

**CTC RESOLUTION G-98-22, PROCEDURE FOR SALE OF
EXCESS PROPERTY (Amending Resolution G-2 and
Replacing Resolution G-97-12)**



CALIFORNIA TRANSPORTATION COMMISSION

Procedure for Sale of Excess Property

**Resolution G-98-22
Section 2.5A Rescinded at October 28, 2004 CTC Meeting
Amending Resolution G-2
Replacing Resolution G-97-12**

- 1.1 WHEREAS, Section 118 and Section 30410 of the Streets and Highways Code and Section 21636 of the Public Utilities Code provide that whenever the Department determines that any real property or interest therein, heretofore or hereafter acquired by the State for transportation purposes, is no longer necessary for such purposes, the Department may sell, contract to sell, sell by trust deed, or exchange such real property or interest therein in the manner and upon the terms, standards, and conditions established by the Commission; and
- 1.2 WHEREAS, the Department has acquired many parcels of real property which are of such size or shape as to give rise to a land use development not consistent with normal land use; and
- 1.3 WHEREAS, the Department has acquired many parcels of real property which would deprive the adjoining owner of access to a public highway; and
- 1.4 WHEREAS, the Department desires to offer the property no longer required for highway purposes to original owners still in occupancy; and
- 1.5 WHEREAS, the Department desires to sell excess real property directly to public agencies without calling for competitive bids.
- 2.1 THEREFORE BE IT RESOLVED, that in the disposal by sale of excess fee-owned, parcels, not needed pursuant to Section 118 and Section 30410 of the Streets and Highways Code and Section 21636 of the Public Utilities Code, the Department of Transportation is hereby authorized, upon the terms and conditions hereinafter set forth, to sell the excess parcel to the owner of adjoining property without the necessity of calling for competitive sealed bids or selling same at public auction, whenever the Department of Transportation finds and determines that the following facts either under Findings A or B exist pertaining to such excess parcel:
 - A. FINDING A:
 1. That the excess parcel is of such size or shape that it is below the average normal standard size and shape of other privately owned properties in the immediate neighborhood, and that if such parcel were sold to other than the adjoining owner, it would give rise to a land use development thereof which would be below and not consistent with the normal land use of such other properties in that neighborhood.

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2. That the sale of such parcel to a party other than the adjoining owner may cause an undue or unfair hardship to such adjoining owner in the normal land use development or operation of his property.
3. That such parcel considered as a part of the adjoining property would have a higher and better use than under separate ownership.
4. That the fair market value of such parcel considered as a part of the adjoining property would be higher than under separate ownership.

OR

B FINDING B:

- That the sale of such excess parcel to other than the adjoining owner would deprive such adjoining owner of an existing vested right of access to a public highway and thereby create a possible cause of action against the Department of Transportation.

In the event the adjoining owner refuses to purchase such excess parcel for such consideration, the Department of Transportation may sell same by calling for competitive sealed bids, or sell the property at public auction, except in those cases where sale to another party would deprive an adjoining owner of an existing vested right of access to a public highway (Finding B), in which latter case the State shall retain title to the excess parcel.

In cases where excess land qualifies under Finding A or B and the abutting owner is unable to pay the value of the subject property in one payment, then the abutting owner may be permitted to acquire property under an informal program payment arrangement, the period of time not to exceed 18 months, and in the event the prospective purchaser is unable to consummate the transaction, the money paid and held in the Department of Transportation's suspense account shall be refunded. This policy shall only apply to parcels qualifying under Finding A or B and shall be used only when no other alternative is available; and

- 2.2 THEREFORE BE IT FURTHER RESOLVED, that in the disposal of excess fee-owned parcels, pursuant to Sections 118 and 30410 of the Streets and Highways Code and Section 21636 of the Public Utilities Code, the Department of Transportation is hereby authorized to sell to public agencies at their request, without calling for competitive bids, at a price representing the fair market value thereof, and upon a determination that such intended use shall be for a public purpose; and

That this policy shall also apply to Transfers of Control and Possession of such property made to other State agencies pursuant to Section 14673 of the Government Code; and

- 2.3 THEREFORE BE IT FURTHER RESOLVED, that in all cases other than sales to adjoining owners, either under Finding A or B, or sales to public agencies, excess property shall be either sold by receipt of competitive sealed bids, or sale at public auction, or exchanged for other land required for transportation purposes; and
- 2.4 THEREFORE BE IT FURTHER RESOLVED, that the Department of Transportation is hereby authorized to offer to directly sell, at fair market value, any improved excess property to a former

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owner who has remained in occupancy; or to a residential tenant of a tenure of five years or more with all rent obligations current and paid in full; and

- 2.5 THEREFORE BE IT FURTHER RESOLVED, that the Department of Transportation is hereby authorized to approve on behalf of the Commission, the following:
- A. ~~All conveyances of excess property not capable of independent development with an estimated market value of \$100,000 or less, excepting any conveyance of access rights only; Section 2.5A Rescinded at October 28, 2004 Commission Meeting under Agenda Item 48, Reference # 4.7.~~
- B. All documents which correct descriptions in prior conveyances or acquisitions; and
- 2.6 THEREFORE BE IT FURTHER RESOLVED, that the Department of Transportation is hereby authorized to offer an option to purchase excess property with an option period of up to two years when the Department deems it to be in the best interests of the State; and
- 2.7 THEREFORE BE IT FURTHER RESOLVED, that the payment of brokers' commissions be allowed to licensed real estate brokers as an inducement for selling excess property; and
- 2.8 THEREFORE BE IT FURTHER RESOLVED, that the Department of Transportation is hereby authorized to approve on behalf of the Commission all conveyances of surplus properties purchased 100 percent with funds provided by local tax-measure agencies where the Department of Transportation is obligated by prior agreement to return sales proceeds to the tax-measure agency; and
- 2.9 THEREFORE BE IT FURTHER RESOLVED, that the Department will adhere to the following guidelines in implementing Sections 2.5, 2.6 and 2.7 of this Resolution:

For Section 2.5

1. Continue to submit for CTC approval all conveyances of access rights only.
2. Maintain internal reports and report annually to the CTC on approved items delegated under the amended Resolution.
3. Establish procedures for delegating to the districts and to assure an audit capability for delegated sales.
4. Continue to use standard appraisal practices and levels of review for appraisals of all excess land disposals.
5. Include language in the Director's Deed for conveying excess land (or to correct prior conveyances or acquisitions) under the amended Resolution, stating the Department has been delegated such prior approval authority by the CTC.

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For Sections 2.6 and 2.7:

1. Select properties for sale by broker participation which will all be of high value or specialized and of a type infrequently marketed by the State. Thus the process will fit the parameters of Government Code Section 19130(b); i.e., "cannot be performed satisfactorily by civil service employees."
 2. Have district staff prepare a marketing analysis and plan to show they will maximize the return from the proposed property disposal through the use of brokers or options to purchase. The Airspace Advisory Committee (AAC) will provide advice and assistance in developing marketing plans upon request of the Department.
 3. Obtain prior FHWA approval to use an option to purchase to assure approval of any federal reimbursement.
 4. Request AAC to review proposed "options to purchase" and any extensions.
 5. Obtain CTC approval at the time an optionee acquires an option to purchase; and
- 2.10 THEREFORE BE IT FURTHER RESOLVED, that Attachments 7, 8, 9, and 18 to the Commission Resolution Continuing Policies and Delegations adopted by the California Transportation Commission on March 9, 1978, are hereby rescinded; and
- 2.11 THEREFORE BE IT FURTHER RESOLVED, that CTC Resolution G-2 is hereby amended, and CTC Resolution G-97-12 is hereby replaced.