



RIGHT OF WAY MANUAL DIRECTIVE

RWMD NUMBER:

21-02

ISSUANCE DATE:

08-06-2021

EFFECTIVE DATE:

Immediately

APPROVED BY:

Carolyn Dabney

Carolyn Dabney
Chief, Excess Land

SUBJECT:

Direct Conveyance Under Government Code (GC) Section 14012

PURPOSE:

This Manual Directive provides guidance for using GC Section 14012 when conveying excess land to a municipality or public agency.

REFERENCE:

Right of Way Manual Chapter 16, Section 16.01.03.10
GC Section 14012

BACKGROUND:

Pursuant to GC Section 14012(a) the Director of Transportation may sell or lease excess right-of-way parcels to municipalities or other local agencies for public purposes, and 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.

RIGHT OF WAY MANUAL DIRECTIVE (Cont.)

RWMD 21-02

The Department may elect, upon approval by the District Right of Way Deputy, to apply GC Section 14012 authority only in narrow 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 GC Section 14012.

EXISTING POLICY OR PROCEDURE:

This Manual Directive establishes new guidance for the appropriate use of GC Section 14012.

NEW POLICY OR PROCEDURE:

The Department has established the following policy guidance for application of GC Section 14012:

- GC 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 GC Section 14012.

Chapter 16 of the Right of Way Manual will be revised consistent with this Manual Directive. Please contact your Headquarters Excess Land Liaison with questions or concerns regarding this Manual Directive.

RIGHT OF WAY MANUAL DIRECTIVE (Cont.)

RWMD 21-02

RESPONSIBILITIES:

District Excess Land must ensure that applicability of GC 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 GC Section 14012 is not appropriate. When achievable, the primary method of disposal should be direct conveyance at fair market value.

LINKS/RESOURCES:

- RW Manual, Chapter 16
- Government Code Section 14012

DISTRIBUTION LIST:

- Excess Land Functional Council
- Right of Way Management Board
- Subscribers to the Right of Way Manual update list