

16.00.00.00 – EXCESS LAND

CHAPTER 16

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16.01.00.00 – GENERAL

16.01.01.00 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.

Region and District Excess Land staff have full delegation to operate and approve within the parameters outlined herein, and as specifically discussed in Section 16.14.01.00. 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 Downscoped projects, superseded highway segments, route rescissions, route unadoptions by legislative action, and lands decertified at the request of adjoining owners may also create excess.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

Sections 16.01.03.01 Through 16.01.03.25

16.01.03.01 Excess Land

Excess land consists of 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 (see [California Streets and Highways Code 118](#)). 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 Value at the Time of Acquisition (VTA) which is often based on the value listed under the [RW 07-13 \(Excess Property Inventory Valuation\)](#). 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 (also known as 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. For more information on how VTA is determined, please see Section 7.03.07.00 in the Appraisal chapter of the Right of Way manual.

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. Such conveyances must be approved by the CTC.

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. Such conveyances must be approved by the CTC.

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). Such conveyances must be approved by the CTC.

The Department may elect, upon approval of the District Right of Way Deputy, to apply the authority provided in [Government Code \(GOV\) Section 14012\(a\)](#) to sell or lease excess right-of-way parcels to municipalities or other local agencies for public purposes. [GOV Section 14012](#) may only be used in narrow and unusual circumstances, such as when an excess parcel is unique and there is a high likelihood there is only one potential buyer. For example, disposal of a drainage basin to a flood control district may be eligible for the use of [GOV Section 14012](#).

Pursuant to [GOV Section 14012](#), the Director of Transportation may accept as all or part of the consideration for such sale or lease, any substantial benefits the state will derive from the municipality or other local agency's undertaking of the maintenance or landscaping costs that would otherwise be the obligation of the state. In other words, the Department may offset maintenance or landscaping costs from the purchase price of excess property to relieve the State of its landscaping and/or maintenance duties.

The Department has established the following policy guidance for application of [GOV Section 14012](#):

- [GOV Section 14012](#) will only be implemented in very unusual circumstances where excess property is being sold to a municipality or local agency for public purposes. Approval by the District Right of Way Deputy is required.
- The specific public purpose must be specified.
- Fair Market Value will be determined by a Department approved appraisal that must be reviewed and approved by Headquarters.
- Any offset for maintenance or landscaping costs must be based on historic information whenever possible and must be appropriately sourced. Sources generally include records and/or contracts from Property Management, Maintenance, and/or Landscape Architecture. District, statewide, or commonly used industry standards may be considered if historic information is not available.
- A deed restriction is required for the intended public purpose for a period of no less than 15 years. Duration of the deed restriction will be commensurate with the amount of offset; the longer the deed restriction, the greater the offset. A resolution in lieu of a deed restriction is not permitted.
- At no time will the State pay a municipality or a local agency to receive a conveyance under [GOV Section 14012](#).

District Excess Land must ensure that applicability of [GOV Section 14012](#) is in the best interest of the Department. Determining applicability requires districts to apply the ultimate test: if the excess land can be sold at fair market value, relieve the Department of landscaping and maintenance costs, and still generate full fair market revenue, then the application of [GOV Section 14012](#) is not appropriate. When achievable, the primary method of disposal should be direct conveyance at fair market value.

16.01.03.11 Direct Sale to Eligible Present Occupants

Direct sale, 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 to present occupants subject to [Government Code Section 54235](#). Such conveyances must be approved by the CTC.

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). Such conveyances must be approved by the CTC.

Direct sales to former grantors under Roberti Act in [Section 54235-54238 of Government Code](#). Such conveyances must be approved by the CTC.

Pursuant to [California Code of Civil Procedure section 1245.245](#), the Department can sell directly to a former grantor if the Department acquired the property subject to a resolution of necessity and that property is not used for the public purpose stated within ten years following passage of the resolution by the CTC. Such conveyances must be approved by the CTC.

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 Roberti Act, [Government Code sections 54235-54238.9](#). Such conveyances must be approved by the CTC.

NOTE: also subject to [Chapter 9.5 in Division 2 of Title 21 of the California Code of Regulations](#), which sets forth the priorities and procedures for state-owned surplus residential properties located within the State Route 710 (SR 710) corridor in the County of Los Angeles.

16.01.03.14 **Exchange Per Contract**

Authorized by [Streets and Highways Code \(SHC\) 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. Such conveyances must be approved by the CTC.

16.01.03.15 **Finding “A” Sales**

Direct sale to an adjoining owner, without calling for competitive bids, of small, oddly-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). Such conveyances must be approved by the CTC.

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). Such conveyances must be approved by the CTC.

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. Such conveyances must be approved by the CTC.

16.01.03.18 **Fair Market Value**

A conclusion of value as defined in R/W Manual Chapter 7, Appraisals. Excess land appraisals are discussed in R/W Manual Chapter 7 and Section 16.04.00.00.

16.01.03.19 **Nominal Value Appraisals**

A conclusion of value as discussed in R/W Manual Chapter 7 and Section 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 Chapter 7 and Section 16.04.00.00.

16.01.03.21 **Private Sale**

A private auction of “Finding A” parcels (see 16.01.03.15 – Finding “A” Sales) that have multiple adjoining owners who could use the property. If the parcel is of peculiar size, shape, or in landlocked condition precluding it from independent development and is being sold by sealed bid or private auction, all adjacent owners must be notified by mail.

16.01.03.22 **Public Sale**

Oral auction or sealed-bid auction that is open to any member of the public, public entities, etc. Public sales are by oral auction, or, sealed bid. All public sales are advertised through the Department's Excess Land website, real estate advertisement companies or directly mailed or e-mailed to prospective purchasers.

16.01.03.23 **Liquidated Damages**

Liquidated damages are damages whose amount the buyer and Department designate and agree upon during the formation of a contract to sell for the injured party to collect as compensation in the event of a breach of the sale contract.

16.01.03.24 **Bid Registration Deposit**

A bid registration deposit of no less than \$1,000 shall be presented by every bidder for every oral auction or sealed bid sale. The successful high bidder shall submit this deposit at the close of the auction, to be applied toward the purchase of excess land. This deposit shall be liquidated damages if the highest bidder breaches, defaults, or withdraws in the first three days following the public sale. Bid registration deposits may be increased for sales of high value properties at the discretion of the Excess Land Manager.

16.01.03.25 **Purchase Deposit**

A purchase deposit of at least 10% of the sale price shall be remitted by the highest bidder at public sale within five business days following the public sale. This deposit shall be liquidated damages if the highest bidder breaches, defaults, or withdraws after remittance of this deposit.

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 [SHC Section 118](#). 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 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 below:

- Clearance circulation memorandums
- Economic justification and hold authorization forms, where applicable
- Copy of [Form 16-01](#) (internal Caltrans link)
- Copy of waiver letters from adjoining owners if the sale is a Finding "A or B"
- Current excess land mapping
- Parcel Diary
- Copy of recorded deed
- Copy of payments to accounting with a copy of [Form 16-29](#) (internal Caltrans link)
- Executed Purchase Agreement
- Sales Brochure
- Correspondence
- ELMS printouts – Disposal Unit and Parcel Screens

16.01.06.00 **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, personal contacts involving sales attempts, when “FOR SALE” sign(s) were posted on the property, when advertisements were placed on the State’s excess land website, when advertisements were placed through other advertising resources (where appropriate and cost-effective), when notices of sale were sent to appropriate governmental agencies (if applicable), and/or when copies of brochures were mailed to all owners adjoining the property being sold.
- **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 real estate advertisement resources when appropriate and cost effective, notices of sale were sent to appropriate governmental agencies, notices posted on the Department’s excess land auction Web site, and copies of brochures were mailed to all owners adjoining the property being sold.

16.01.07.00 **Excess Land Parcel Acquisition/Disposal Summary (Form RW 16-01)**

An Excess Land Parcel Acquisition/Disposal Summary ([Form RW 16-01](#) [internal Caltrans link]) 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 completed [RW 16-01](#) (internal Caltrans link) to Accounting after recordation of the Director’s Deed. The [Form RW 16-01](#) (internal Caltrans link) notifies Accounting to remove the VTA from the Accounting inventory.

16.01.08.00 **Excess Land Inventory Memorandum** **(Form RW 16-28)**

Excess Land prepares [Form RW 16-28](#) (internal Caltrans link) 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.

16.01.09.00 **Excess Land Fiscal Transmittal** **(Form RW 16-29)**

Excess Land prepares [Form RW 16-29](#) (internal Caltrans link) 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.

16.02.00.00 – 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 non-inventory. 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 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 and 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 on the [Right of Way Real Property Services \(RPS\) intranet page](#) (internal Caltrans link). All parcels in 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 non-inventory category. Disposal units may be comprised of both inventory and noninventory parcels.

Discoverer is another tool for extracting data from ELMS.

16.02.01.01 **Creation of Excess Lands**

Excess Lands can be created in the following ways:

1. Regular Excess Parcels Acquired Through Acquisition
2. Rescinded Route Parcels
3. Excess Created by Design Change
4. Former Maintenance Stations and Material or Disposal Sites
5. Decertification (adjoining owner, public request or underlying fee owners)

16.02.02.00 **Inventory Categories**

All excess parcels will have disposable category assigned.

A summary of the inventory categories is 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 Category and Updating ELMS Accordingly**

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. If parcels in Category 1A do not have clearances, valuations, and/or maps and

deeds, they 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 (RPRR).

16.02.04.00 **RPRR and Transmittal of Hold Requests**

The DD appoints the RPRR to evaluate properties to be retained. The committee meets annually, or as required.

At least two weeks prior to the RPRR meeting, Excess Land staff transmits request for approval to place a hold on excess land to H.Q.'s RPRR with the following:

- Map of the property.
- Signed [Form RW 16-03](#) (internal Caltrans link).
- Any other data to facilitate review.

Upon request, the RPRR Chair can extend a hold up to 12 months by entering the extension date on the current [RW 16-03](#) (internal Caltrans link).

New holds required before a scheduled meeting shall be placed in the appropriate hold category with approval of the RPRR Chair. The "release date" on the [RW 16-03](#) (internal Caltrans link) 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 the District RW 16-03 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 **Decision Tree for Holds by Division**

To obtain a copy of the RPRR procedure, please contact HQ.

16.02.06.00 Detailed Inventory Matrix

The following section will help determine the proper inventory category for a parcel when a parcel is entered into ELMS. A detailed description of the process for each inventory category is as follows:

INVENTORY MATRIX

Category 1 – Disposable – 1A:

- **Description:**

Parcels Available for Immediate Sale – placed in Category 1A and disposed of as soon as possible.

If parcels in Category 1A do not have clearances, valuations, and/or maps and deeds, they are NOT available for immediate sale and should be transferred immediately to the appropriate hold category.

1A Parcels having former owners or that are a part of the Roberti properties will have different clearance requirements.

- **Process:**

Authority to transfer excess to any other category requires approvals as described in Section 16.02.04.00.

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-98-22](#) and [Government Code Sections 54235](#), [54237](#), and [54238.6](#), and [CCP 1245.245](#).

INVENTORY MATRIX (Continued)

Category 2 – Hold – 2A:

- **Description:**

Parcels held for a specific request of an Engineering Branch for possible right of way requirement or mitigation purposes:

- On the same project for which the parcel was acquired.
- 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.
 - Batch plant site or similar use.
 - Parking space for trailers to be used by Engineering personnel (vacant land only).
 - Temporary detours.
 - Temporary material/disposal sites
 - Property Management

- **Process:**

Each hold form ([16-03](#) [internal Caltrans link]) 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.

INVENTORY MATRIX (Continued)

Category 2 – Hold – 2B:

- **Description:**

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 is submits a written, signed request. With RPRR'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:

- Property description or map.
- The public purpose for which the land will be used.
- The agency's intent to buy the property.
- The date the sale will be concluded and reason for delay, if any.

Authority for direct sales of properties of notable environmental value is found under [SHC Section 118.6](#); and all other sales to public agencies for a public use under [G-98-22](#). All public sales under [G-98-22](#) are at the discretion of the excess lands manager.

- **Process:**

Order maps, deeds, and appraisals if not previously requested.

Offer property at market value after appraisal approved and give 60 days to respond.

If official written acceptance is not received within 60 days, transfer to Category 1A and sell.

INVENTORY MATRIX (Continued)

Category 2 – Hold – 2C:

- **Description:**

Parcels held for Administrative or Legal reasons – examples are:

- Clearances, valuations, maps/deeds not completed.
- Relocation assistance or replenishment housing purposes.
- Pending resolution for potential claims against the Department.
- Judicial or legislative actions.
- Routes that are candidates for rescission or down scoping.
- 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.

- **Process:**

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 hold request for exchange with a memo from Acquisition justifying the hold.

Category 2 – Hold – 2D:

- **Description:**

Parcel held for environmental compliance or for mitigation purposes.

- **Process:**

A Division requesting a “Hold” on an excess land property must include the reason and release date for the hold.

INVENTORY MATRIX (Continued)

Category 3 – Entry – 3:

- **Description:**

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

- **Process:**

Upon entry, immediately obtain internal functional clearances; e.g.,

- Right of Way (Acquisition, Relocation Assistance, Property Management, Utilities)
- Environmental
- Maintenance
- Project Management
- Planning (Park & Ride)
- Right of Way Engineering
- Traffic
- Design
- Construction

If a property is determined to be of notable environmental value, the District must follow [SHC Code 118.6](#).

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 pages for additional information on environmental clearance.

ENVIRONMENTAL COMPLIANCE PROCESS

	Excess Land	Environmental
All Excess	Circulates all excess parcels through Environmental for completion of a preliminary survey.	Conducts preliminary survey to identify any factors that may disqualify the proposed sales from being categorically exempt.
Categorically Exempt	Retains the Categorical Exemption Determination Form in the Excess Land file. 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.)	Notifies Excess Land promptly upon determination that a parcel is categorically exempt and completes a Categorical Exemption Determination Form.

ENVIRONMENTAL COMPLIANCE PROCESS (Continued)

	Excess Land	Environmental
Not Categorically Exempt	Offers properties with notable environmental value to other governmental agencies, pursuant to SHC 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.	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.

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](#) (internal Caltrans link) 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-04](#) (internal Caltrans link), 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.

REQUIREMENTS FOR OFFERING TO LOCAL PUBLIC AGENCIES

Purpose	Sent to	Remarks
Developing low- and moderate-income housing	Any local public agencies including, but not limited to, housing authorities or redevelopment agencies within whose jurisdiction the surplus land is located.	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.
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.	

REQUIREMENTS FOR OFFERING TO LOCAL PUBLIC AGENCIES (Continued)

Purpose	Sent to	Remarks
Enterprise zone	Nonprofit neighborhood enterprise association corporation if the surplus is within such jurisdiction.	See Section 16.12.03.00.
Designated program area	Program area agent.	See Section 16.12.03.00.
School purposes	Public school districts whose jurisdiction is involved.	Pursuant to Government Code Section 54222 .

NOTICE REQUIREMENTS FOR OTHER STATE AGENCIES

State Agency	Description of Property	Process	Minimum Information Required
Department of General Services Real Estate Services Division Attn.: Real Estate Sales Section 400 R Street, Suite 5000 Sacramento, CA 95814	- 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	Send a letter to DGS. (See Exhibit 16-EX-02 [internal Caltrans link.]) If a response is not received within the 60 days, dispose of the property in the normal manner.	- 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

NOTICE REQUIREMENTS FOR OTHER STATE AGENCIES (Continued)

State Agency	Description of Property	Process	Minimum Information Required
Department of Transportation Aeronautics Program P.O. Box 942873 Sacramento, CA 95273-0001	Any parcel within a two-mile radius of any public airport.	Send a notice to Aeronautics. (See Exhibit 16-EX-02 [internal Caltrans link.]) 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.	• 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

NOTICE REQUIREMENTS FOR OTHER STATE AGENCIES (Continued)

State Agency	Description of Property	Process	Minimum Information Required
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)

State Agency	Description of Property	Process	Minimum Information Required
- Department of Parks and Recreation P.O. Box 942896 Sacramento, CA 95814 - 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.	- Parcel number - Area - Location - Acquisition cost - Overhead to acquire the property

NOTICE REQUIREMENTS FOR OTHER STATE AGENCIES (Continued)

State Agency	Description of Property	Process	Minimum Information Required
		(Continued) 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 nor a designated program area. (See Section 16.12.03.00.)	

ELEMENTS OF OFFER

Element	Explanation
Leasing Property to Be Sold at Fair Market Value	Any direct sale pursuant to Government Code Sections 54220 et seq. must be at current fair market value. The Department may only lease surplus real property pending the sale or exchange of such property (see SHC 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.
Notification of Intent to Purchase or Lease Surplus Land	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.
Resales of Land for Development of Low- and Moderate-Income Housing	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.
Payment Period	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: • Surplus land to be used for park, recreation, open-space, or school purposes. • Improved surplus land to be used for low- and moderate- income housing purposes. SHC 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.

ELEMENTS OF OFFER (Continued)

Element	Explanation
Multiple Offers	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.

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 07-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 unfulfilled 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."

OUTDOOR ADVERTISING SIGN OBLIGATIONS

Sign Status	No Executed R/W Contract and Quitclaim Deed	Executed R/W Contract & Quitclaim Deed Covering Sign Relocation/Removal
Illegal Sign – Sign that was illegally placed on State highway right of way and one that does not have a current State Outdoor Advertising Permit.	Notify sign owner to remove the sign. Removal must be accomplished prior to sale of the property.	If sign owner refuses to remove sign, Clearance and Demolition has sign removed and bills owner for cost.
Nonconforming Sign – Sign was lawfully placed but does not conform to current law.	Have the sign removed as a right of way obligation prior to sale of the excess property.	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.
Old Advertising Structure Agreement Nonconforming Signs – Sign occupies property under an old agreement with a termination clause but no reference to highway construction.	Sell the property subject to the sign interest.	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.

OUTDOOR ADVERTISING SIGN OBLIGATIONS (Continued)

Sign Status	No Executed R/W Contract and Quitclaim Deed	Executed R/W Contract & Quitclaim Deed Covering Sign Relocation/Removal
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.	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.	

PROCEDURES FOR CLEARANCE OF OTHER ITEMS

Item	Procedure
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.

PROCEDURES FOR CLEARANCE OF OTHER ITEMS (Continued)

Item	Procedure
Easements No Longer Needed for Transportation Purposes	Easements no longer required for transportation purposes may either be vacated or sold pursuant to SHC 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)

Item	Procedure
Parcel Contractual Obligation Review	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 16-01 (internal Caltrans link) at the time the résumé package is submitted for CTC approval by the following statement: “A parcel review has been completed and there are no contractual obligations”. If contractual obligations are found, their disposition must be explained in full.
Flood Hazard Notice	The following notice is placed in all Sales Notices when there is a potential for flood hazards: “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.”

PROCEDURES FOR CLEARANCE OF OTHER ITEMS (Continued)

Item	Procedure
Excess Property Located in Fault Hazard Zones	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: "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." 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.

16.04.00.00 – EXCESS LAND APPRAISAL

16.04.01.00 General

The appraisal or value estimate is the basis on which property is sold, and no property may be disposed of until valuation is completed. Excess land valuations shall conform to guidelines set forth in the Appraisal Chapter.

An appraisal is required for utility easements to be located on excess land, except where providing the easement is the State's obligation pursuant to a contractual obligation or [SHC Section 702 or 703](#), or if the right of way was acquired pursuant to [SHC Section 83](#) with the utility already there.

16.04.02.00 Public Sale Estimates (PSE)

Either a market value appraisal or a public sale estimate, as defined in the Appraisal Chapter, is sufficient for determining minimum bids when excess land is offered at public sale. Generally, the least intensive report shall be prepared where the proposed sale method is by public sale.

At the discretion of the DDC-R/W, an Agent assigned to either Appraisals or Excess Land may prepare public sale estimates. Value conclusions are reviewed and approved by a Senior Right of Way Agent assigned to Appraisals. Alternately, a Senior Right of Way Agent assigned to Excess Lands may review and approve appraisals where the value conclusion is \$15,000 or less, and Public Sales Estimates where the estimated value is \$500,000 or less. Consideration, however, should always be given to having complex and/or controversial valuations prepared by the Appraisal unit regardless of value. Annual reviews are not required for appraisals and public sale estimates used in connection with public sales.

16.04.03.00 Market Value Appraisals

A market value appraisal is required for all direct sales of excess land. This includes the valuation of leases, easements, and fee parcels to be conveyed to local agencies as outlined in Section 16.03.05.00. Fair market value appraisals cannot be prepared by any member of the Excess Land staff, except for "nominal" value appraisals.

Excess parcels valued for direct sale to private parties at \$500,000 or more require dual appraisals as outlined in the Appraisal Chapter. Parcels conveyed to another State agency by a Transfer of Control and Possession

Agreement are excluded from the dual appraisal requirement. Since the process for securing an independent report may be time consuming, Excess Land should identify those parcels requiring two appraisals sufficiently in advance of proposed sale dates to enable hiring fee appraisers.

Approval of a market value appraisal for a direct sale is assumed to be valid for one year from the date of the appraisal unless Excess Land determines that a significant change in value during the year requires a review by Appraisals.

16.04.04.00 Nominal Value Appraisals

Excess Land Agents may prepare nominal value appraisals following the format and approval process described in Sections 7.14.01.00 and 7.14.04.01.B of the Appraisal Chapter.

The Certificate of Appraiser statements should state:

"I understand I may be assigned as the Excess Lands sales agent for one or more parcels contained in this appraisal report, but this has not affected my professional judgment nor influenced my opinion of value."

Although a yearly review is not required, Excess Land may request a review of nominal parcels any time one is warranted.

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-98-22](#) 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, 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 [SHC Section 104.15](#)
- **Lease-Purchase**
- **Transfer of Jurisdiction** – 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 printed matter, including the terms of sale, must clearly state that the sale is subject to Department 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 16-01 and RW 16-28](#) (internal Caltrans link) with the required supporting data and submitting them to Division of Accounting.

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/Project ID Number, the amount charged is the VTA.

Charges to EAs/Project ID Numbers on active projects for incorporation of parcels require the EA/Project ID Number 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 Sections 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 16-05 and RW 16-06)**

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 considering market conditions and the market approach 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 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 supported by a full written analysis, approved in accordance with the current Executive Order Delegation Matrix in Section 2.05.00.00, and retained in the parcel file. If a right to purchase extension is approved, it must include 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.
- 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.

The use of a right to purchase extension should be utilized in limited circumstances and for short time frames of 60 days or less. Extensions for longer time frames can detrimentally impact the market value of the property and the marketability of the property if it has to be auctioned again. If a

purchaser requires more time, an alternative sales method should be utilized. Please see 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 purchase deposit shall be 5% of the highest bid. In the event of a default by the buyer, this will be retained as liquidated damages.

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 liquidated damages. 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 Bid Registration Deposit (if the breach, withdrawal, or default occurs in the first three days following the public sale and before the highest bidder has remitted the Purchase Deposit) or Purchase Deposit (if the breach, withdrawal, or default occurs after the first three days following the public sale) is being retained as liquidated damages.

Upon default of the highest bidder, Excess Land may offer a purchase option to the second highest bidder at the high bid. If the second highest bidder accepts award, the deposit required and the terms of the purchase are the same as stated in the Sales Notice. 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.

Excess Land may preclude a defaulting bidder from bidding at a subsequent public sale. See R/W Manual Section 16.05.04.15.

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 [SHC 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.”
- 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 State Financing Addendum (RW 16-06)

The State Financing Addendum, when added to the Purchase and Sale 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. The credit terms, the down payment amount and financing term, shall comply with [Streets and Highways Code 118](#).

16.05.04.07 **Notice of Surplus Real Estate Sale**

A Notice of Surplus Real Estate Sale (auction brochure) is used for properties sold by public auction, private auction, or sealed bid. Innovation in preparing the front cover of an auction brochure is encouraged, particularly for properties having specialized uses or high values. The auction brochure shall clearly state terms of the auction and describe the characteristics of the property including access, zoning, and availability of utilities. Investigations regarding such factors should be thorough so the auction brochure is reliable.

A copy of the auction brochure must be mailed or delivered to 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 bid, the appropriate bid form shall be attached and mailed with the auction brochure.

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 documenting the property condition in the parcel file and taking photos if necessary. The physical inspections are 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 its condition remains unaltered and 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-05](#).

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. The payment of sales commission to buyer's agent and/or broker is strictly prohibited. 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 16-01](#) (internal Caltrans link) 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 Marketing Contact Lists

Excess Land in each Region/District shall maintain a comprehensive contact list or file with names and addresses of persons and firms who are interested in purchasing State property. Lists for hard copy mail distribution 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."

All Department marketing contact lists are 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 on the Department’s public website.
- Provide copy of Sales Notice to adjoining owners.
- Hold at least one “Open House” on improved properties.

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 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. Contact information where additional information concerning the property 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 at least 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 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 bid registration deposit 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 purchase contract. The highest bidder signs the original purchase contract, showing address and telephone number. The Agent accepts the bid registration deposit remittance by cashier's check, certified check, or money order and delivers a receipt and a duplicate purchase contract to the high bidder. Personal checks shall not be accepted. Cash deposits should be discouraged. The Agent transmits the monies to Accounting with a [RW 16-29](#) (internal Caltrans link), 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 at the high bid. Alternatively, the sale may be canceled and rescheduled.

The highest bidder must furnish the purchase deposit (5% of the high bid less the \$1,000 bid registration deposit) within three days following the public sale. Failure to remit the purchase deposit in a timely manner shall constitute a default by the highest bidder.

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.)

The original bidder registration sheet(s), original bidder tally sheet(s), a copy of the sales notice, and copies of any signed purchase agreements shall be retained in the file for all auctions conducted.

When a bidder has defaulted on a previous public sale, Excess Land has the discretionary authority to exclude that bidder from the next scheduled public sale.

16.05.04.16 Personal Checks

Excess Land shall not accept personal checks.

16.05.04.17 Conduct of Sealed Bid Sales

When sales are by sealed bids, at least two Agents must participate in the bid opening. One Agent opens the bids at the prescribed time and place in the presence of prospective purchasers who wish to be present. The other Agent tabulates all bids and announces the highest bidder.

Immediately after the bid opening, the highest bidder signs the original purchase contract, showing address and telephone number. The Agent accepts the bid registration deposit remittance by cashier's check, certified check, or money order and delivers a receipt and a duplicate purchase contract to the high bidder. Personal checks shall not be accepted. Cash deposits should be discouraged. The Agent transmits the monies to Accounting with a [RW 16-29](#) (internal Caltrans link), which places the funds in the special deposit account.

After the high bidder has executed the purchase contract, 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.

The highest bidder must furnish the purchase deposit (5% of the high bid less the \$1,000 bid registration deposit) within three days following the public sale. Failure to remit the purchase deposit in a timely manner shall constitute a default by the highest bidder.

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.

The original bidder tally sheet(s), a copy of the sales notice, and copies of any signed purchase agreements shall be retained in the file for all auctions conducted until the property conveyance is recorded.

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 State Route 710 in Los Angeles County that they may be eligible to purchase pursuant [Government Code Section 54237](#).
- Notify commercial and residential tenants they may be eligible to purchase pursuant to [Streets and Highways Code 118.1](#) (commercial) or [CTC Resolution G-98-22](#), as amended (residential).
- Send a copy of the appropriate Sales Notice to each occupant.
- Immediately notify each occupant of the name, address, and phone number of the purchaser upon recordation of the Director's Deed. 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 **Public Sale of Fragmentary Remainders**

Whether landlocked or not, fragmentary remainders 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.

16.05.04.20 **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 in areas where vandalism or theft of improvements can be reasonably foreseen, Excess Land has the discretionary authority to include terms in the Sales Notice that the successful bidder will be required to execute a rental agreement that results in:

- Immediate possession of the property by the purchaser.
- The payment of fair market rent by the purchaser commencing from the date of the sale.
- The payment of a security deposit consistent with R/W Manual Chapter 11.07.14.00. This deposit is separate from the Bid Registration Deposit and the Purchase Deposit.
- 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. Excess Land shall request a rental rate determination to be prepared concurrently with the Public Sale Estimate. The rental rate shall be included in the sale notice. Property Management shall assist Excess Land in preparing the agreement.

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.

16.05.04.21 **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. For example, 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 post to the Department's Internet ad an addendum to the Sales Notice and send the addendum 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.

16.05.04.22 **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 by the purchasing public entity. 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.

16.05.04.23 **Offsets and Adjustments to Sale Price Prohibited**

No offsets or adjustments shall be made to the sale price following the conclusion of a competitive sale. If the condition of the property substantially changes following a competitive sale, the sale shall be canceled, the high bidder's deposit shall be returned, and a revised valuation must be requested before the property can be offered for another public sale.

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-98-22 as amended, Exhibit 16-EX-06](#). 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

Adjustment of sales price may only be done in response to specific legislation. By federal law, [23 CFR 710.403\(e\)](#), sales of federally participating excess land at less than fair market value requires prior FHWA approval. 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 document the statutory authority that permits the sale below the fair market value.

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-98-22](#) as amended 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.
- A statement that the Director's Deed shall be recorded upon final payment.

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-07](#) [internal Caltrans link]).

16.05.06.00 Direct Sale to Eligible Present Occupants

16.05.06.01 Direct Sale of Commercial Property Pursuant to SHC Section 118.1

Except as provided in [SHC Section 118.6](#), Excess Land must first offer commercial property on rescinded routes to the State's tenant at fair market value provided the threshold requirement for determining applicability of [Section 118.1](#) is met. The threshold requirement is met upon either of the following:

1. Determination that the commercial property, originally acquired for construction of a state highway, is excess as the property is no longer required because construction will not be undertaken.
2. Determination that the commercial property is excess as a result of a rescinded route.

Although not explicitly found in [Section 118.1](#), the term “rescinded routes” is used to clarify that [Section 118.1](#) applies in most instances to certain types of commercial property declared to be excess property as the result of a route rescission. Chapter 23 of the [Project Development Procedures Manual \(PDPM\)](#) describes route rescission as follows:

“When it is identified that an unconstructed freeway on an adopted freeway route has little potential to be constructed as a freeway, controlled access highway or conventional highway, the route can be rescinded by the CTC. ([PDPM](#), Chapter 23, p. 23-32.)

[Section 118.1](#) applies to rescinded routes to the extent that the route was rescinded by the CTC because it was “an unconstructed freeway on an adopted freeway route” and “has little potential to be constructed as a freeway, controlled access highway or conventional highway.”

However, further clarification is warranted in that [Section 118.1](#) is not limited to just rescinded routes, but is also applicable in situations where commercial property that was originally acquired for construction purposes has since been determined not to be required for construction. Commercial property acquired for any purpose other than for the construction of a state highway is exempt from [Section 118.1](#).

The Department lacks authority to offer a direct sale to a commercial tenant absent compliance with the threshold criteria noted above regardless if the tenant has satisfied the other conditions required under [Section 118.1](#), including making improvements exceeding \$5,000 at tenant's own expense consistent with the terms of the rental or lease agreement. District Excess Land is responsible for confirming applicability of [Section 118.1](#) prior to offering a direct sale to a tenant of commercial property. A direct sale cannot be assumed solely based upon the tenant spending \$5,000 in property improvements.

During the clearance process 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 appraisers and offer the property at the approved appraised value. Refer to Right of Way Manual Section 7.14.02.02 for appraisal procedures. 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 Legal 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-98-22 as amended \(Exhibit 16-EX-06\)](#) 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 [SHC Section 104\(b\)](#) 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."

Excess land to be exchanged shall be valued at its highest and best use. The Department must receive full value for the excess in the exchange. Any imbalance or inequity in appraised values and proposed payments in the exchange must be justified by Administrative Settlement on the Acquisition side of the transaction pursuant to Section 8.01.28.00. The value of the excess may not exceed the value of the property acquired by the Department.

16.05.09.00 **Other Direct Conveyances**

16.05.09.01 **Governmental Agencies**

[CTC Resolution G-98-22](#) as amended governs direct conveyances of excess land to local, State and Federal public agencies for a public purpose. This is a separate authority for conveyance of excess 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 Jurisdiction 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. To ensure that the property will be used for public use, a reversionary clause may be included in the Director's Deed. Refer to R/W Manual Engineering Chapter, Section 6.15.04.04, for approved clause.

A sale to a government agency under this section requires a minimum 5% nonrefundable deposit that will be applied to the purchase price if the right to purchase is exercised. If the right to purchase is not exercised, the deposit is retained as liquidated damages.

The sales agreement may take the form of a one year exclusive right to purchase. The exclusive right to purchase may be extended for an additional year provided:

- The purchasing agency requests an extension prior to the expiration of the original extension.
- The appraisal is updated to reflect the current market value of the property and the sale price adjusted accordingly.
- The purchasing agency pays an additional 5% nonrefundable deposit, also to be applied to the purchase price.

16.05.09.03 **Conveyances to Utility Companies**

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.

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.

If a utility was located in a public street or highway that was incorporated into a State highway pursuant to [SHC 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.

16.05.10.00 **Coastal Zone**

[Article XIX of the State Constitution, Section 10](#), 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 Wildlife](#)
- [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 Jurisdiction

All transfers are authorized by [Government Code Section 14673](#) and do not require CTC approval. 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 Jurisdiction are shown in the following two tables:

TRANSFERS NOT SUBJECT TO THE PROPERTY ACQUISITION LAW

[Government Code Section 14673](#)

Responsible Party	Action
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.
Region/District	4. Prepares an appraisal, legal description, maps, and the Transfer of Jurisdiction Agreement (found in Exhibit 06-EX-02). 5. Requests Division of Accounting to prepare Accounts Receivable Bill (or credit to the appropriate land bank after the Transfer is recorded*) in the amount of the agreed purchase price.
Division of Accounting	Provides Accounts Receivable Bill to Region/District.

TRANSFERS NOT SUBJECT TO THE PROPERTY ACQUISITION LAW (Continued)

[Government Code Section 14673](#)

Responsible Party	Action
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. 3. Retains a copy of the Agreement and A/R Bill for reference during processing.
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. 9. Make entries in the ELMS according to Pages V-69 and V-70 of the ELMS Manual. 10. Forwards RW 16-01 (internal Caltrans link) to Division of Accounting to record transaction and remove parcel(s) from inventory.
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](#)

Responsible Party	Action
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 subject to the PAL. 3. Legislative authority if for less than fair market value. 4. Provides billing information to be sent to DGS.
Region/District	Prepares an appraisal, legal description, and maps, and sends copies of each to DGS, Real Estate Services Division (RES D).
DGS, Real Estate Services Division	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.
Region/District	Requests Division of Accounting to prepare Accounts Receivable Bill in triplicate in the amount of the agreed purchase price.
Division of Accounting	Provides Accounts Receivable Bill to Region/District.
Region/District	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. 2. Retains a copy of the Agreement and A/R Bill for reference during processing.
Requesting State Agency	Signs the Agreement and transmits original and one signed copy of Agreement to DGS for approval. Signs the original and one copy of Agreement and sends both to DGS for presentation to the State Public Works Board for approval.
Public Works Board	Approves payment for the Agreement.

TRANSFERS SUBJECT TO THE PROPERTY ACQUISITION LAW (Continued)

[Government Code Sections 15850, et seq.](#), and [14673](#)

Responsible Party	Action
DGS, Real Estate Services Division	1. Records the original Agreement (if required). 2. Sends the original recorded copy to the requesting agency. 3. Confirms recording reference on the second signed copy and retains for the SPI and archives. 4. Sends a copy of the recorded Agreement to Region/District. 5. Distributes other copies as required.
Region/District	6. Sends one copy of recorded Agreement to HQ R/W. 7. Makes entries in the ELMS according to Pages V-69 and V-70 of the ELMS Manual. 8. Forwards RW 16-01 (internal Caltrans link) to Division of Accounting to record transaction and remove parcel(s) from inventory.
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.

16.05.12.00 **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 EA/Project ID Number from Resource Management for each request and shall monitor charges to ensure that charges do not exceed the deposited amount. In the event the deposit amount is depleted, supplemental deposit payment(s) shall be required from the applicant. Any recording or incidental fees will be paid by requesting party.

DEPOSITS – REQUESTS TO DECERTIFY AND PURCHASE

Condition	Action
The requested rights can be decertified and are salable.	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, Design, 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. If mitigating measures are required from the requesting party, the Director's Deed will be recorded after the Department inspects, reviews, and releases the required mitigating measures.
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.
The area sought to be acquired cannot be decertified.	Refund all monies except the cost of investigation.

16.05.13.00 Option-Purchase Agreement up to Two Years (Public Sales and Qualifying Direct Sales)

[CTC Resolution G-98-22](#) as amended authorizes the use of an Option-Purchase Agreement for up to two years. This alternative allows a purchaser 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 fair market value for direct sales) when signing the Option-Purchase Agreement. The option deposit shall be a minimum of 5% per year of the purchase price collected at the time of execution. 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.

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.

16.05.14.00 **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.

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 **The Department's 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 19130\[b\]](#)).

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 **Sale of Access Rights Requiring FHWA Approval**

FHWA approval of a proposed 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 sell access rights. This gives Project Development adequate time to obtain FHWA approval and prevents processing delays.

16.06.00.00 – FEDERAL HIGHWAY ADMINISTRATION REQUIREMENTS ON DISPOSAL OF EXCESS LAND

16.06.01.00 General Policy Regarding Acquisition of Excess

Federal statute ([Public Law 105-178, the Transportation Equity Act for the 21st Century, Section 1303](#)) provides that “the Federal Share of the net income from the revenues obtained by the State under subsection (a) shall be used by the State for projects eligible under this title.” Because net proceeds of excess land sales are deposited in the State Highway Account, Excess Land need not segregate federally reimbursed excess proceeds from nonfederally reimbursed excess proceeds, and no federal credits are required. By letter dated March 4, 1999 with FHWA concurrence dated March 8, 1999 (see [Exhibit 16-EX-25](#)), Caltrans has met the requirements of [Public Law 105-178](#) and is not required to track and report expenditures from these revenues by project.

16.06.02.00 Local Programs Use of This Chapter

The majority of this chapter focuses on the State's disposal process of its assets and the laws governing excess land disposals. Local governments will follow state and local laws for disposing of its excess land. It is the Department's policy if Federal Funds were used within a local program project, any excess land purchased for project must be disposed of within two years after opening the highway to traffic, or within two years after submitting the final voucher to the FHWA (whichever is earlier). Local Agencies will find this chapter instructive on clearance procedures (16.03.02.00-16.03.03.01 and 16.03.07.00), excess lands appraisals (16.04.00.00) and portions of the disposal methods and procedures (16.05.00.00).

16.07.00.00 – PROCESSING TRANSACTIONS

16.07.01.00 General

Excess Land is responsible for review of all excess land transactions prior to submission to the CTC. If the Region/District has a unique or unusual transaction, informal discussions or field reviews with HQ R/W are encouraged to resolve any questions prior to submitting the résumé package. A copy of the executed contract authorizing the conveyance shall be included in the résumé package provided to HQ R/W. Following HQ R/W's review of the complete résumé package to ensure it is accurate, the Excess Land Resume can be presented to the CTC for approval. The Region/District Excess Land office is to prepare and retain in the parcel file all applicable items shown on the table in this section entitled "Excess Land Disposal File Documentation."

16.07.02.00 Deed Approval Delegated to Region/Districts

Region/Districts may approve and execute Director's Deeds on behalf of the Department for excess land conveyances that qualify pursuant to [CTC Resolution G-98-22](#) (as amended). (See [Exhibit 16-EX-06](#).) Staff approval of delegated Director's Deeds shall be in accordance with current delegations.

For all CTC delegated items, the Region/District should submit to HQ R/W:

- Copy of the approved Director's Deed.
- Copy of [Form RW 16-01](#) (internal Caltrans link).

16.07.03.00 **Transmittal of Résumé Package and Director's Deed to HQ R/W – CTC-Approved Deeds**

The Region/District will transmit résumé packages for Director's Deeds requiring CTC approval to HQ R/W. These packages can be transmitted electronically to HQ R/W. The packages shall include a copy of the executed authorizing contract and the following completed documents:

- [Form RW 16-01](#) (internal Caltrans link).
- An Index Map and Parcel Map prepared in 8½" x 11" format that conform to Section 4-10 of the Department's [Plans Preparation Manual](#), Director's Deed Mapping Standards. The electronic copies of the maps submitted to CTC must meet ADA remediation requirements to facilitate external website publication.
- Administrative Authorization (if necessary) for adjustments to direct sale price (see Section 16.05.05.01).
- A Director's Deed that conforms to R/W Manual Chapter 6, Right of Way Engineering. The electronic copy of the deed document must meet ADA remediation requirements to facilitate external website publication. The Director's Deed package, including legal descriptions shall use Arial font, point size 12. This font is subject to change; please check with HQ R/W for the latest information.
- A copy of the authorizing resolution from the public agency's governing body for direct sales to a public agency for a public purpose (see Section 16.05.09.02).
- Any other substantiating documents to explain and support the conveyance transaction when requested by HQ R/W.

All documents should be received in HQ R/W prior to District cutoff (see Section 16.07.04.00). The original deed is returned to the Region/District upon approval by the CTC. A copy is made and retained in HQ R/W files.

The Region/District executes and records the Director's Deed and sends the original to the purchaser, retaining a copy for the Region/District parcel file.

16.07.04.00 **Deadline for Submitting Résumé Package to HQ R/W – CTC-Approved Deeds**

Region/District should transmit all material requiring submission to the CTC so that it is received in HQ R/W approximately 45 days prior to the CTC meeting or the District Cutoff date. HQ R/W notifies the Region/Districts of the cutoff date as soon as the CTC schedule is available. Résumé packages received after the cutoff date will be held for the next scheduled CTC meeting.

16.07.05.00 **Recordation of Director's Deeds**

Excess Land shall record all Director's Deeds prior to delivery to the purchaser, except for conveyances to other public agencies. The Director's Deed may be delivered to an escrow agent, when applicable, with appropriate instructions regarding recordation and payment of transfer costs. Recordation costs are borne by the purchaser, except as noted in Section 16.05.05.02.

Deeds to other public agencies may be delivered to them for acceptance and recordation. The public agency is required in these cases to provide Excess Land with recording data when available.

16.07.06.00 **Nonpayment of Transfer Costs**

The Department shall not participate, nor pay any costs involved in the transfer of title, such as escrow fees, seller's share of real estate commissions, and policies of title insurance. Payment of such items constitutes a gift of public funds.

EXCESS LAND DISPOSAL FILE DOCUMENTATION

Item	Explanation
Form RW 16-01 (internal Caltrans link)	For multiple-parcel disposal units, include a separate Form RW 16-01 (internal Caltrans link) (sections I, II, and III) for each parcel in the disposal unit, and a recapitulation in sections IV through VI-A/B.
Director's Deed	The original is returned to the Region/District upon approval by the CTC. It is signed in the Region/District, recorded by Excess Land, and sent to the buyer. A copy is retained in the Region/District's parcel files.
Parcel Map	Clearly showing the property to be conveyed, and, for direct sales, identifying all adjoining owners and any abutting State-owned excess land.
Appraisal Report or Public Sale Estimate (PSE)	An original or copy of all valuations shall be retained in the file.
Index Map	In sufficient detail to show the property being conveyed in relation to adjacent streets and highways.
Correspondence	Copies of any correspondence or other information that has bearing on the disposal, gives a total picture of the transaction, or facilitates review (e.g., legal opinions, legislative inquiries, administrative authority to sell for less than appraised value or minimum bid.)
Purchase Agreement	One copy of each signed Purchase Agreement shall be retained in the file.
Additional Information	Memorandum of Substantial/Nonsubstantial Reduction For parcels that were not originally full-take acquisitions and all Finding B conveyances shall contain the following statement in the property description section of Form RW 16-01 (internal Caltrans link): "A parcel review has been completed and there are no contractual obligations." If contractual obligations are found, their disposition shall be explained in full.
Adjustments	For VTA of rescinded route parcels and any other adjustments to VTA on Form RW 16-28 (internal Caltrans link).

EXCESS LAND DISPOSAL FILE DOCUMENTATION (Continued)

Item	Explanation
R/W Contract	Copy of the contract and any amendments, the MOS, the Federal Participation Memo (if applicable), and a parcel map for exchange transactions.
Note and Deed of Trust	One copy retained in Region/District files. (Original sent to Division of Accounting until reconveyed.)
Utility Agreement	Copy of the agreement establishing the State's obligation for transactions with utility companies.
Cooperative Agreement	Copy of the agreement for conveyance of excess real property interests to a public agency pursuant to a Cooperative Agreement.
Agreement for Transfer of Jurisdiction	Copy of the agreement for conveyance of excess real property interests to other State agencies. Archive copy.
Notice of Determination	For those parcels that require an environmental document. (See Section 16.03.02.00.)
Other Agreements	Copy of the agreement providing the authority for conveyance of excess real property interests to the purchaser.

16.07.07.00 **Cancellation of Sale Prior to CTC Approval**

At the Region/District's discretion, Excess Land may cancel a sale prior to CTC approval. Excess Land shall act expeditiously to notify all concerned parties of the cancellation and to reschedule the sale of the excess land at the earliest possible date. The reasons for the cancellation are documented in the parcel file. If a bidder requests cancellation of sale prior to CTC approval, Excess Land retains that portion of the deposit representing liquidated damages.

16.07.08.00 **Cancellation of Sale Prior to Recordation**

Prior to recordation of the deed, the buyer or the Department may wish to withdraw from the sale if it is discovered that the condition of the parcel has changed to the detriment of the buyer or material facts advertised in the selling of the parcel were in error. Under these circumstances, Excess Land shall cancel the sale, request an updated valuation, and reschedule the sale at the earliest possible date.

16.07.09.00 **Correction Deeds**

When an executed Director's Deed contains deficiencies or defects in the legal description and a Correction Deed must be secured, either before or after recording of the original, Excess Land shall consult with Right of Way Engineering for appropriate corrective measures.

Director's Deeds to correct legal descriptions in previous conveyances do not require submission to the CTC. (See [Exhibit 16-EX-06](#).) File documentation for correction deeds must clearly state the error being corrected and cite the delegated authority to approve.

16.07.10.00 **Vesting Changes**

Director's Deeds approved by the CTC requiring a change or correction in the vesting must be submitted to the CTC for approval with a résumé that summarizes the need for change or correction and recapitulates prior action by the CTC.

16.08.00.00 – CREDIT SALES

16.08.01.00 General

[SHC Section 118](#) authorizes the Department to sell, contract to sell, sell by trust deed, or exchange real property, or interest therein, found to be in excess of highway needs upon terms, standards, and conditions established by the CTC. Sales shall be for cash. Credit terms shall not be offered without prior HQ R/W approval.

All such contracts of sale or sales by trust deed shall bear interest. Except where otherwise provided by law, the payment period in any such contract of sale or sale by trust deed shall not extend longer than 10 years.

Such transactions with private parties shall require a down payment of at least 30% of the purchase price. Excess Land will verify the creditworthiness of the buyer of any property to be sold by Trust Deed. See R/W Manual Section 16.08.05.00.

16.08.02.00 Low- and Moderate-Income Housing

When unimproved real property is sold or exchanged for the purpose of housing for persons of low and moderate income, as defined in [Section 50093 of the Health and Safety Code](#) (see Section 16.12.04.00), the payment period may not exceed 40 years and the down payment shall be at least 5% of the purchase price.

The rate of interest for any such contract of sale shall be computed annually and shall be the same as the average rate returned by the State's Pooled Money Investment Fund for the five fiscal years immediately preceding the year in which the payment is made.

Such contracts of sale or sale by trust deed shall not be used if the proposed development or sale qualifies for financing from other sources and if such financing makes feasible the provision of low and moderate income housing.

16.08.03.00 **Credit Sale by Trust Deed**

Credit terms should not be offered when adequate financing is available and shall not be offered without prior HQ R/W approval. A potential buyer's inability to secure financing is not adequate justification to offer credit terms. Credit terms are limited to properties selling for \$100,000 or more. Sales under \$100,000 must be for cash, except for those sold under informal time payment plans (see Section 16.05.04.00). Requirements for credit sales are shown on the table entitled "Credit Terms – Sale by Trust Deed" on the following page.

All improved residential property sold to a local public agency, if subsequently sold or transferred to a nonprofit housing organization for housing of persons and families of low and moderate income sold and financed pursuant to [SHC Section 118 \(a\)\(2\)](#), shall be endorsed by the city in which the parcels are located, or the county if located in an unincorporated area. The endorsement shall provide that the housing remain at affordable costs to persons and families of low or moderate income and very low income households for the longest feasible time as determined by the city or the county, but not less than 15 years. By endorsing such a sale, the city or county accepts responsibility for ensuring the housing remains affordable. The local public agency shall record covenants or restrictions implementing this provision in the office of the county recorder. Notwithstanding any other provision of law, the covenants or restrictions shall run with the land and shall be enforceable against the original purchaser from the department and successors in interest.

16.08.03.01 **Escrow Requirement**

For credit sales, the purchaser shall open an escrow at purchaser's expense with a title company satisfactory to both parties and shall deposit a fully executed Note and Deed of Trust into the escrow within 30 days after execution of the sales agreement. The balance of the down payment is due prior to recordation of the Director's Deed. The Note and Deed of Trust shall be written in the amount of the balance of the purchase price and shall be payable to the State of California, acting by and through the Department of Transportation. The title company handling the escrow shall be the trustee, and the purchaser shall bear all costs.

CREDIT TERMS – SALE BY TRUST DEED

Term	Requirement	Type of Real Property
Credit Check	All purchasers on credit terms, except for government agencies, must prove creditworthiness. The cost of the credit check will be borne by the purchaser.	All property.
Payment Period	Not to exceed 10 years	All improved real property. All unimproved real property with the following exceptions.
	Not to exceed 40 years	Unimproved real property sold or exchanged to provide housing for persons of low- or moderate-income.
Down Payment	At least 30%	All real property, with the exception of unimproved property, to be used for low- or moderate-income housing.
	At least 5%	Unimproved real property sold or exchanged to provide housing for persons of low or moderate income.
Interest Rates	Prevailing federal funds rate as established by the Federal Reserve Bank, plus five percent	All properties other than unimproved real properties sold or exchanged to provide housing for persons of low and moderate income.
	Average rate (computed annually) returned by the State's Pooled Money Investment Fund for the past five fiscal years immediately preceding the year in which payment is made	Unimproved real property sold or exchanged to provide housing for persons of low or moderate income.

16.08.03.02 Provisions of Trust Deed and Note

The Trust Deed and Note shall designate the purchaser as Trustor; the title company as Trustee; and the State of California, acting by and through the Department of Transportation, as Beneficiary. The Trust Deed shall contain provisions substantially the same as shown on [Exhibit 16-EX-16](#). These provisions are common to those contained in the standard forms of major title companies.

16.08.03.03 Processing of Director's Deed Sale with Trust Deed

The résumé package prepared for the sale shall include a copy of the Purchase and Sale Agreement with State Financing Addendum, Trust Deed and Note, and a completed [Form RW 16-01](#) (internal Caltrans link) indicating:

- The sale is on credit terms pursuant to Section 16.08.03.00.
- The amount of the deposit received.
- The date the required balance of the down payment will be deposited with the escrow agent.

16.08.03.04 Deposit of Director's Deed with Escrow Agent

The Department's escrow instructions, containing substantially the same language as shown on [Exhibit 16-EX-17](#) (internal Caltrans link), shall be forwarded with the Director's Deed to the title company handling the escrow.

16.08.03.05 Retention of Trust Deed and Note

Excess Land shall forward the recorded Trust Deed and executed Note to the Division of Accounting with a request to forward a statement to the purchaser. The statement shall provide for quarterly payments at the specified interest rate for the term of the Note. The Division of Accounting is responsible for safekeeping the Note and Trust Deed during the term of the trust.

16.08.03.06 **Full Reconveyance Upon Payment**

Accounting shall notify the DDC-R/W upon receipt of final payment of the outstanding balance or written notice by the trustee that full payment has been deposited in escrow for the Department. The DDC-R/W shall request the District Director to execute a Full Reconveyance.

Excess Land forwards the signed Note and Request for Reconveyance to the trustee for cancellation and issuance of the Full Reconveyance. The purchaser pays all fees in connection with the reconveyances.

16.08.03.07 **Partial Reconveyances, Subordinations, and Assumptions**

Partial reconveyances may be authorized if:

- It is in the Department's best interest.
- The remaining property is adequate security for the balance of the loan.

The district shall prepare an appraisal and a memorandum to the file, which shall explain and justify the proposed partial reconveyance and the value of the remaining property. An appropriate fee will be charged to the borrower sufficient to cover the administrative expenses incurred by the Department.

Subordination of the Department's interest is limited to easements required by public utilities or public agencies in connection with a public project. All monies received by the purchaser in connection with conveyance of the subordinated interest are paid to the Department and credited against the principal obligation.

Excess Land shall document requests and justify subordination approvals in the excess land parcel file.

Assumption of a loan may be allowed with Caltrans' approval. An approved credit report and an Assumption Agreement ([Form RW 16-18](#) [internal Caltrans link]) are required.

16.08.03.08 **Prepayments**

The principal obligation under a Trust Deed may be prepaid in full or in part at any time without penalty. Partial payments made in advance of the regular schedule shall be applied against the principal obligation and shall not replace regularly scheduled payments.

16.08.03.09 **Fire Insurance Coverage**

The purchaser shall deposit with the escrow agent a Fire Insurance Policy in an amount commensurate with the value of any substantial improvements located on the parcel at the time of purchase. This Policy names the State of California, acting by and through the Department of Transportation, as co-insured with the purchaser if the improvements are of substantial value, habitable, or usable in connection with operation of the property.

Fire insurance policies are written to cover a one or three year period. Excess Land must assure that the policy is renewed prior to expiration of the prescribed term.

The State of California may be named as co-payee on a check for settlement of a claim resulting from fire damage to insured improvements. Excess Land shall forward the check to Division of Accounting for endorsement along with a complete report of the extent of damage and a statement of the amounts, if any, to be paid to the State. Excess Land's recommendation should consider the outstanding balance under the Trust Deed and the security the remaining property represents.

16.08.03.10 **Defaults**

If the purchaser defaults after commencement of payments and recordation of the Trust Deed, Excess Land shall notify the trustee to begin default proceedings in accordance with terms of the Trust Deed. Excess Land shall take all actions necessary, including attendance at the default proceedings and payment of reasonable costs, to enter a bid in the trustee sale on the State's behalf. Excess Land should contact Legal regarding specific guidelines. Division of Accounting will provide the necessary calculations of amounts due.

16.08.03.11 **Acceleration Clause in Trust Deeds**

The acceleration clause shall be enforced if the purchaser sells the property by deed or installment contract. Before enforcing the clause, Excess Land should discuss the factual circumstances of the sale with Legal.

Enforcement of the acceleration clause is not required in the following instances:

- Conveyance of non-substantial utility easements.
- Conveyance of non-substantial portion of property for public purpose.

- Conveyance to either spouse resulting from dissolution of marriage.
- Encumbrance of the property with a second trust deed or other junior encumbrance by the purchaser.

16.08.03.12 **Trust Deed Late Payment Penalties**

Quarterly payments are due on the first day of the month beginning 90 days after close of escrow and the first day of each quarter thereafter. For example, if escrow closes on December 15, the first payment is due April 1.

All credit sale promissory notes shall provide for a penalty of 5% of any trust deed payment that is paid more than 10 days after its due date.

16.08.04.00 **Trustor Bankruptcy**

Excess Land should contact Legal and request assignment of an attorney immediately after being notified that the Department's trustor has filed for bankruptcy.

The Clerk of the Bankruptcy Court will send a Notice of Meeting of Creditors to the debtor, the creditors, and other interested parties. Excess Land should attend this meeting to ensure the Department is on the list of creditors filed by the debtor (trustor). If not, a proof of claim must be filed with the court within a specified time.

The State's attorney should attend all subsequent meetings and hearings to ensure protection of the Department's interest.

16.08.05.00 **Credit Check**

Excess Land shall establish the creditworthiness of prospective credit buyers. At a minimum, existing Department records must be reviewed to determine that the applicant is not currently in default on prior credit sales, and a credit report containing a FICO score of 750 or higher must be received from an established credit reporting agency. The buyer shall pay the costs of the credit report at the public sale. Such costs are nonrefundable in the event the buyer defaults.

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.

PHASE I RESPONSIBILITIES

Team Member	Responsibilities
Excess Land	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 SHC 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.
Right of Way Engineering	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 16-07 (internal Caltrans link), covering each disposable property. Forwards the form to Property Management.
Property Management	Completes Items G and H on Form RW 16-07 (internal Caltrans link).
Planning and Management	Completes Items I, J, and K on Form RW 16-07 (internal Caltrans link). Identifies those parcels that meet the three qualifying criteria under SHC Section 118.5 for payment of back taxes to local taxing agencies.
Relocation Assistance	Compares the Rescinded Route Parcel Inventory forms to existing RAP records and determines the amount of relocation assistance that may be necessary, if any.

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 [SHC Sections 118 and 118.6](#) and [Government Code Sections 54220 et seq.](#) and [54235 et seq.](#) (See [Exhibit 16-EX-02](#) [internal Caltrans link] 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**

[SHC 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 [SHC Section 104](#).
- The parcel is being offered at public sale.

The amount of any payments made pursuant to [SHC 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.

16.09.06.00 **RAP Policy**

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-98-22](#) (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.

PHASE II RESPONSIBILITIES

Team Member	Responsibilities
Excess Land	Acts as team leader and coordinates efforts for timely disposal of rescinded route properties. Enters parcels into the ELMS in accordance with the ELMS/EDP Users Handbook. 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. 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.
Planning and Management	Requests HQ R/W to withdraw the rescinded route segment from FAAF programming, where appropriate. Works with local taxing agencies to clear the State's obligation, if any, under SHC Section 118.5. This responsibility is limited to those parcels identified during Phase I as meeting the three qualifying criteria. SHC 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. 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. Provides a written certificate upon clearance of the Department's Section 118.5 obligation on a particular parcel.
Acquisition	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.

PHASE II RESPONSIBILITIES (Continued)

Team Member	Responsibilities
Relocation Assistance	Reviews and updates occupancy data with Property Management and confirms RAP eligibility status of occupants. Promptly issues notices to all occupants who were previously offered relocation benefits, formally effecting the change of RAP eligibility.
Appraisals	Provides necessary appraisals or disposal value estimates when requested.

16.10.00.00 – SALES OF SURPLUS RESIDENTIAL PROPERTIES AND REPLACEMENT HOUSING

These provisions have been superseded by [Government Code Section 54235, et seq.](#), and are rescinded in their entirety.

16.11.00.00 – PORTER BILL PARK LEASES

16.11.01.00 General

[CTC Resolution No. G-3 \(Exhibit 16-EX-09\)](#) sets forth the general terms and conditions of the lease of excess property to local agencies for park purposes ([SHC Section 104.15](#)).

16.11.02.00 Determination of Qualifying Parcels

Pursuant to [SHC Section 104.15](#), District Right of Way shall assist local agencies in developing park and recreational facilities on excess land where such use represents the highest and best use.

As excess parcels are certified for disposal, Excess Land shall review them for conformance with the criteria established for [Section 104.15](#).

Excess Land should negotiate a direct sale to a local agency on any parcel with a market value of \$2,500 or less since the procedures for processing a Porter Bill application are complex and expensive for both the local agency and the Department.

Taking into consideration the terms and conditions of the lease, Excess Land shall lease only those excess parcels where the fair rental value substantially equals the value of the enhancement and benefit to the State highway in preserving its view, appearance, light, air, and usefulness. The rental rate shall be determined considering the present value of the proposed construction and maintenance of park improvements, including any cost to maintain landscaping undertaken by the lessee within the State highway right of way, which would otherwise be the Department's obligation. A minimum rental fee of \$100 shall be charged.

On routes involving federal participation, the following qualifying criteria are used as a guide in obtaining FHWA participation.

- The final voucher has not been submitted for the right of way project.
- The related highway facility has not been open to traffic for more than two years.
- There would be no substantial difference in Federal participation whether the parcel is incorporated in the right of way or is disposed of by public sale.

- The proposed use of the excess land would enhance the highway facility or further integrate the highway into the local environment.

16.11.03.00 **Local Agency Notification**

Where excess properties are economically and physically suited for park and recreational uses, local agencies shall be invited to consider such development.

Excess Land shall notify all interested local agencies, such as cities, counties, and recreational districts, of the availability of parcels. The notification should indicate that the Department intends to sell the excess land but will withhold the properties from public sale for 60 days to allow local agencies to respond.

The local agency shall be furnished with a copy of a Request for Consideration, Porter Bill Lease ([Exhibit 16-EX-10](#)), appropriate maps of the available area, and a copy of the proposed lease ([Exhibit 16-EX-11](#) [internal Caltrans link]). See [Exhibit 16-EX-12](#), Instructions for Use of Porter Bill Lease Format.

16.11.04.00 **Request for Consideration of Lease**

The local agency shall have no more than 60 days after receipt of the written notice to inform the Department of its intention to apply for use of excess lands for park purposes pursuant to [Section 104.15](#). The local agency shall submit a Request for Consideration of Lease of Excess Land Pursuant to [Section 104.15](#) within 120 days of notifying the Department of its intention. The local agency's request or application must be accompanied by the following:

- An 8½" x 11" or 11" x 17" preliminary development plan that includes a description of the proposed development, type of activity, location of active recreational facilities, and access routes from the State highway and the local community area. The plan should also provide a brief justification of need for the lease for park and recreational purposes.
- Estimates of construction and annual maintenance costs.
- Proposed method of financing the project.
- Time frame for development.

16.11.05.00 **Fair Market Value Requirement**

Excess Land shall inform the local agency that it will be required to purchase the affected property at fair market value whenever the excess parcel:

- Exceeds a depth necessary to protect the State highway, public work, or improvement and its environs or will not preserve its view, appearance, light, air, and usefulness; and
- Use of a portion of the land for park purposes, pursuant to [Section 104.15](#), may have a detrimental effect on the market value or salability of the excess land lying beyond the depth necessary to protect the State highway, public work, or improvement and its environs or will not preserve its view, appearance, light, air, and usefulness.

Fair market value shall be based on the value of the affected property as a part of the whole parcel for its highest and best use without consideration of the effects of the proposed park.

16.11.06.00 **District Investigation**

Upon receiving notification from the local agency of its intention to apply for use of excess lands for purposes pursuant to [Section 104.15](#), the district will investigate the use to which the excess property will be put and the extent to which projected use will protect such highway, public work, or improvement and its environs and will preserve its view, appearance, light, air, and usefulness.

The District Porter Bill Review Committee (consisting of District Right of Way, Landscape Architecture, and Environmental Analysis) shall conduct the investigation. If the district does not have a representative available, it should request participation through the appropriate Headquarters office. The Committee shall certify that the entire area covered by the proposed application conforms to the requirements of Section 104.15 and shall make a recommendation for [Certification of Conformance, Exhibit 16-EX-13](#) (internal Caltrans link), to the DD or the DDC-R/W. Either the DD or the DDC-R/W will execute the Certificate.

16.11.07.00 Criteria

Criteria for determining the extent to which projected use will protect the highway, public work, or improvement and its environs and will preserve its value, appearance, light, air, and usefulness shall include, but not be limited to, the items in the chart on the following pages.

Criteria	Explanation
Economic Uses	All economic uses of the property should be considered and a determination made that park and recreational development is economically practical and that no unreasonable revenue loss will be incurred by development as proposed.
Economic Feasibility	The measure of economic feasibility shall be where the fair rental value, taking into consideration the terms and conditions of the lease, substantially equals the value of the enhancement and benefit to the highway, public work, or improvement in preserving its view, appearance, light, air, and usefulness.
Visibility	Neither immediate access from the highway nor visibility of all portions of the parcel to be leased by highway motorists is a requirement. If any portion of the parcel is not visible, an analysis should be made of the possible benefits from developing the nonvisible portion as a park or the drawbacks from selling the parcel for development, relative to the criteria established for Section 104.15 . That portion of the parcel not visible may be included in the leased area if positive benefits are expected for either the State or the local agency.
Continuous Development	Portions of the larger parcel not capable of continuous development should not be considered for lease. Continuous development could be hampered by natural or man-made obstacles, such as flood control channels, tree banks, railroad tracks, or streams.
Joinder	Joinder to other parcels with different uses or a higher and better use for independent development should be considered. A narrow strip adjoining a residential development would probably be best used by joining to the residential development if it is not of sufficient size to be used for park purposes.
Value	No portion of the parcel to be leased shall unreasonably exceed in value the present enhancement and benefit criteria applied to the larger parcel.

Criteria	Explanation
Recreation/Use	The proposed development may be either for active recreation or passive enjoyment. Active recreational facilities should be located or screened by planting or other means so use does not create a nuisance, distraction, or hazard to the highway user or nearby community. For example, parking areas and maintenance yards must be screened by landscaping and night lighted facilities must be located so lights do not create a distraction, glare, or hazard.
Environmental Hazards	Environmental hazards and constraints should be considered both for potential beneficial or adverse effect on park use, as well as in determining fair market value.
	Seismic zones • Located on fault • Near fault • Potential damage from landslides Floodplains • Likelihood of occurrence • Potential damage to wells or other improvements • Propensity to reduce capacity of flood channels • Permit required or prohibitions against development • Protection of riparian vegetation Unstable soils • Landslides or mudflows • Shrink swell characteristics • Foundation or bearing constraints • Subsidence • Erodibility Topography • Slope excessive • Access limited • Exposure to adverse weather Health and safety hazards • Dangerous areas, e.g., cliffs and crevasses • Quicksands or bog areas • Agricultural spraying • Riptides, undertows, etc. • Throwing objects on roadway • Objects thrown from roadway

Criteria	Explanation
Sensitive Areas	Environmentally sensitive areas should be considered. Wildlife habitat • Limited extent • Unique • Rare or endangered species of wildlife present • Breeding or nursery area • Essential to life cycle of certain species • Proximity to State or Federal Refuges • Protection of wetlands or other critical habitats • Value for scientific purposes (academic research) Water areas • Potential for pollution of domestic or municipal sources • Hazard to users • Value as wildlife habitat • Aesthetic considerations • Recreational uses Coastal zone or other area of unique value • Provide beach access • Equestrian, pedestrian, bicycle use potential • Aesthetic considerations Heritage resources • Historical significance • Archaeological significance • Natural landmark • Paleontological value Vegetation • Rare or endangered species • Specimen trees • Aesthetic considerations • Erosion protection • Potential commercial value • Value for scientific purposes

Criteria	Explanation
Sensitive Elements	Socially sensitive elements from perspective of both impact of the park on adjacent areas and the adjacent areas (including the highway) upon the park should be considered such as the following: Noise • Sensitivity of receptors • Character of neighborhood • Proposed use of park Air quality • Sensitivity of receptors • Potential for increase of pollutants due to increasing traffic Traffic • Safety • Noise and air pollution • Parking • Access • Increase on residential streets • Create barrier to circulation Storm Water Quality • Sensitivity of receptors • Potential for increase in discharge of pollutants due to site activities (e.g., litter)

16.11.08.00 **District Process**

Upon receipt of the Request for Consideration of Lease of Excess Land Pursuant to [Section 104.15](#) from the interested local agency, the district will develop the items in the following table.

Item	Explanation
Fair market value appraisal	Meeting the requirements set forth in Section 16.04.00.00.
Engineering statement	Signed by appropriate district representative containing: • Age of State highway or public work. • Estimated economic life. • Planned or anticipated additional transportation requirements for adjacent or nearby facilities that could affect the planned park and a map showing such effect. The anticipated year of impact and a negative statement, if applicable, should be included. • Traffic volumes through the planned economic life of the highway facility.
Statement of anticipated reasonable annual maintenance costs	Based on the leased portion remaining in State ownership and being incorporated into the Right of Way. This should be signed by a representative of the Landscape Architecture staff.

After receiving the items listed in the table, Excess Land shall complete the Supplemental Data Sheet ([Exhibit 16-EX-14](#) [internal Caltrans link]).

Excess Land shall forward copies of the following documents to HQ R/W for review and submittal to the CTC:

- Local agency's request with attached preliminary development plan.
- District Certification of Conformance.
- Approved fair market value appraisal.
- Supplemental Data Sheet.
- Engineering statement.

- Maintenance cost statement.

16.11.09.00 **CTC Determination**

The final determination in each case rests with the CTC and can only be made after analysis of the development plans, cost, benefits, appraisal, and other factors.

If the CTC determines such park use is appropriate, Excess Land shall notify the local agency and cooperate with it in preparing detailed plans and specifications for the proposed development.

Excess Land shall immediately advise the local agency if its application is not approved. The local agency may appeal the decision.

16.11.10.00 **Lease Negotiations**

Excess Land shall negotiate a lease and sales contract, where appropriate, with the local agency. The property is withheld from sale for a period of one year after the CTC approves the application.

Within the one-year period, the local agency shall submit detailed plans for development of the proposed park for the District Landscape Architect's review and approval. The local agency shall also submit proof of its financial ability to commence construction of the proposed park within two years after plan approval and to complete construction within three years after plan approval.

If the local agency is unable to complete the detailed plans or negotiate a lease and sales contract within the one-year period, a 90-day extension may be granted. Excess Land shall process the parcel(s) for public sale after the 90-day extension period unless the local agency can demonstrate substantial progress towards completing the required documents.

16.11.11.00 **Lease Execution**

Upon approval of the detailed development plans, execution of the lease by the local agency, and preparation of Director's Deeds and sales contract, if appropriate, Excess Land shall execute the lease according to the existing delegation of authority.

After the lease is executed, Excess Land shall remove the parcels under lease from the Excess Land Inventory and transfer them into Special Account #784001 (excess land under long-term park leases).

16.11.12.00 **Compliance**

After the lease is executed, Excess Land is responsible to ensure that the local agency complies with the terms of the lease, including those pertaining to storm water pollution prevention. Porter Bill lease properties shall be annually inspected using the Property Management inspection forms, [11-EX-55 and 11-EX-55SW](#) (internal Caltrans link). Date of inspection must be recorded in the Right of Way Property Management System.

16.11.13.00 **Lease Provisions**

The standard Lease for Park and Recreational Purposes Pursuant to [Section 104.15](#) and instructions for use of the lease can be found in [Exhibits 16-EX-11](#) (internal Caltrans link) and [16-EX-12](#).

The terms and conditions as shown on the standard lease are applicable to all leases executed pursuant to [Section 104.15](#). The CTC may prescribe additional terms.

16.11.14.00 Appraisal Requirement

A fair market value appraisal is required in all cases involving leases under [Section 104.15](#). The fair market value appraisal must contain the additional data listed in the table below.

Data	Explanation
Breakdown statement of fair market value and fair rental value	For property as a whole and for areas carrying a different or higher value.
Map	Showing: • Areas of varying value. • Area of lease. • Area of the remainder. • Total area proposed for development as park and present ownership. • Unique topographic factors (such as power lines, freeways, rivers, and streets) as well as any environmental sensitivities or hazards.
Estimate of fair market value	Under the conditions of the lease and factors affecting value determination as to the area to be leased.
Fair market value of any remainder	Appraiser's rationale.

Appraisals shall use the information listed above to establish the rental rate appropriate under the terms of [Section 104.15](#) and to determine whether or not the local agency will be required to purchase property lying beyond the area to be leased.

HQ R/W, Appraisal Office, must review and approve all appraisals prepared for properties proposed to be leased pursuant to [Section 104.15](#).

16.12.00.00 – STATUTES

16.12.01.00 **General**

This section contains statutes referred to in this chapter that are not included in the [Department of Transportation's Statutes Publication \(2014\)](#) (internal Caltrans link).

16.12.02.00 **CEQA Guidelines 15312 (14-CCR 15312)**

15312. CLASS 12. SURPLUS GOVERNMENT PROPERTY SALES. *Class 12 consists of sales of surplus governmental property except for parcels of land located in an area of statewide, regional, or areawide concern identified in Section 15206(b)(4). However, even if the surplus property to be sold is located in any of those areas, its sale is exempt if:*

- (a) The property does not have significant values for wildlife habitat or other environmental purposes, and*
- (b) Any of the following conditions exist:*
 - (1) The property is of such size, shape, or inaccessibility that it is incapable of independent development or use; or*
 - (2) The property to be sold would qualify for an exemption under any other class of categorical exemption in these guidelines; or*
 - (3) The use of the property and adjacent property has not changed since the time of purchase by the public agency.*

16.12.03.00 **Government Code**

§ 14911. Mailing lists; annual correction

If any state agency maintains a mailing list of public officials or other persons to whom publications or other printed matter is sent without charge, the state agency shall correct its mailing list and verify its accuracy at least once each year.

§ 65854. Public hearing upon ordinance or amendment; notice.

The planning commission shall hold a public hearing on the proposed zoning ordinance or amendment to a zoning ordinance. Notice of the hearing shall be given pursuant to Section 65090 and, if the proposed ordinance or amendment to a zoning ordinance affects the permitted uses of real property, notice shall also be given pursuant to Section 65091.

§ 65856. Public hearing; exceptions

(a) Upon receipt of the recommendation of the planning commission, the legislative body shall hold a public hearing. However, if the matter under consideration is an amendment to a zoning ordinance to change property from one zone to another, and the planning commission has recommended against the adoption of such amendment, the legislative body shall not be required to take any further action on the amendment unless otherwise provided by ordinance or unless an interested party requests a hearing by filing a written request with the clerk of the legislative body within five days after the planning commission files its recommendations with the legislative body.

(b) Notice of the hearing shall be given pursuant to Section 65090.

§ 65858. Interim zoning; urgency measures

(a) Without following the procedures otherwise required prior to the adoption of a zoning ordinance, the legislative body of a county, city, including a charter city, or city and county, to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time. That urgency measure shall require a four-fifths vote of the legislative body for adoption. The interim ordinance shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may extend the interim ordinance for 10 months and 15 days and subsequently extend the interim ordinance for one year. Any extension shall also require a four-fifths vote for adoption. Not more than two extensions may be adopted.

- (b) Alternatively, an interim ordinance may be adopted by a four-fifths vote following notice pursuant to Section 65090 and public hearing, in which case it shall be of no further force and effect 45 days from its date of adoption. After notice pursuant to Section 65090 and public hearing, the legislative body may by a four-fifths vote extend the interim ordinance for 22 months and 15 days.
- (c) The legislative body shall not adopt or extend any interim ordinance pursuant to this section unless the ordinance contains legislative findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare. In addition, any interim ordinance adopted pursuant to this section that has the effect of denying approvals needed for the development of projects with a significant component of multifamily housing may not be extended except upon written findings adopted by the legislative body, supported by substantial evidence on the record, that all of the following conditions exist:
- (1) The continued approval of the development of multifamily housing projects would have a specific, adverse impact upon the public health or safety. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date that the ordinance is adopted by the legislative body.
 - (2) The interim ordinance is necessary to mitigate or avoid the specific, adverse impact identified pursuant to paragraph (1).
 - (3) There is no feasible alternative to satisfactorily mitigate or avoid the specific, adverse impact identified pursuant to paragraph (1) as well or better, with a less burdensome or restrictive effect, than the adoption of the proposed interim ordinance.
- (d) Ten days prior to the expiration of that interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance.

- (e) When an interim ordinance has been adopted, every subsequent ordinance adopted pursuant to this section, covering the whole or part of the same property, shall automatically terminate and be of no further force or effect upon the termination of the first interim ordinance or any extension of the ordinance as provided in this section.
- (f) Notwithstanding subdivision (e), upon termination of a prior interim ordinance, the legislative body may adopt another interim ordinance pursuant to this section provided that the new interim ordinance is adopted to protect the public safety, health, and welfare from an event, occurrence, or set of circumstances different from the event, occurrence, or set of circumstances that led to the adoption of the prior interim ordinance.
- (g) For purposes of this section, "development of multifamily housing projects" does not include the demolition, conversion, redevelopment, or rehabilitation of multifamily housing that is affordable to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or that will result in an increase in the price or reduction of the number of affordable units in a multifamily housing project.
- (h) For purposes of this section, "projects with a significant component of multifamily housing" means projects in which multifamily housing consists of at least one-third of the total square footage of the project.

§ 66905.5. Region

As used in this title:

"Region" includes that part of Lake Tahoe within the jurisdiction of the State of California, the adjacent parts of the Counties of El Dorado and Placer lying within the Tahoe Basin in the State of California, and that additional and adjacent part of the County of Placer outside of the Tahoe Basin in the State of California which lies southward and eastward of a line starting at the intersection of the basin crestline and the north boundary of Section 1, thence west to the northwest corner of Section 3, thence south to the intersection of the basin crestline and the west boundary of Section 10; all sections referring to Township 15 North, Range 16 East, MDB&M. The region defined and described herein shall be as precisely delineated on official maps of the agency.

16.12.04.00 Health and Safety Code

§ 50093. Persons and families of low, moderate, and median income; definitions; filing and publication of standards and criteria.

"Persons and families of low or moderate income" means persons and families whose income does not exceed 120 percent of area median income, adjusted for family size by the department in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937. However, the agency and the department jointly, or either acting with the concurrence of the Secretary of the Business, Consumer Services and Housing, may permit the agency to use higher income limitations in designated geographic areas of the state, upon a determination that 120 percent of the median income in the particular geographic area is too low to qualify a substantial number of persons and families of low or moderate income who can afford rental or home purchase of housing financed pursuant to Part 3 (commencing with Section 50900) without subsidy.

"Persons and families of low or moderate income" includes very low income households, as defined in Section 50105, extremely low income households, as defined in Section 50106, and lower income households as defined in Section 50079.5, and includes persons and families of extremely low income, persons and families of very low income, persons and families of low income, persons and families of moderate income, and middle-income families. As used in this division:

- (a) "Persons and families of low income" or "persons of low income" means persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of housing financed pursuant to this division.
- (b) "Persons and families of moderate income" or "middle-income families" means persons and families of low or moderate income whose income exceeds the income limit for lower income households.
- (c) "Persons and families of median income" means persons and families whose income does not exceed the area median income, as adjusted by the department for family size in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937.

As used in this section, "area median income" means the median family income of a geographic area of the state, as annually estimated by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937. In the event these federal determinations of area median income are discontinued, the department shall establish and publish as regulations income limits for persons and families of median income for all geographic areas of the state at 100 percent of area median income, and for persons and families of low or moderate income for all geographic areas of the state at 120 percent of area median income. These income limits shall be adjusted for family size and shall be revised annually.

For purposes of this section, the department shall file, with the Office of Administrative Law, any changes in area median income and income limits determined by the United States Department of Housing and Urban Development, together with any consequent changes in other derivative income limits determined by the department pursuant to this section. These filings shall not be subject to Article 5 (commencing with Section 11346) or Article 6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, but shall be effective upon filing with the Office of Administrative Law and shall be published as soon as possible in the California Regulatory Code Supplement and the California Code of Regulations.

The department shall establish and publish a general definition of income, including inclusions, exclusions, and allowances, for qualifying persons under the income limits of this section and Sections 50079.5, 50105, and 50106 to be used where no other federal or state definitions of income apply. This definition need not be established by regulation.

Nothing in this division shall prevent the agency or the department from adopting separate family size adjustment factors or programmatic definitions of income to qualify households, persons, and families for programs of the agency or department, as the case may be.

16.12.05.00 Public Resources Code

§ 30103. Coastal zone; map; purpose

- (a) "Coastal zone" means that land and water area of the State of California from the Oregon border to the border of the Republic of Mexico, specified on the maps identified and set forth in Section 17 of Chapter 1330 of the Statutes of 1976, extending seaward to the state's outer limit of jurisdiction, including all offshore islands, and extending inland generally 1,000 yards from the mean high tide line of the sea. In significant coastal estuarine, habitat, and recreational areas it extends inland to the first major ridgeline paralleling the sea or five miles from the mean high tide line of the sea, whichever is less, and in developed urban areas the zone generally extends inland less than 1,000 yards. The coastal zone does not include the area of jurisdiction of the San Francisco Bay Conservation and Development Commission, established pursuant to title 7.2 (commencing with Section 66600) of the Government Code, nor any area contiguous thereto, including any river, stream, tributary, creek, or flood control or drainage channel flowing into such area.
- (b) The commission shall, within 60 days after its first meeting, prepare and adopt a detailed map, on a scale of one inch equals 24,000 inches for the coastal zone and shall file a copy of the map with the county clerk of each coastal county. The purpose of this provision is to provide greater detail than is provided by the maps identified in Section 17 of Chapter 1330 of the Statutes of 1976. The commission may adjust the inland boundary of the coastal zone the minimum landward distance necessary up to a maximum of 100 yards except as otherwise provided in this subdivision, or the minimum distance seaward necessary up to a maximum of 200 yards, to avoid bisecting any single lot or parcel or to conform it to readily identifiable natural or manmade features. Where a landward adjustment is requested by the local government and agreed to by the property owner, the maximum distance shall be 200 yards.

16.12.06.00 Streets and Highways Code

§ 30410. Disposition of property no longer necessary for use.

Whenever any property acquired for any of the purposes of this chapter, whether by agreement, grant, or eminent domain, either in fee or in any lesser estate or interest, is no longer necessary for use in connection with any improvement authorized to be constructed pursuant to this chapter, or whenever a lesser interest than is owned therein is sufficient for the construction, maintenance, and operation of any improvement, or whenever it is for any other reason in the public interest to do so, the property, any part thereof, or any interest therein may be leased, sold, exchanged, or otherwise disposed of or dealt with by the director in the manner, upon such terms, and subject to such reservations as are first approved by the commission.

16.13.00.00 – AFFORDABLE HOUSING

16.13.01.00 State Mandate

Under [Government Code \(GOV\) Section 14684.3](#) (2023), Caltrans shall coordinate with the [Department of General Services \(DGS\)](#) and utilize all existing legal and financial authority to expedite and prioritize excess lands for affordable housing.

16.13.02.00 State and Federal Legal Obligations

The disposition of excess land must comply with the [California Constitution Article XIX \(Article XIX\)](#)¹ and [Title 23 CFR Part 710, Subpart D](#) if the original acquisition involved the use of State gas tax and/or federal funds. [Article XIX](#) protects the use of State gas tax funds² for transportation purposes, which obligates Caltrans to dispose excess land at fair market value, unless an alternate use meets strict exceptions of [Article XIX](#)³. Affordable housing is not an exception under [Article XIX](#).

The constitutional restrictions in Section 2 of Article XIX only apply to property acquired or improved with revenues from taxes on motor vehicle fuels (state gas tax funds). These revenues are deposited into the Motor Vehicle Fuel Account (MVFA) and Highway Users Tax Account (HUTA), which are then distributed to various state and local transportation accounts for use on highways and roads. Other revenues, such as sales tax, vehicle registration and license fees, and toll revenues, that are not deposited into MVFA or HUTA are not subject to Article XIX restrictions.

Similarly, at the federal level, [23 CFR §710](#) also requires that “*current fair market value must be charged for the use or disposal of all real property interests if those real property interests were obtained with title 23, United States Code, funding...*” unless an alternate use of the excess land meets the exceptions listed in [23 CFR §710.403\(e\)](#). Approval of such an exception, commonly known as a “Public Interest Finding,” rests with the [Federal Highway Administration \(FHWA\)](#).

¹ Article XIX on Motor Vehicle Revenues was first adopted in 1938 as Article XXVI, which directed proceeds of the state’s fuel tax be spent only for transportation purposes. The Article was renumbered as Article XIX in 1976.

² California passed the first state gas tax in 1923.

³ Article XIX provides exceptions for local public park and recreational purposes (Article XIX, §9); and state park purposes, protection and preservation of fish and wildlife habitat, or for purposes of the Wildlife Conservation Law of 1947, or for the preservation of agricultural lands (Article XIX, §10).

16.13.03.00 Exception for Affordable Housing

To expedite the transfer of excess land for affordable housing to the greatest extent possible, Caltrans will identify excess land where State gas tax and federal funds were likely not involved in the original acquisition. Such land could then be transferred to another state agency, such as the Department of Housing and Community Development, for affordable housing, if determined to be viable. This approach requires District staff to conduct a reasonable and thorough funding record search of all available files and databases, including consultation with the appropriate Caltrans District and Headquarters programs, to demonstrate due diligence in the record search to support the appropriate course of action. A funding record search must be conducted as follows:

1. Identify the date of the original acquisition.
2. Identify the funding source(s) involved in the original acquisition, particularly funding programs funded by the State gas tax and federal funds.
3. Utilize the [Funding Record Search Checklist \(Exhibit 16-EX-01\)](#), if needed, to demonstrate a thorough record search.

[DGS](#) will not consider an excess parcel that was originally acquired with State gas tax due to [Article XIX](#) constraints. Programs funded by the State gas tax include, but are not limited to, the [State Transportation Improvement Program \(STIP\)](#), the [State Highway Operation and Protection Program \(SHOPP\)](#), [Senate Bill 1](#) programs, the Active Transportation Program, and local transportation programs funded by HUTA. Please refer to Exhibit 16-EX-01 for the latest list of programs.

In cases where a thorough record search does not uncover evidence of State gas tax or federal funds involved in the original acquisition, Caltrans may proceed with the transfer of excess land at or below fair market value to support affordable housing development in accordance with [GOV §14684.3](#). Excess parcel originally acquired with federal funds or is on an Interstate will be considered by [DGS](#) for affordable housing provided there is no Article XIX constraint. A Public Interest Finding approval from [FHWA](#) is required to waive fair market value pursuant to [23 CFR §710.403\(e\)](#).

16.13.04.00 Roles and Responsibilities

District Right-of-Way:

- Conduct a thorough record search of funding sources using the [Funding Record Search Checklist \(Exhibit 16-EX-01\)](#), if needed, including other reasonable means available. Using [Exhibit 16-EX-01](#) and maintaining a record is required to demonstrate a thorough research has been done and no funding records were discovered to ascertain State gas tax and/or federal funds involvement.
- Document the findings at the completion of the record search and upload [Exhibit 16-EX-01](#), if using, and related funding records and files into ROWMIS II. If necessary, maintain a physical or electronic file of these documents.
- Upon notification from HQ RWLS confirming [DGS'](#) decision to hold the excess property for affordable housing, District must not proceed with any sale or alternative use of the excess property.
- Coordinate with HQ RWLS on transferring the excess property through the Transfer of Jurisdiction process.

Headquarters Division of Right-of-Way and Land Surveys:

- Coordinate with [DGS](#) on excess properties that are available for affordable housing development.
- Communicate with Districts on a routine basis regarding the status of excess land being held for consideration for affordable housing and transfers.

16.13.05.00 Process

HQ RWLS will coordinate with the districts and [DGS](#) to identify excess parcels available for affording housing, as outlined in this section. HQ RWLS will monitor the effectiveness of this process through the Quality Enhancement Joint Reviews.

1. The district will obtain clearance for the excess parcel through its normal process. Refer to Sections 16.01.01.00 and 16.03.00.00 of the [Right of Way Manual](#).
2. If the parcel is declared excess, the district will determine if federal funds and/or State gas tax were used in the original acquisition. Utilize the [Funding Record Search Checklist \(Exhibit 16-EX-01\)](#), if needed, to demonstrate a thorough record search.
 - 2a. If the excess parcel **was** acquired with State gas tax, the parcel will be excluded from consideration for affordable housing. The district does not need to notify HQ RWLS and may proceed with selling the excess parcel at public auction (oral or sealed bid) through the normal process. Refer to Section 16.01.03.22 of the [Right of Way Manual](#).
 - 2b. If the excess parcel **was not** acquired with State gas tax, regardless of federal involvement, the district will send a completed [Excess Land Executive Order N-6-19 and N-23-20 Clearance Checklist \(Clearance Checklist\)](#) (internal Caltrans link) to HQ RWLS for processing and await further direction from HQ RWLS.
3. HQ RWLS will forward the Clearance Checklist to [DGS](#) to evaluate the excess parcel for affordable housing based on the screening criteria.

(Continued on next page)

4. HQ RWLS will inform the district of [DGS'](#) determination. The district will take one of the actions below based on [DGS](#) determination.
- 4a. **Not Viable for Affordable Housing:** If the excess parcel is determined **not viable** for affordable housing, the district will proceed with selling the excess parcel at public auction (oral, sealed bid) and process the sale through the normal process. Refer to Section 16.01.03.22 of the [Right of Way Manual](#).
- 4b. **Viable for Affordable Housing and No Federal Involvement:** If the excess parcel is determined **viable** for affordable housing and there is **no federal involvement** (not on an Interstate or acquired with [Title 23](#) federal funds), the excess parcel will be included in [DGS' excess properties map](#) for affordable housing leasing. ***The district must not proceed with any sale or alternative use of the excess parcel.*** After being awarded to a developer, but prior to execution of a ground lease, [DGS](#) will effectuate a Transfer of Jurisdiction (TOJ) of the excess parcel from Caltrans to the [Department of Housing and Community Development \(HCD\)](#). [DGS](#) will execute a lease between [HCD](#) and the developer. Refer to TOJ process in Section 16.05.11.00 of the [Right of Way Manual](#).
- 4c. **Viable for Affordable Housing and Federal Involvement:** If the excess parcel is determined **viable** for affordable housing and **has federal involvement** (on an Interstate and/or acquired with [Title 23](#) federal funds), HQ RWLS, in coordination with the district, will request approval of a Public Interest Finding from [FHWA](#). ***The district must not proceed with any sale or alternative use of the excess parcel until further notice.***
- i. Upon receiving [FHWA](#) approval, the excess parcel will be included in [DGS'](#) excess parcels map for affordable housing leasing. After being awarded to a developer, but prior to execution of a ground lease, [DGS](#) will effectuate a TOJ of the excess parcel from Caltrans to [HCD](#). [DGS](#) will execute a lease between [HCD](#) and the developer.
- ii. If Caltrans **does not** receive [FHWA](#) approval, the parcel will no longer be considered for affordable housing and the district will proceed to sell the excess parcel at public auction (oral or sealed bid) through the normal process.

16.14.00.00 – DELEGATIONS

16.14.01.00 Delegations of Authority

As referenced in Section 2.05.01.00, the delegation matrix for Excess Land is noted below. The delegation matrix reflects the associated policy and RW Manual reference for each delegated item. The matrix also distinguishes whether an item is delegated to the District or Headquarters (HQ) level, along with the lowest level of sub-delegation authorized.

Reference (Statutory, WBS, Director's Policy, Deputy Directive, etc.)	RW Manual Section	Responsibility	Delegation	Lowest Level of Sub- Delegation
	16.01.05.00	Review of Appraisal Maps	District	Associated Government al Program Analyst (AGPA)
	16.01.09.00	Excess Lands Parcel Summary RW 16-01	District	Senior RW Agent
Lean 6 Sigma RPRR Requirements	16.02.04.00	Approval to Hold Excess Land	District	District Director
CTC Resolution G-98-22	16.05.02.00	Conveyances of Excess Property Requiring CTC Final Approval	HQ	Supervising RW Agent
	16.05.03.01	Incorporation of Excess Parcels Within Operating Right of Way	District	Senior RW Agent
	16.05.03.02	Inter-Program Transfers (Accounting Transaction) RW16-01	District	RW Manager
	16.05.04.02	Option Period Exceeding 180 Days	District	Supervising RW Agent

Reference (Statutory, WBS, Director's Policy, Deputy Directive, etc.)	RW Manual Section	Responsibility	Delegation	Lowest Level of Sub- Delegation
	16.05.04.04	First Offering 75%-100% of PSE	District	Senior RW Agent
	16.05.04.04	Subsequent Offerings Minimum Bid May Be Reduced to 60% or More of PSE Regardless of Valuations For a Minimum Bid of Less Than 75% for the First or Subsequent Offerings, the District's Rationale Must be Provided in Writing to HQ R/W for Informational Purposes and a Copy Placed in the District's Excess Lands File.	District	Supervising RW Agent
<u>SHC §118(a)&(b)</u>	16.05.04.05	Recommend to CTC Acceptance of Bid 80% or More of the Unannounced Minimum Bid	District	Supervising RW Agent
<u>SHC §118(a)&(b)</u>	16.05.04.05	Recommend to CTC Acceptance of Bid Less Than 80% of the Unannounced Minimum Acceptable Bid	HQ	Supervising RW Agent
	16.05.04.06	Variations of Extensions of Option Period	District	Supervising RW Agent

Reference (Statutory, WBS, Director's Policy, Deputy Directive, etc.)	RW Manual Section	Responsibility	Delegation	Lowest Level of Sub- Delegation
	16.05.04.09	Public Sales of Landlocked Parcels Consideration for Access Option	District	Supervising RW Agent
	16.05.04.09	Form of Agreement Other Than Exhibit 16-EX-05	District	Supervising RW Agent
	16.05.09.02	Direct Conveyances – Adjustment of Sales Price When Market Value is \$1M or More	District	RW Manager
	16.05.09.02	Direct Conveyances – Adjustment of Sale Price When Market Value Is Less Than \$1M	District	RW Manager
GOV §14673	16.05.11.00	Transfers of Control and Possession	District	District Director
CTC Resolution G-98-22	16.07.02.00	Approval of Conveyances of Excess Land Pursuant to CTC Delegation	HQ	Supervising RW Agent
	16.07.07.00	Cancellation of Sale Prior to CTC Approval	District	Senior RW Agent
	16.07.08.00	Cancellation of Sale Prior to Recordation	District	Supervising RW Agent
	16.07.08.00	Adjust Sales Price After CTC Approval	HQ	Supervising RW Agent
	16.11.10.00	90-Day Extension to Negotiate Porter Bill Lease and Sales Contract Beyond One- Year Period	District	Senior RW Agent
	16.11.11.00	Porter Bill Lease Execution	District	Senior RW Agent

Reference (Statutory, WBS, Director's Policy, Deputy Directive, etc.)	RW Manual Section	Responsibility	Delegation	Lowest Level of Sub- Delegation
GOV §54235, et seq.	16.10.05.00 16.10.06.00 16.10.07.00 16.10.08.00	Sales of the Properties Located in the Route 710 Corridor Under the Roberti Bill	HQ	Supervising RW Agent

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(REV 7/2024)

Exhibits are located online:

- [External Exhibits site](#)
- [Internal Exhibits site](#) (internal Caltrans link)

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(REV 7/2024)

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RW 16-28	Excess Land Inventory Memorandum (for internal Caltrans use)
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Forms are located online:

- [External Forms site](#)
- [Internal Forms site](#) (internal Caltrans link)

(REV 7/2024)