for the SPI and archives.</td>
</tr>
<tr>
<td></td>
<td>4. Sends a copy of the recorded Agreement to Region/District.</td>
</tr>
<tr>
<td></td>
<td>5. Distributes other copies as required.</td>
</tr>
<tr>
<td>Region/District</td>
<td>6. Sends one copy of recorded Agreement to HQ R/W.</td>
</tr>
<tr>
<td></td>
<td>8. Forwards RW 16-1 to ASC to record transaction and remove parcel(s) from inventory.</td>
</tr>
<tr>
<td>HQ R/W</td>
<td>Enters the date the Agreement was approved by the Director of General Services in the CTC Approval field on the Disposal Unit Screen.</td>
</tr>
</tbody>
</table>
Requests to Decertify and Purchase

An adjoining owner or public agency may request the Department to decertify a portion of operating right of way, sell, or otherwise convey access or other property rights not considered as excess land. Excess Land shall not initiate any action until the requesting party has deposited, as a minimum amount, the estimated costs of processing the request, including appropriate overhead assessments. Accounting for the overhead should be done pursuant to procedures set forth in the Accounting Manual. Project Development reviews requests for decertification, and obtains approval from FHWA where necessary.

Overhead shall be charged for all requests for decertification, except where these areas are:

- A portion of an adjoining ownership that was inadvertently fenced within the right of way.
- Found parcels (parcels outside the defined limits of the highway).

Excess Land shall request a separate 926XXX expenditure authorization from Resource Management for each request in order to furnish a final bill to the requesting party and shall monitor to ensure that charges do not become unreasonable in comparison to the value of the property. Exceptions must be fully documented in the files.

<table>
<thead>
<tr>
<th>Condition</th>
<th>Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>The requested rights can be decertified and are salable.</td>
<td>Retain the amount of the deposit that equals Department expenses and overhead charges for all functional areas expending effort for the decertification, including, but not limited to, Environmental, R/W Engineering, Project Development, and Right of Way. This includes preparation and review of fair market value appraisals. Apply the balance of the deposit to the sales price of the property if the requesting party decides to complete the purchase.</td>
</tr>
</tbody>
</table>
| The rights are found to be salable, but the requesting party decides not to complete the purchase. | Retain that portion of the deposit attributable to the costs of investigation. Internal processing costs include, but are not limited to:  
  - Actual salary and overhead costs (Right of Way overhead assessment rate, which may be obtained from Region/District/Region Resource Management) to obtain approvals for decertification.  
  - Right of Way Engineering costs for map and deed preparation, reproduction, and reestablishment of survey monumentation.  
  - Costs of rearranging utilities, fencing, landscaping, and other improvements affected by the decertification.  
If overhead costs exceed the deposit, an additional payment is required in the amount of the overage. |
| The area sought to be acquired cannot be decertified. | Refund all monies except the cost of investigation. |
Option-Purchase Agreement up to Two Years (Public Sales and Qualifying Direct Sales)

CTC Resolution G-2 (as amended) authorizes the use of an Option-Purchase Agreement for up to two years. This alternative allows a developer time to make necessary studies, complete the local zoning request process, and arrange financing on properties with development potential. Such properties would include large unimproved sites with commercial or industrial development potential. This method may be used in competitive bidding situations and qualifying direct sales in the more difficult-to-sell, high-value, or specialized property.

On Federally participating parcels or those eligible for Federal participation, HQ R/W will request FHWA authorization to extend the Federal reimbursement end date to equal the option period. This will be done prior to HQ R/W approving the use of an Option-Purchase Agreement or any extensions.

The purchase price is set at the highest bid (or current market value for direct sales) when signing the Option-Purchase Agreement. The option deposit may be less than ten percent of the purchase price. However, if the deposit is less than ten percent, additional deposits shall be collected at regular, preestablished intervals to equal at least ten percent per year by the end of the term of the option. The option deposits shall be applied toward the option price and are otherwise nonrefundable.

An Option-Purchase Agreement gives the purchaser the right, but not the obligation, to purchase the property.

Excess Land must prepare a marketing analysis demonstrating this method will maximize the return to the State. The analysis is retained in the Region/District and a copy must be forwarded to HQ R/W for review and approval. The Option Agreement shall explicitly state that it is subject to Department approval.

Airspace Advisory Committee review of the proposed Purchase Option and any extensions of the Option are required when the sales price is $1 million or more. For Purchase Options at or above this threshold, the Purchase-Option Agreement shall explicitly state that it is subject to AAC review and recommendation.

CTC approval of the option price and terms is required at the time an optionee acquires the Purchase-Option and any subsequent extensions. The Purchase-Option Agreement shall explicitly state that it is subject to CTC approval.

Lease-Purchase Agreement and Partnering with an Adjoining Owner (Public Sales and Qualifying Direct Sales)

The Lease-Purchase Agreement and Partnering with an Adjoining Owner were approved by Agency Action Request on April 15, 1997, and their use requires HQ R/W approval.

The use of either alternative shall be limited to cases where good faith attempts to sell the property have been unsuccessful or where the property is not yet ready to sell and the marketing analysis predicts that it will be difficult to sell.

The lease term should be relatively short and the Lease-Purchase Agreement should obligate the tenant-buyer to purchase the property at the end of the lease.

On Federally participating parcels or those eligible for Federal participation, HQ R/W will request FHWA authorization to extend the Federal reimbursement end date to equal the lease period. This will be done prior to HQ R/W approving the use of a Lease-Purchase Agreement or any extensions.
The purchase price is set at the current market value when the Lease is executed. The tenant-buyer is required to pay an up-front consideration equal to one percent or more of the purchase price. The up-front consideration shall be applied toward the purchase price or is otherwise forfeited. The tenant-buyer shall pay above fair market rent. A rent credit percentage must be established according to prevailing practice and will be applied to the purchase price or is otherwise forfeited.

The Region/District must prepare a marketing analysis demonstrating this method will maximize the return to the State. The analysis is retained in the Region/District and a copy must be forwarded to HQ R/W for review and approval. The Lease-Purchase Agreement shall explicitly state that it is subject to Department approval.

AAC review of the proposed Lease-Purchase and any extensions is required when the sales price is $1 million or more. For Lease-Purchase at or above this threshold, the Lease-Purchase Agreement shall explicitly state that it is subject to AAC review and recommendation.

CTC approval of the up-front consideration, lease rate, purchase price, and terms is required before the Lease becomes effective. The Lease-Purchase Agreement shall explicitly state that it is subject to CTC approval.

**16.05.15.00 Use of Private Brokers (Including Public Auction Brokerages)**

Agency Action Request approved April 16, 1997 provides that a private broker, including a public auction brokerage, with prior HQ R/W approval, may be hired to provide broader exposure for specialized or high value properties than could be realized under the normal public sales processes. This includes properties infrequently marketed by the State, such as office buildings or other commercial and industrial properties.

A broker or public auction brokerage should only be used when previous public sales attempts have not been successful and Excess Land believes there will not be sufficient qualified buyers to achieve the highest price. Broker or public auction brokerage participation should only be used if the sale cannot be conducted satisfactorily by the Excess Land Agent (Government Code Section 19130b).

A broker or a public auction brokerage must be solicited on an “open listing” basis. A licensed real estate broker may submit a bid, less their commission, on behalf of a potential buyer. The highest bid less the commission is selected.

A public auction brokerage and, in rare instances, a real estate broker, must be selected by a competitive process under the State’s contracting process.

**16.05.16.00 Relinquishment or Sale of Access Rights Requiring FHWA Approval**

FHWA approval of a proposed relinquishment or sale is required when any portion of the affected right of way lies within the access control lines, as shown on the plans for a federal-aid project previously approved by FHWA. Project Development determines when access rights are no longer needed and obtains the necessary approval from FHWA. Right of Way Engineering should notify Project Development at the earliest practicable time of proposals to relinquish or sell access rights. This gives Project Development adequate time to obtain FHWA approval and prevents processing delays.
16.09.00.00  -  RESCINDED ROUTE PROCEDURES

16.09.01.00  General

Excess parcels created by route rescission are subject to the requirements and instructions previously set forth in this Chapter, except as modified or supplemented in this section.

16.09.02.00  Phase I - Notice of Intention to Rescind

Phase I commences when the CTC passes a Notice of Intention to Rescind. The assigned project team consists of one representative from each of the district functions indicated in the following table.

<table>
<thead>
<tr>
<th>Team Member</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Excess Land</td>
<td>Acts as team leader and coordinates the efforts of the project team. In coordination with Project Development, completes notification to governmental agencies immediately following a Notice of Intention to Rescind. Identifies properties subject to provisions of S&amp;H Code Section 118.1 and notifies eligible tenants. Simultaneously coordinates and commences development of a Project Sales Plan, including estimated sales dates and probable disposal methods. Identifies parcels that may have significant environmental sensitivity and assumes responsibility for obtaining environmental clearance.</td>
</tr>
<tr>
<td>Right of Way Engineering</td>
<td>Provides project and parcel mapping where needed. Provides Director’s Deeds and Director’s Deed maps to team leader as soon as possible after the “Notice.” Completes Items A through F on Rescinded Route Parcel Inventory, Form RW 16-7, covering each disposable property. Forwards the form to Property Management.</td>
</tr>
<tr>
<td>Property Management</td>
<td>Completes Items G and H on Form RW 16-7.</td>
</tr>
<tr>
<td>Planning and Management</td>
<td>Completes Items I, J, and K on Form RW 16-7. Identifies those parcels that meet the three qualifying criteria under S&amp;H Code Section 118.5 for payment of back taxes to local taxing agencies.</td>
</tr>
<tr>
<td>Relocation Assistance</td>
<td>Compares the Rescinded Route Parcel Inventory forms to existing RAP records and determines the amount of relocation assistance that may be necessary, if any.</td>
</tr>
</tbody>
</table>
The project team shall:

- Complete a detailed inventory of all the Department’s real property on the route segment that is a candidate for rescission within 30 days following passage of the Notice.

- Notify all appropriate State, regional, county, and city agencies as quickly as possible after the Notice of Intention to Rescind is passed. Notification should indicate the Department’s intent to dispose of previously acquired rights of way and should satisfy the provisions of S&H Code Sections 118 and 118.6 and Government Code Sections 54220 et seq. and 54235 et seq. (See Exhibit 16-EX-2 for a suggested format of the notification letter or memorandum.)

- Develop Project Sales Plan.

- Complete Director’s Deed and map for each property.

**16.09.03.00 Phase II - Route Rescission**

Phase II commences when the CTC rescinds the route adoption. The assigned project team consists of one representative from each of the district functions indicated in the following table entitled “Phase II Responsibilities.” The Phase II team shall:

- Enter all Department-owned real properties on the rescinded route segment into the ELMS within 30 days following rescission.

- Settle all contractual, RAP, and other obligations in a manner equitable to both the Department and the property owners.

- Dispose of the excess properties.

**16.09.04.00 Federal Advanced Acquisition Fund (FAAF)**

The ultimate rescission of a route adoption and direction by the CTC to dispose of previously acquired rights of way requires the Department to withdraw the project from FAAF programming. Such withdrawal necessitates repayment of the full amount of advances received from FHWA and payment to FHWA of the net rental income received from any FAAF parcels on the project until the date of withdrawal.

**16.09.05.00 Local Real Estate Taxes**

S&H Code Section 118.5 requires the Department to pay local real estate taxes equal to the taxes that would have been paid had the property remained in private ownership. Such taxes shall be paid only in those instances where all three of the following criteria are met:

- The parcel was acquired by Final Order of Condemnation.

- No portion of the parcel that was acquired has ever been used for any of the purposes specified in S&H Code Section 104.

- The parcel is being offered at public sale.

The amount of any payments made pursuant to S&H Code Section 104.10 with respect to the property (24% of gross rent receipts) shall be deducted from the amount required to be transmitted pursuant to this section.
After the CTC rescinds a route adoption, RAP policy requires that offers of RAP benefits and services be formally withdrawn from former owners and inherited tenants. Former owners who have remained in occupancy and tenant occupants who meet the criteria of CTC Resolution G-2 (as amended) are given the opportunity to purchase their property by direct sale.

All occupants should be encouraged to remain in occupancy as protection against vandalism. However, their right to occupy after the Director’s Deed has been recorded will be dependent upon their working out an agreement with the new owner.

If occupants are forced to relocate from a dwelling as a direct result of the Department’s disposal of the dwelling, within 90 days of the recordation of the Director’s Deed, Relocation Assistance shall coordinate and accomplish the following pursuant to Government Code Section 54238.3(b):

- Provide relocation advisory assistance to affected parties where appropriate.
- Make relocation payments where appropriate.

Applicability of Government Code Section 54238.3(b) is limited to Interstate Route 710 between Route 10 and Route 210.

RAP-eligible former owners still in occupancy may elect to repurchase with applicable RAP benefits in accordance with existing policy.

RAP-eligible former tenants should be notified and advised of their eligibility in accordance with existing policy.

Excess land will normally be sold subject to the occupancy of existing tenants since State-initiated evictions may create renewed relocation eligibility unless the eviction is for cause. All proposed evictions of former eligible occupants should be mutually agreed to by Relocation Assistance and Excess Land. State-caused evictions of former RAP eligibles should only take place where there is a clear economic advantage or other compelling reason to do so.

Another action that may cause renewed eligibility for previously eligible occupants or for ineligible occupants is the sale of occupied excess to another public entity for ultimate clearance and use. All sales agreements with other public agencies must contain a clause specifying that the purchasing agency will assume responsibility for relocation benefits that may accrue to existing occupants. If agreement cannot be reached as to responsibility for relocation of existing occupants, the district should request a legal determination of liability before finalizing the sales agreement.

It is the responsibility of Excess Land to coordinate closely with the District RAP Manager to determine the most economical method of fulfilling the State’s RAP obligations.
<table>
<thead>
<tr>
<th>Team Member</th>
<th>Responsibilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Excess Land</td>
<td>Acts as team leader and coordinates efforts for timely disposal of rescinded route properties.</td>
</tr>
<tr>
<td></td>
<td>Enters parcels into the ELMS in accordance with the ELMS/EDP Users Handbook.</td>
</tr>
<tr>
<td></td>
<td>Follows the Sales Plan developed during Phase I in sending appropriate notices to occupants. Handles purchase or lease requests from other governmental agencies in the normal manner.</td>
</tr>
<tr>
<td></td>
<td>It is essential from a public relations standpoint that occupants be advised of the progress toward, and actual sale of, the parcels they are occupying. This element should be included in the plan.</td>
</tr>
<tr>
<td>Planning and Management</td>
<td>Requests HQ R/W to withdraw the rescinded route segment from FAAF programming, where appropriate.</td>
</tr>
<tr>
<td></td>
<td>Works with local taxing agencies to clear the State’s obligation, if any, under S&amp;H Code Section 118.5. This responsibility is limited to those parcels identified during Phase I as meeting the three qualifying criteria.</td>
</tr>
<tr>
<td></td>
<td>S&amp;H Code Section 118.5 requires any back taxes to be paid prior to consummation of any public sale. It is important to clear any required back tax payments as soon as possible so that public sale of the parcel can occur promptly.</td>
</tr>
<tr>
<td></td>
<td>Section 118.5 is imprecise about the method of calculating the Department’s tax liability. If differences of opinion develop with a local assessor or tax collector, the District should work with District Right of Way Planning and Management to reach a reasonable settlement of the Department’s back tax liability, if any.</td>
</tr>
<tr>
<td></td>
<td>Provides a written certificate upon clearance of the Department’s Section 118.5 obligation on a particular parcel.</td>
</tr>
<tr>
<td>Acquisition</td>
<td>Negotiates with former owners or their successors in interest on part-take parcels selected during Phase I for direct sale to such parties, including settlement of all deed and contractual obligations. Coordinates their efforts with other members of the Project Team.</td>
</tr>
<tr>
<td>Relocation Assistance</td>
<td>Reviews and updates occupancy data with Property Management and confirms RAP eligibility status of occupants.</td>
</tr>
<tr>
<td></td>
<td>Promptly issues notices to all occupants who were previously offered relocation benefits, formally effecting the change of RAP eligibility.</td>
</tr>
<tr>
<td>Appraisals</td>
<td>Provides necessary appraisals or disposal value estimates when requested.</td>
</tr>
</tbody>
</table>
These provisions have been superseded by Government Code Section 54235, et seq., and are rescinded in their entirety.