

PROPERTY MANAGEMENT MANUAL



TRANSPORTATION DEVELOPMENT DIVISION
RIGHT OF WAY BUREAU

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INTRODUCTION

OUR GENERAL RESPONSIBILITIES

The Property Management Section is a part of the Right of Way Bureau and operates under the general administration of the property management supervisor. Property management duties are only part of the Property Management Section's activities. In addition to property management, the section is responsible for records, payment and audit, and local public agency activities. However, this manual is limited only to property management activities. Manuals describing other activities of the Right of Way Bureau are also available.

The Property Management Section acts as a steward for the public's assets. It accepts possession of real estate for the Iowa DOT and clears the right of way of property interests and improvements before construction. When practical, it may administer leases. It provides general management of property before and after projects. After a project is completed, it disposes of land and improvements that are no longer needed.

CIVIL RIGHTS COMPLIANCE AND AFFIRMATIVE ACTION POLICY

Federal and state laws and regulations provide for the fair treatment of the public during the property management process. Land, buildings, and improvements that are managed may be offered for lease on a nondiscriminatory basis without regard to ethnicity, gender, or national origin. All leases incorporate nondiscrimination provisions.

The Property Management Section's written agreements incorporate nondiscrimination provisions as required by federal law and regulations.

CONFLICTS OF INTEREST

At the Iowa DOT, conflicts of interest or even the perception of a conflict of interest must be avoided. Iowa DOT management has determined that sales of land and improvements may be made to an employee of the Iowa DOT only when that employee is the highest bidder at a public sale by auction. The employee may not participate in the auction while on Agency time.

1. PRE-LETTING RESPONSIBILITIES

1.1 PURPOSE

Prior to project letting, the Property Management Section is responsible for managing all land and improvements located on the land acquired for the project. When construction begins, the resident construction engineer becomes responsible for the management of required right of way. The Property Management Section remains responsible for designated excess right of way, unless the area is needed for construction purposes.

1.2 TYPES OF POSSESSIONS DETERMINED BY ACQUISITION AND RELOCATION

The Relocation Assistance Section provides current information about when the owners or tenants are in a position to surrender possession of the property. Examples of possession time frames have been provided.

- **Conveyance and possession occur simultaneously:** Surrender of possession happens at the same time as the conveyance of title.
- **Possession is given after closing:** Possession of improvements is received after conveyance of title.
- **Early possession:** Property owners decide they want to surrender possession of their property earlier than agreed upon. The purchase agreement contains a provision allowing early possession with a 10-Day Notice from the owners.
- **Extending possession dates:** Extending possession dates is the responsibility of the Right of Way Relocation Assistance Section.
- **Possession of property acquired by condemnation:** Iowa Code (IC) § 6B.25 and IC § 6B.26 set forth possession rights following a condemnation. In most cases, the right of possession passes to the Iowa DOT when the compensation commission award is deposited with the sheriff (IC § 6B.25).

IC § 6B.26 details the right of possession when a landowner's residence, dwelling, house, outbuildings (if the owner's residence or dwelling house is also acquired), orchard, or garden is acquired. Should the compensation commission award be appealed to district court, the Iowa DOT cannot require the owner to surrender possession until after the damages have finally been determined and paid or until 180 days after the compensation commission award is received, whichever comes first.

Once the Iowa DOT has the right to take possession following a condemnation, the law authorizes and enables the Property Management Section to enter, manage, sever, remove, and otherwise dispose of all improvements and personal property necessary to clear the right of way and to proceed with construction. Owners and tenants may be evicted by the Iowa DOT after the Iowa DOT has obtained the right to take possession of the condemned land. However, such course of action should be viewed as a last resort. These types of evictions require involvement by the General Counsel staff and concurrence by the Iowa DOT director.

1.3 SECURING POSSESSION OF PROPERTY

The steps involved in securing possession of property prior to inspection and meeting with the owner are as follows:

- The right of way purchase agreement describes the land and improvements that are being acquired. More detailed descriptions of the acquisition can be found in the property appraisal. Appraisal reports and purchase agreements are in the electronic parcel file.
- The property manager schedules an appointment for the possession with the property owners. (Tenants are not authorized to grant possession.)
- The property manager should remind the owner(s) of their responsibilities prior to the meeting. All debris, hazardous materials, and personal property must be removed prior to possession. Remind the owner to make arrangements for the cancelation of utilities prior to possession.
- The property manager needs to have the necessary Possession Cards and key boxes ready prior to meeting with the owner.

Inspection and meeting with the owner on the property:

- Inspect the property for compliance with the purchase agreement concerning physical condition; verify that required items are present; and confirm that all other personal property has been removed.
- Ask about the locations of cisterns, wells, septic systems, utility meters, and items of archeological significance.
- Measure all improvements, including concrete surfaces, to be noted on the demolition form.
- Measure the dimensions of retaining walls, fencing, and landscaping items.
- Secure the owner's signature on Possession Cards, explain property tax responsibilities, and receive keys.
- Install key box with keys included.
- Secure buildings and post "No Trespassing" notices.

Completion of the possession process:

- Deliver or mail Possession Card to the county treasurer.
- Forward request for demolition to the Contracts Bureau.
- Transfer or disconnect utilities based upon the preceding decision.
- Verify possession date.
- Scan Abstract (if applicable) and Possession Card for retention.

Possession of mobile homes: securing possession of mobile homes requires the following steps:

- The Title and Closing Section obtains a title and tax clearance statement.
- The property manager forwards the title and tax clearance documents to the Vehicle Registration Special Service (VRSS) Office in Des Moines.
- The new title is mailed to the Property Management Section.
- Otherwise, the process is similar to securing possession of other improvements.

1.4 DEMOLITION OF IMPROVEMENTS

Highways cannot be built until all improvements are removed from the right of way. Improvements located on excess right of way may require removal. A timeline of the demolition of improvements is normally six months. Asbestos removal, cultural survey, or hazardous waste removal may slow the process.

1.4.1 Demolition Form

Upon completion of inspection and possession, the property manager is required to enter information into the demolition form which is sent to the resident construction engineer for review and approval, along with related documents which the agent may have in their possession (such as aerials, photos, plats, and summary sheets.) Upon approval, the property manager submits the demolition form to the Contracts Bureau for letting and retains a fully executed copy.



2. LEASING

2.1 PURPOSE

The Property Management Section is responsible for the administration of the leasing of acquired right of way, provided it does not conflict with terms of the purchase agreement, construction contract schedule, or utility relocation requirements. The Property Management Section is responsible for the leasing of excess right of way until the parcels are sold or disposed of by other means. The property manager reviews their district for potential viable lease sites and confirms with the property management supervisor the intent to move forward with lease research on any potential site.

2.2 DETERMINING TO LEASE THE PROPERTY

When a request is made to lease, the property manager researches the parcel information. The findings are submitted to the property management supervisor. The property management supervisor determines if the request moves forward. The Property Management Section does not make a practice of leasing land acquired by permanent easement.

All requests to lease are forwarded to the district engineer for concurrence. If necessary, internal recommendations and Federal Highway Administration (FHWA) approval are obtained.

Land held in fee title for an anticipated highway improvement project (required right of way) may be leased in accordance with IC § 306.38. Land held in fee title for which there is no anticipated highway improvement (excess right of way) may be leased prior to disposal.

2.3 THE RENTAL RATE IS ESTABLISHED AND TENANT SELECTED

For all leases, the property manager researches and reviews data regarding appropriate rents. The rental rate is determined by consulting multiple sources, such as the county assessor, realtors, appraisals, and online databases. The rental rate for agricultural land is primarily based on the Iowa State University Cash Rental Rate Survey. Research data is retained in the file. The property manager submits a rental rate recommendation, including how the property manager arrived at the rate, to the property management supervisor for approval.

The Property Management Section selects tenants pursuant to requirements established in 49 Code of Federal Regulations (CFR) A(21), titled "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964," (and as said regulation may be amended). These requirements are strictly adhered to.

In the case of agricultural leases, the former owners or former tenants should be provided the first opportunity to lease the land at the approved rental rate. If they decline, abutting owners and any other interested parties may lease the property. If the person who expressed interest reconsiders and no other tenant can be found, the agency should review the feasibility of leasing the site. All leases are at the discretion of the Property Management Section.

2.4 LEASE ADMINISTRATION

The property manager delivers to the lease coordinator the tenant's name, address, phone number, rental rate, and description of the property. The lease coordinator prepares and sends the lease with an IRS Form W-9 to the tenant. The signed and returned lease documents are forwarded to the property manager and property management supervisor for approval. Once the signed lease has been approved, the lease coordinator sends a copy of the approved lease to the tenant and retains the original in the lease file. The information is entered into the lease database.

Resources and Acquisitions Bureau properties leased in excess of \$25,000 per year must be submitted for approval by staff action.

All leases with cities and counties are recorded.

2.5 DEPOSITS AND RENTS

The lease coordinator invoices all rents and deposits and ensures there are copies or originals of all relevant receipts and documents related to the rental in the lease file. The property manager and lease coordinator work with the Payment and Audit Section to return any refunds or deposits when appropriate.

The lease clearly spells out when the tenant is given possession, the rental rate, and a description of the leased area along with a graphic exhibit.

2.6 RECEIPT OF LEASE

The property manager is listed as the contact person on all leases. When a lease is returned, the lease coordinator ensures the appropriate payment was included with the signed lease. In addition, the lease coordinator follows proper office procedure when handling payments and ensures that copies of all payments received are filed in the lease file.

2.7 ADMINISTERING RENTAL PAYMENTS

If a tenant is behind in their rent, it is the lease coordinator's responsibility to make note of the problem, send out late notices, and notify the property manager or property management supervisor if the situation is not resolved. If a problem persists, it is the property management supervisor's responsibility to make a final determination regarding how to resolve any problems and to identify the appropriate course of action to definitively resolve any disputes.

The property manager is responsible for ensuring the tenant stays in compliance with the effective lease. This may include investigating reports of violations, requesting information from the district office, and occasionally inspecting the property.

2.8 LEASE IS EXPIRED, CANCELED, OR TERMINATED (IF APPLICABLE)

The property manager is responsible for monitoring the property and ensuring the tenant has vacated the property in compliance with the terms of the lease. If the tenant has not vacated the property once the lease has been canceled, terminated, or has expired, the property manager informs the property management supervisor.

If the tenant has failed to comply with the rental agreement, the lease coordinator sends a written notice specifying the areas of the lease that have been breached. Farm leases terminate or are canceled in the manner specified by IC § 562.5, IC § 562.6, and IC § 562.7. Notices to quit are sent by certified mail, return receipts are requested, and copies are sent to the district engineer, area maintenance manager, and resident construction engineer.

2.9 LEASE RENEWAL (IF APPLICABLE)

The lease coordinator and the property manager coordinate the renewal of a lease. The lease coordinator informs the property manager when a lease is expiring. In the case of a farm lease, the lease coordinator informs the property manager of when it is time to re-lease or when the cancel deadline is approaching. The property manager consults with the property management supervisor and district staff to determine if a lease renewal is in the Iowa DOT's best interest.

If it is determined that a lease renewal is appropriate, the property manager reviews the lease file and the rental market and makes a recommendation to the property management supervisor concerning the rental rate for the renewed lease. Once a rate is approved, the property manager informs the lease coordinator that they can proceed with the lease renewal. The lease coordinator follows the standard lease guidelines when sending, receiving, and obtaining approvals of the renewed lease.

2.10 TYPES OF LEASES



Residential lease: A residential lease is the leasing of a decent, safe, and sanitary (DSS) home, apartment, or other building to be used as a dwelling.



Commercial lease: A commercial lease is the leasing of offices, apartment buildings, parking lots, and other buildings to be used solely for business purposes.



Farm lease: A farm lease is the leasing of land for raising row crops, hay, or pasture for grazing livestock. The Property Management Section does not lease required right of way. District maintenance staff should be contacted by the requestor to inquire about obtaining a permit for haying on required right of way. Only excess right of way may be leased for haying. Farm leases of over \$5,000 per year may be split into two payments.



Contractor's lease: A contractor's lease is the lease of land to a construction contractor to facilitate work on a project. This might include leasing land for equipment repair and storage, batch plant sites, and haul roads.



Intergovernmental lease: An intergovernmental lease is a short-term use agreement with another governmental authority for the temporary use of excess land.



Airspace lease: An airspace lease generally refers to the leasing of space within the right of way limits, but above or below the roadway (for example, the leasing of parking lots under a bridge).



Lease agreement (special): These lease agreements address fencing problems, special access problems, and public utilities.



Mutual benefit auction lease: These leases are offered to the successful bidder of an auction after the property sale has been funded.

2.11 UNIQUE LEASE CONDITIONS

- **Leasing for mutual benefit (MB):** Leasing for mutual benefit (MB) is a condition where no rent is paid by the lessee, and the agreement is justified by an estimated offset of costs that would otherwise be incurred by the Iowa DOT. An example of this condition would be a lease for a parcel which would require costs for mowing and/or snow removal. As part of the agreement, the lessee agrees to mow and maintain the property at no expense to the Iowa DOT. Documentation must be included in the lease file that demonstrates that the required maintenance costs would equal or exceed the dollar amount to be received by leasing the property. On occasion, an MB lease may be agreed to between the Iowa DOT and a local public agency or another entity if it is determined that there is truly a mutual benefit in creating the lease agreement. The file must contain data supporting the mutual benefit condition.
- **Leasing of wells and water systems:** The Office of the Attorney General has advised the Property Management Section not to lease wells or water systems on excess or required right of way in light of current groundwater legislation.
- **Leasing of farm properties of five acres or less:** At the discretion of the property management supervisor, farm properties of five acres or less may be leased for a term not to exceed five years.
- **Review of rental rates:** Periodic reviews of rental rates are recommended. Appraisal staff may be consulted to provide additional rental data.



3. LAND DISPOSAL PROCESS

3.1 PURPOSE

The Property Management Section is responsible for implementing the disposal process for all parcels of excess land. The following chapter describes in detail the processes for disposing of excess land and preparing the State Land Patent.

3.2 COMPONENTS OF THE LAND DISPOSAL PROCESS

- Determining the Iowa DOT's ownership.
- Decision to sell the land.
- Authority and approvals to dispose.
- Obtaining the survey plat.
- Valuation of the parcel of land.
- Four-step land disposal process.
- Issuing the State Land Patent.

3.2.1 Authority and Approvals to Dispose

Sales of land are governed through laws, regulations, and policies.

All disposals of interstate right of way, airspace, and easements need FHWA approval.

3.2.2 Applicable State Codes

IC § 306.22: Sale of Unused Right of Way

When title to any tract of land has been or may be acquired for the construction or improvement of any highway, and when, in the judgment of the agency in control of the highway, the tract will not be used in connection with or for the improvement, maintenance, or use of the highway, the agency in control of the highway may sell the tract for cash.

If any tract of land is sold, the sale shall be subject to the right of a utility association, company, or corporation to continue in possession of a right of way in use at the time of the sale.

IC § 306.23 Notice: Preference of Sale

The agency in control of a tract, parcel, piece of land, or part thereof which is unused right-of-way shall send by certified mail to the last known address of the present owner of adjacent land from which the tract, parcel, piece of land, or part thereof was originally purchased or condemned for highway purposes—and to the person who owned the land at the time it was purchased or condemned for highway purposes—notice of the agency's intent to sell the land, the name and address of any other person to whom a notice was sent, and the fair market value of the real property based upon an appraisal by an independent appraiser.

The notice shall give an opportunity to the present owner of adjacent property and to the person who owned the land at the time it was purchased or condemned for highway purposes to be heard and make offers within 60 days of the date the notice is mailed for the tract, parcel, or piece of land to be sold. An offer which equals or exceeds in amount any other offer received and which equals or exceeds the fair market value of the property shall be given preference by the agency in control of the land. If no offers are received within 60 days or if no offer equals or exceeds the fair market value of the land, the agency shall transfer the land for a public purpose or proceed with the sale of the property.

For the purposes of this section, “public purpose” means the transfer the land to a state agency or a city, county, or other political subdivision to use for a public purpose.

3.2.3 Iowa DOT Policy and Procedures

Policy number 300.02 of the [Iowa DOT Policy and Procedures Manual](#) requires approvals through staff actions for certain types of sales and disposals.

3.2.4 Decision to Sell the Land

Annual meetings with property management and district staff are held to review the disposal of excess properties. District staff performs a review to determine if excess land should be sold. If district staff agrees that the Iowa DOT no longer needs the property, the Property Management Section may proceed to obtain necessary internal recommendations prior to taking action.

Sometimes the decision to sell may be precipitated by interest from the public to purchase a piece of land. Once the decision to sell has been made, the property manager sends out an internal recommendation to the appropriate Iowa DOT offices (Design, Traffic and Safety, Resources and Acquisitions, Local Systems, and Location and Environment) for concurrence with the decision to sell the land. If necessary, FHWA approval is obtained.

Internal recommendations help to determine what land is needed for present or future highway right of way. These recommendations also determine what limitations or conditions must be placed upon land that is to be disposed of so that the integrity of the highway is protected.

Requests for internal recommendations include the following support documents:

- A survey plat, plan sheet, or other illustration
- A copy of the original acquisition document(s)
- A district recommendation to dispose of excess land
- Other pertinent information

3.2.5 Determining the Iowa DOT's Ownership

Prior to the sale or disposal of land, the Property Management Section must determine the type of ownership the Iowa DOT holds (for example, fee title or easement). A State Land Patent disposes of land owned by the Iowa DOT in fee title. Land held by the Iowa DOT by easement for highway or highway-related purposes can't be sold and is disposed of by abandoning the easement.

A thorough review of the acquisition and conveyance documents should be completed. A specific search is done to review restrictions, conditions, exceptions, or agreements that may affect the Iowa DOT's right to sell the property. Access must be controlled in a manner that is consistent with existing Iowa DOT rules and the type of access control regulating the highway where the property is located. When no access control is needed, the conveyance is silent on the subject.

Acquisition documents to be reviewed include right of way purchase agreements, deeds, condemnation proceedings, stipulations of settlement, land use agreements, access permits, court orders, and other applicable documents. These records can be found in the Iowa DOT's electronic records management system and/or within the electronic parcel file. Other tools available for the completion of this task may be found at the Iowa Land Records website, the Office of the County Assessor, the Office of the County Recorder, and in death record searches. It may be necessary to contact the legal representative of an owner of the parcel of land being researched.

3.2.6 Obtaining the Survey Plat

A recorded plat of survey is required to illustrate land that is to be disposed of. Once the decision to sell a parcel of land has been made and the ownership determined, the appropriate district land surveyor or consultant surveyor creates a survey plat. If there has been no right of way acquired from the property, the property manager should consult with the property management supervisor to determine if the parcel can be disposed of as originally acquired. Consultation with district land survey staff is also advised in these situations prior to proceeding with the disposal.

If a survey is not available and a request to dispose of a parcel is made by the public, the person(s) requesting the sale or disposal of land may be asked to incur the expense of hiring a private surveyor. In these cases, the prospective buyer voluntarily agrees to be responsible for the cost of the recorded plat of survey. Providing a survey does not guarantee the sale of the property to the provider. District land survey staff should be consulted in all circumstances where a survey is being prepared by others outside of the Iowa DOT.

3.2.7 Valuation of the Parcel of Land

Once the decision to sell has been confirmed and the Property Management Section has received the recorded plat of survey, the property management coordinator requests the value of the parcel to be determined by the ROW Appraisal Section. Appraisal Section staff determines the appropriate valuation option from the two options provided by IC § 306.23:

- 1. Appraisal and Appraisal Review:** If the ROW Appraisal Section determines the value of the parcel is over \$50,000, an appraisal is completed by an appraiser who is licensed in the state of Iowa. Upon completion of the appraisal, another certified appraiser reviews and approves the appraisal. The appraisal and review are both electronically filed and retained permanently in the patent file.
- 2. Comparable Sales Market Analysis (CSMA):** If the determined fair market value is \$50,000 or less, a CSMA may be completed in lieu of an appraisal. This method uses comparable sales data to determine the fair market value for the property sale.

NOTE: If a lack of reasonably comparable sales exists, the decision to use a CSMA should be re-considered.

If the request to dispose of a parcel is made by the public, and an appraisal and review is required, the person(s) requesting the sale or disposal of land may be asked to incur the appraisal expenses. In these cases, the prospective buyer voluntarily agrees to be responsible for the cost of the appraisal and review contracted by the Iowa DOT. Paying for the appraisal services does not guarantee the sale of the property to the prospective buyer.

3.2.8 Four-Step Excess Land Disposal Process

1 COMPLY WITH PURCHASE PREFERENCE PER IC § 306.23

- Determine the owner(s) at the time of acquisition.
- Determine the present owner(s) of the remaining tract of land (if original purchase was a partial acquisition).
- Send an Offer to Buy (OTB) by certified mail to owner(s) described above and allow 60 days for a response.
- Sell if received OTB is at or higher than the approved appraised value of the land.
- If no acceptable OTB is received within the allotted time frame, then proceed to the next step.

2 OFFER TO OTHER GOVERNMENT AGENCIES

- These include state agencies, school districts, conservation boards, counties, and cities.
- Allow 30 days to receive a response.
- Sell if the received OTB is at or higher than the approved appraised value of the land.
- If no acceptable OTB is received within the allotted time frame, then proceed to the next step.

3 OFFER TO ABUTTING LANDOWNERS

- These are owners of land that is contiguous to the parcel of land.
- Allow 30 days to receive a response.
- Sell if the received OTB is at or higher than the approved appraised value of the land.
- If no acceptable OTB is received within the allotted time frame, then proceed to the next step.

4 CONDUCT A PUBLIC SALE

- The selection of an approved auction company is managed by the Procurement team of the Resources and Acquisitions Bureau.
- The Iowa DOT reserves the right to refuse any and all bids if no acceptable offer is received.
- Once the public auction has ended, the auction company forwards all of the necessary contact and possession information to the Iowa DOT.
- The property manager prepares the OTB document, along with an MB lease (if necessary), and sends the documents either to the auction company or to the prospective buyer.

3.2.9 Issuing the State Land Patent

DEPOSIT OF FUNDS

When the final funding proceeds have been received, the property manager completes the deposit memo form, attaches the proceeds check (if applicable) and delivers it to the Accounting Section for authorized approval.

Once the Property Management Section receives the deposit memo receipt from the Accounting Section, the property manager completes the Income Deposit Form and the customer acknowledgement letter and secures the property management supervisor's signature.

The Income Deposit Packet is sent to the Accounting Section for approval. Once the Property Management Section receives the approved Income Deposit Form from the Accounting Section, they mail the customer acknowledgement letter, along with a copy of the deposit receipt to the payor. A copy of the Income Deposit is also provided to the Payment and Audit Unit for reporting purposes and to ensure the value of the parcel of land is deleted from the Iowa DOT excess land inventory, if applicable. The property manager can then proceed with staff action approval.

STAFF ACTION

(if required - See Policy number 300.02 of the Iowa DOT *Policy and Procedures Manual*)

- The property manager prepares the staff action, which includes completion of the Recommendation for Staff Action Form, and the check sheet for legal form.
- Approval signatures on the staff action papers are required from the property management supervisor. The staff action is then submitted electronically for bureau and division approvals.

PATENT

Once the property manager has received the approved staff action, they prepare the patent and associated documents in compliance with the requirements of IC 9G.

The property manager forwards the patent file to the attorney general's staff prior to the document being sent to the State Land Office to ensure compliance with the applicable requirements of law. The purpose of this review is to assure the Iowa DOT and the secretary of state (or State Land Office) that:

- The Iowa DOT owns the land, or interest in the land, that the Property Management Section proposes to sell.
- The form of conveyance is adequate to convey the land or proposed interest.
- The disposal procedures comply with the land disposal requirements of the law as implemented by Iowa DOT policy.

After the attorney general provides their approval, the property manager sends the required documents to the State Land Office. Requests are sent to the secretary of state with an explanatory cover letter. Required documentation that is to be sent with the explanatory letter includes the recorded plat of survey (if applicable), original Certificate of Payment and Request for Patent, the original prepared but unsigned State Land Patent, and a copy of the original acquisition documents. The secretary of state and the governor sign the State Land Patent. Once the signatures are secured and the governor's seal applied, the State Land Patent is assigned an official document number and recorded in the State Land Office. The documents are then returned to the property manager.

A recording cover sheet is prepared and submitted, with the fully executed State Land Patent, to Iowa Land Records for electronic filing with the County Recorder.

When the recorded State Land Patent is returned to the property manager, notifications and copies of the documents are sent to the State Land Office, property management staff and district personnel.

The original State Land Patent is sent by certified mail to the new owner.

A complete copy of the patent file is scanned and submitted to the Iowa DOT's electronic records management system for permanent retention.

3.3 CORRECTION OF A STATE LAND PATENT

Clerical errors may be corrected by the secretary of state in the name of the grantee as authorized by IC § 9G.7.

- Correcting an error in a State Land Patent requires the property manager to complete a Corrective State Land Patent or a correction certificate form, which is completed on secretary of state letterhead. A Corrective State Land Patent is used when the original State Land Patent can be retrieved from the current owner. A corrected Certificate of Payment and Request for Patent is also required. A correction certificate form is only used when the original State Land Patent cannot be obtained. These documents are sent to the secretary of state along with a letter explaining the error in detail. Once the secretary of state and governor have signed the Corrective State Land Patent or the correction certificate, the documents are sent back to the property manager.
- A recording cover sheet is prepared and submitted, with the fully executed Corrective State Land Patent, to Iowa Land Records for electronic filing with the County Recorder.
- When the recorded Corrective State Land Patent is returned to the property manager, notifications and copies of the documents are sent to the State Land Office, property management staff and district personnel.
- The Corrective State Land Patent is scanned and submitted to the Iowa DOT's electronic records management system for permanent retention.
- The original Corrective State Land Patent is sent by certified mail to the new owner.

If an error is later detected on a recorded Plat of Survey referenced in a recorded State Land Patent, the original surveyor or two surveyors confirming the error through independent surveys record an affidavit of plat correction confirming that the error or omission was made. If an abbreviated description was used in the State Land Patent, no further action is required by the property manager.

3.4 IC § 306.23 RIGHTS NONTRANSFERABLE

Based on input from legal counsel, the Iowa DOT does not allow the assigning of IC § 306.23 rights to other landowners from the original landowner.

4. OTHER LAND TRANSACTIONS

4.1 PURPOSE

The purpose of this chapter is to describe various other land transactions that the Property Management Section may engage in, including, but not limited to, transfers by Quitclaim Deed, interagency transfers of land, easements, easement abandonments, contract sales and releases of restrictive covenants.

4.2 TRANSFER BY QUITCLAIM DEED

4.2.1 **Transfer of Jurisdiction by Quitclaim Deed**

Quitclaim Deeds to transfer highway right of way to the authority responsible for its maintenance are prepared both by property managers and by closing agents in the Fiscal and Title Section.

The Property Management and Fiscal and Title Sections share responsibility for transferring land to cities and counties for road or street purposes.

For further information on Transfers of Jurisdiction, please refer to the ROW Transfer of Jurisdiction Manual.

4.2.2 **Wetland Mitigation Transfer by Quitclaim Deed**

General Counsel for the Iowa DOT has determined that in some cases, the protection of certain environmental properties constitute "highway purposes" (see IC § 314.23 and IC § 314.24). These properties may be conveyed directly to other governmental agencies without conflicting with IC § 306.23 (pertaining to the disposal of property) as long as the property continues to serve the intended public purpose.

Property acquired for the mitigation of wetlands that are damaged or destroyed by a highway project may be transferred to another governmental entity, such as a county, provided the land continues to be used for wetland mitigation purposes.

An IC 28E agreement and a letter from the Location and Environment Bureau (LEB) are required prior to initiating the Quitclaim Deed.

IC contains authorization held by the Iowa DOT to transfer adjacent right of way located within the jurisdiction of the county for use and benefit of the county conservation board, whether held by easement or fee simple, as long as the land is suitable for purposes specified in IC § 350.4(2) and is adjacent to roads over which the county maintains jurisdiction.

Once the property manager has received the required approvals and documentation, they prepare the Quitclaim Deed and submit it to the Attorney General's (AG) office. The AG's office approves the Quitclaim Deed as to form only, applies their signature, then forwards the Quitclaim Deed to the DOT director for final signature and notarization.

The fully executed Quitclaim Deed is sent back to the property manager, who then submits it to Iowa Land Records for electronic filing with the County Recorder. When the recorded deed is

returned to the property manager, notifications and a copy of it are sent to property management staff and district personnel.

The Quitclaim Deed is scanned and submitted to the Iowa DOT's electronic records management system for permanent retention.

The original Quitclaim Deed is sent by certified mail to the grantee.

4.3 INTERAGENCY TRANSFER OF JURISDICTION AND CONTROL

The instrument to transfer jurisdiction of land to another state agency is an interagency transfer of jurisdiction and control. This is not a transfer of title, since the title remains in the name of the state. This method of disposal cannot be used to dispose of land to counties, cities, towns, drainage districts, or similar local governmental authorities.

All interagency transfer of jurisdiction and control documents must:

- Specify the duration of the transfer. If permanent, specify that it is permanent. If not, specify the duration for which it is effective.
- Indicate the monetary consideration, if any, and terms or conditions under which money or other consideration is to be paid.
- State the purpose for which the lands are being transferred and state who or what authority is to maintain the facility.

Interagency transfer of jurisdiction and control instrument are prepared by the property manager and sent to the grantee department for signature. Once returned to the property manager, it is then presented to the Iowa DOT Right of Way Director for signature and notarization.

The property manager then submits the fully executed Interagency Transfer of Jurisdiction and Control document to Iowa Land Records for electronic filing with the County Recorder. When the recorded document is returned to the property manager, notifications and a copy of it are sent to property management staff and district personnel.

The recorded Interagency Transfer of Jurisdiction and Control is scanned and submitted to the Iowa DOT's electronic records management system for permanent retention.

The original document is sent by certified mail to the grantee.

4.4 EASEMENTS ON IOWA DOT LANDS

IC § 306.45 allows the Iowa DOT to convey easements across Iowa DOT lands, provided the easements "will not adversely affect the construction and maintenance of the highway system." Department policy dictates that easements are only granted on land that has been declared excess or has been agreed to by an IC 28E agreement with other government entities.

The Property Management Section is responsible for processing requests for easements. Internal recommendations and a recorded plat of survey are required before proceeding with the easement process.

Compensation for the easement right being conveyed is required unless there is an IC 28E agreement. The property management production coordinator recommends a value opinion which the property management supervisor reviews and approves. If an appraisal and review is required, the person(s) requesting the easement may be asked to incur the appraisal expenses.

Staff actions approving the conveyance of easements are required for transactions in excess of \$25,000. Once the property manager has received the approved staff action (if required), they prepare the easement and associated documents.

- The property manager forwards the easement file to the attorney general's staff prior to the document being sent to the State Land Office to ensure compliance with the applicable requirements of law.
- After the attorney general provides their approval, the property manager sends the required documents to the State Land Office. Requests are sent to the secretary of state with an explanatory cover letter. Required documentation that is to be sent with the explanatory letter includes the recorded Plat of Survey (if applicable), original Certificate of Payment and Request for Easement, the original prepared but unsigned easement, and a copy of the original acquisition documents. The secretary of state and the governor sign the easement. Once the signatures are secured and the governor's seal applied, the easement is assigned an official document number and recorded in the State Land Office. The documents are then returned to the property manager.
- A recording cover sheet is prepared and submitted, with the fully executed easement, to Iowa Land Records for electronic filing with the County Recorder.
- When the recorded easement is returned to the property manager, notifications and copies of the documents are sent to the State Land Office, property management staff and district personnel.
- The original easement is sent by certified mail to the new owner.
- A complete copy of the easement file is scanned and submitted to the Iowa DOT's electronic records management system for permanent retention.

4.4.1 Flowage Easements

Flowage easements are conveyed by the Iowa DOT under the authority of IC § 306.39 and IC § 306.40. These sections are special statutes granting authority to the Iowa DOT to convey flowage easements to the federal government. These statutes are used to support the establishment of federal water control, dam, and park and recreational projects.

The easement grants the perpetual right, power, and privilege to use the lands being conveyed for project purposes, including the right to overflow, flood, and submerge the land and facilities located thereon lying at or below a given elevation. This elevation is based on sea level datum.

Flowage easements are conveyed for no consideration other than an agreement between state and federal authorities for the construction of such projects.

Flowage easements that are conveyed to the United States are processed in the same way as other easements previously described in this manual.

Sometimes cities, counties, or drainage/levy districts need to occupy and/or use portions of primary highway right of way for water control projects. The Property Management Section may be asked to grant a perpetual right so that the other governmental entity may complete their flood control

projects, channel widening, dikes, or levees. These types of activities may require an agreement. Statutory authority for such agreements include IC § 28E.3, IC § 28E.4, IC § 306A.7, IC § 306.24, IC § 468.111, and IC § 468.220.

All flowage agreements are between the Iowa DOT—which is acting for the state of Iowa—and the requesting authority. They must be approved as to form by the attorney general staff and submitted for approval by staff action.

The distribution of flowage agreements completed under authority of these IC sections is the same as that for flowage easements previously described in this manual.

4.4.2 Scenic Easements

Title III of the Highway Beautification Act and 23 United States Code (USC) § 319 permit Federal-aid participation for landscaping and scenic enhancement projects. IC § 313.67 gives the Iowa DOT authority to acquire land, rights, or interest in land to preserve scenic areas along primary highways.

The Property Management Section is responsible for providing the Maintenance Bureau with a record of scenic land holdings. Those records include a set of right of way plats (or suitable substitutes) and county location maps for all scenic projects within a specific district. The plats have the basic and specific rights and/or restrictions acquired printed on or identified with the parcel and are to be accompanied by a copy of the scenic easement.

The Maintenance Bureau and field maintenance staff are responsible for enforcing the terms and conditions of scenic easements.

When a violation has occurred and the intent of the easement has been altered or broken, the Property Management Section notifies district personnel.

4.5 ABANDONMENT OF EASEMENT

The abandonment of a permanent easement can be requested when, in the opinion of the Iowa DOT, all or a part of the easement area is no longer necessary or required for use by the public for highway purposes and will not hereafter be required for construction or maintenance purposes for any highway in the state of Iowa. Requests for abandonments are initiated by property owners or by district staff. The Property Management Section is responsible for preparing and recording a Resolution of Abandonment to properly abandon the easement interest.

4.5.1 Internal Recommendations for Abandonment

Once the decision to abandon an easement has been made, the property manager sends out an internal recommendation to the appropriate Iowa DOT offices (Design, Traffic and Safety, Resources and Acquisitions, Local Systems, and Location and Environment) for concurrence with the decision. If necessary, FHWA approval is obtained.

Requests for internal recommendations include the following support documents:

- A survey plat, plan sheet, or other illustration.
- A copy of the original acquisition document(s).
- A district recommendation to abandon the easement area.
- Other pertinent information.

4.5.2 Utility Considerations (IC § 327G.77 and IC § 478.17)

Utilities in possession of highway right of way under authority of maintenance permits are notified when the Iowa DOT intends to abandon highway easements. The district identifies affected utility companies located within the easement area. The Property Management Section provides utilities a 60-Day Notice prior to the abandonment so the utility can consider what effect the abandonment might have on their utility facility.

Any utility permit expires when the highway easement is abandoned. The Iowa DOT has no obligation to relocate utilities in possession of abandoned highway easement right of way.

4.5.3 Obtaining the Survey Plat

A recorded plat of survey is required to illustrate land that is to be abandoned. The appropriate district land surveyor or consultant surveyor creates a survey plat. If applicable, the property manager should consult with the property management supervisor to determine if the entire easement can be abandoned as originally acquired. Consultation with district land survey staff is also advised in these situations prior to proceeding.

If a survey is not available and a request to abandon an easement is made by the public, the person(s) requesting the abandonment may be asked to incur the expense of hiring a private surveyor. In these cases, the requestor voluntarily agrees to be responsible for the cost of the recorded plat of survey. District land survey staff should be consulted in all circumstances where a survey is being prepared by others outside of the Iowa DOT.

4.5.4 Resolution of Abandonment

The Resolution of Abandonment is prepared by the property manager and presented to the Iowa DOT Right of Way Director for signature and notarization. The property manager then submits the fully executed Resolution of Abandonment to Iowa Land Records for electronic filing with the County Recorder.

When the recorded document is returned to the property manager, notifications and a copy of it are sent to property management staff and district personnel. The recorded abandonment is submitted to the Iowa DOT's electronic records management system for permanent retention.

4.6 CONTRACT SALES

The Iowa DOT is authorized by IC § 306.22 to sell land through a real estate land contract with approval from management. Staff actions are required for every real estate land contract requested.

The contract sale process is the same as the Land Patent Process, however the property manager will prepare a contract in lieu of payment in full. Once the contract terms have been fulfilled and full payment has been received, then a State Land Patent will be sent to the secretary of state and governor for approval and the recording process will be completed.

The department may contract for the sale of any tract of land subject to the following terms and conditions:

- The discounted present market value of the contract offer, including the cash down payment, shall exceed 110 percent of the highest cash offer submitted for the tract if a cash offer is received. The discount rate shall be the rate of interest stated in the contract.
- The cash down payment shall be equal to or in excess of five percent of the total purchase price.
- The term of the contract shall not exceed ten years.
- The rate of interest stated in the contract shall not be less than the prevailing rate of interest charged on contract land sales by sellers in the county or general area in which the tract of land is located.
- The department shall advertise for cash bids and contract offers before accepting a contract offer.
- The appraised value of property sold under a land contract sale shall be at least \$5,000.

Any tract of land sold on contract shall be listed on the tax rolls by and taxed to the contract purchaser, as provided in Iowa Code in chapters 428 and 443; assessed and valued as provided in chapter 441; taxes levied as provided in chapter 444; collected as provided in chapter 445; and subject to tax sale, redemption, and apportionment of taxes as provided in chapters 446 to 449. The contract purchaser shall discharge and pay all taxes.

4.7 RELEASING RESTRICTIVE COVENANTS

The Property Management Section may be asked to consider requests by property owners to release restrictions stated on patents issued in the past. The Property Management Section is responsible for preparing and recording a Release of Restrictive Covenants document to properly remove restrictions from land previously disposed of.

4.7.1 Internal Recommendations for Release of Restrictions

Once the decision to release restrictions has been made, the property manager sends out an internal recommendation to the appropriate Iowa DOT offices (Design, Traffic and Safety, Resources and Acquisitions, Local Systems, and Location and Environment) for concurrence with the decision. If necessary, FHWA approval is obtained.

4.7.2 Release of Restrictive Covenants

The Release of Restrictive Covenants is prepared by the property manager and sent to the State Land Office. Requests for the release of patent restrictions are presented to the secretary of state with an explanatory cover letter.

Once the signatures of the secretary of state and the governor are applied, the Release of Restrictive Covenants is returned to the property manager. The property manager then submits the fully executed Release of Restrictive Covenants to Iowa Land Records for electronic filing with the County Recorder.

When the recorded document is returned to the property manager, notifications and a copy of it are sent to property management staff and district personnel. The recorded release is submitted to the Iowa DOT's electronic records management system for permanent retention.

The original Release of Restrictive Covenants is sent by certified mail to the owner of the subject property.

5. MAINTENANCE RESPONSIBILITIES

5.1 PURPOSE

The purpose of this chapter is to describe the different types of maintenance that the Property Management Section is responsible for overseeing, such as mowing and snow removal, and how the Property Management Section may manage these responsibilities through bidding contracts or one-time service provisions.

5.2 RESPONSIBILITIES

The Property Management Section is responsible for maintenance of acquired right of way under the following two scenarios:

- **For required right of way** – from the time of possession until the construction contract letting.
- **For excess right of way** – until the parcels are sold or disposed of by other means.

Upon completion of the highway project construction, district maintenance staff assumes responsibility for required right of way.

After the Iowa DOT has secured possession, and while properties are under the control of the Property Management Section, property managers are responsible for general maintenance and upkeep until a demolition contract has been let by the Contracts Bureau. Vacant buildings may be secured by a lock box or by boarding up, and open excavations should be fenced. If debris, junk, or other miscellaneous items accumulate on the property after the possession date, the property manager coordinates its removal from the property through private contractors.

5.3 CONTRACTING FOR MAINTENANCE SERVICES

All maintenance work must be administered through the Property Management Section. The property manager determines any needed maintenance services and forwards that request, along with the necessary documentation, to the property management production coordinator. If the services are repetitive and necessary for at least an entire season or up to one year, then relevant maintenance contracts are let through the Purchasing Section of the Resources and Acquisitions Bureau. The production coordinator gathers all information needed and determines if the requested maintenance service should be forwarded to the Purchasing Section for letting.

5.4 ONE-TIME SERVICES

For single-event maintenance issues, the Property Management Section can employ the services of a contractor directly. A scope of work is prepared and at least two contractors are contacted to provide bids for the requested service. There is a \$15,000 cap per contractor service, per property/parcel.

The contractor quotes are evaluated using the following criteria:

- Whether they have a license (if required for the service).

- Their cost to provide the service.
- Their experience and references.
- Their ability to complete the service within the required time frame.

To be the successful bidder, a Certificate of Insurance must be provided prior to commencement of work.

5.5 ADDITIONAL MAINTENANCE ISSUES

If additional work beyond the scope of services outlined in 5.4 is required on a parcel, the contractor must notify the property manager and document the need for the additional services. At a minimum, current photos of the additional work are required. A site inspection performed by the property manager is often necessary. The cost for the additional services must be submitted and approved by the property management supervisor prior to any additional services being performed. The property manager retains the documentation for the additional charges and notes on the contractor's invoice why the additional charges were required.

Weed control is handled on a case-by-case basis. The property manager conducts a field inspection and documents the area of concern with photographic evidence and a narrative report of the area and issues. The property manager reviews the concerns with the property management supervisor and production coordinator. One of the following strategies is implemented to address the weed concerns:

- There is no action required.
- There is limited mowing with no removal of the cutting (no baling).
- There is limited chemical spraying.
- The parcel is leased at market rate for haying purposes (on excess land only).

Additional necessary services are defined as follows:

- Removing debris, junk, and other miscellaneous items which have accumulated on the excess right of way.
- Securing improvements and security fencing, if necessary.
- Posting "No Trespassing" signs, as necessary.
 - Signs are posted on improvements at time of possession.
- Services needed to maintain a parcel or improvement until sale or disposal: These are discretionary maintenance items that are necessary to remain in compliance with local codes and public safety. The property management supervisor must approve of these services prior to any work being done.

5.6 CONTRACT BIDDING AND CONTRACT ADMINISTRATION

When the production coordinator receives a request for maintenance services from the property manager, the following questions assist the production coordinator to determine whether the contract is to be let through the Purchasing Section or whether to pursue a one-time service within the Property Management Section:

Question 1: Can the request be addressed by the local maintenance personnel (Iowa DOT) with approval of their district maintenance supervisor? The production coordinator makes all necessary contacts to the district staff.

Question 2: Does the request require a service that is repetitive throughout a season? If yes, then the Purchasing Section initiates a bid letting. If no, then the request is a one-time occurrence, and one-time service is administered by the property management coordinator.

Question 3: Does the Purchasing Section already have an on-call supplier for the service? If yes, then the production coordinator obtains a quote from qualified contractor(s). If no, a search for qualified contractors is initiated.

Once a contract (through the Purchasing Section or the Property Management Section) has been awarded to a contractor, the property manager is responsible for the following:

- **Managing the contract:** Any concerns or complaints received are the property manager's responsibility to address.
- **Receiving and approving all requests for payment:** It is the duty of the property manager to confirm all charges and dates of service. All invoices are stamped and signed for approval and payment, then forwarded to the property management supervisor for approval. Upon approval, the invoice is forwarded to the Payment and Audit Unit for payment.
- **Retaining copies of the maintenance contracts:** The production coordinator and the Payment and Audit Unit in the Property Management Section of the Right of Way Bureau must also retain a copy of contracts.

Upon breach of contract, the Purchasing Section will be notified and the issue will be handled according to Purchasing policies and procedures.

5.7 PAYMENT

Expenses for necessary maintenance costs are processed in Workday by creating a supplier invoice or by creating an ad-hoc payment. Invoices from vendors are stamped with approval by both the property manager and the property management supervisor prior to the Payment and Audit Unit processing the payment in Workday.

6. ADMINISTRATIVE AND RECORD KEEPING ACTIVITIES

6.1 PURPOSE

This section of the manual discusses how to finish the land disposal process. In this chapter, the roles of the different Iowa DOT sections are discussed as they pertain to administrative activities. The Property Management Section conducts land use and future land use reviews. The Payment and Audit Unit maintains financial data that accounts for the Property Management Section activities, such as reporting income deposits for miscellaneous sales or collection of rental income. The Property Management Section also creates electronic files for each land parcel that is managed and delivers relevant statistical reports to various sections of the Iowa DOT.

6.2 LAND USE REVIEW SCHEDULE

When lead time and workload permits, the Property Management Section conducts a land use review schedule with the district staff. The purpose of this schedule is to ensure an orderly and timely review of the use of all excess land on current projects is completed.

When possible, the review of all excess land on large, complex rural or urban and/or federally aided right of way projects is completed within the first six-month period after the opening of the project to traffic. This schedule makes allowance for those reviews necessary to promptly respond to inquiries from the public to purchase land.

When land is being held pending a possible future need, the Property Management Section schedules a future land use review.

6.3 INCOME AND EXPENSE DATA

The Payment and Audit Unit of the Property Management Section maintains income and expense data for the Property Management Section programs. The Finance Bureau audits, posts, credits, or adjusts the appropriate Federal-aid account to reflect the income.

The Property Management Section forwards all checks or monies to the Finance Bureau. The Property Management Section prepares documentation and support data for miscellaneous income by linking it to project and parcel numbers.

6.4 PROPERTY MAINTENANCE AND EXPENSE PAYMENTS

Expenses are processed through Workday. Expenses may include maintenance costs, surveillance costs, publication, advertising, report of lien costs, and other normal and necessary property management expenses.

All such invoices and accompanying payment support data are audited for cost accounting purposes by the Payment and Audit Unit of the Property Management Section and for reimbursement purposes by the Finance Bureau.

6.5 PERMANENT RECORDS REQUIRED

A permanent electronic file is maintained for each parcel of land being managed. A permanent electronic copy of all land sold and land or rights in land released, abandoned, or disposed of is also kept. All original title instruments are scanned and submitted to the Iowa DOT's electronic records management system for permanent retention. All Property Management Section parcel files are retained in accordance with Iowa DOT policy.

6.6 STATISTICAL REPORTS

The Payment and Audit Unit of the Property Management Section provides reports, information, and statistical data as requested. Such requests are generated from several sections within the Iowa DOT, FHWA, other governmental entities, and the private sector.



GLOSSARY

A

Abandonment: The relinquishment of all rights and interests in real property without intention to reclaim.

Abstract: A document which shows the condensed history of a property's title. It may include portions of prior conveyances and/or other pertinent instruments relating to the estate or interest in the property and all liens, charges, encumbrances, and releases.

Abutting owner: The owner(s) of land contiguous to the subject property.

Acceptance: 1. The formal acceptance of a document by resolution. 2. The certificate of such Resolution. 3. With private parties, voluntarily agreeing to the terms of an offer.

Access: This means to approach, to enter, and to exit property.

Access control: Government's power to restrict or control a property owner's right to enter on and exit from a public road.

Access rights: The right of ingress to and egress from one's property to a public road. The right may be actual or implied. Access is a private right as distinguished from the public's rights.

Acknowledgment: The act by which a party executing a legal document appears before an authorized officer or notary public and declares the execution to be a voluntary act.

Acquisition: The process of obtaining right of way by negotiation or eminent domain to construct or support a project.

Acre: A land measurement equaling 160 square rods or 4,840 square yards or 43,560 square feet or 0.4047 hectares.

Adjacent owner: The person(s) owning the remaining tract from which the property was originally acquired (IC 306.23). For example, the Iowa DOT acquires 20 acres from an 80-acre farm. Later, the Iowa DOT determines that 10 of the acres acquired may be disposed. The adjacent owner is the present owner of the remaining 60-acre tract.

Agreement: A word used to describe a common opinion of two or more people regarding each party's rights and obligations related to the agreement.

Appraisal: An appraisal is a written statement, independently and impartially prepared by a qualified appraiser, setting forth an opinion of defined value of an adequately describe property as of a specific date that is supported by the presentation and analysis of relevant market information.

Appraisal process: A systematic procedure to address the client's valuation issue.

Appraisal report: Any communication, written or oral, or an appraisal, appraisal review, or appraisal consulting service that is transmitted to the client upon completion of an assignment.

Appraisal review: The process of developing and communicating a credible opinion as to the quality of another's appraiser's work.

Appraised value: The appraiser's opinions and conclusions resulting from an assignment.

Appraiser: A person who performs valuation services competently and in an independent, impartial, and unbiased manner.

Approved appraisal: The approval of an appraisal by an agency official before it is used by the agency as its just compensation offer.

Asset: Items that have value in use or exchange.

B

Borrow: Suitable material from sources outside the roadway prism, used primarily for embankments.

Breach: The breaking or violating of a law, right, or duty, either by commission or omission.

C

Code of Federal Regulations (CFR): A document that codifies all rules of the executive departments and agencies of the federal government.

Comparable Sales Market Analysis: A study of market conditions for a specific property type. An alternative valuation tool used in lieu of an appraisal.

Condemnation: 1. The process by which property is acquired for public purposes under the power of eminent domain following due process of law and on the payment of just compensation. 2. The act of a federal, state, county, or other government or district or public utility or corporation vested with the right of eminent domain to take private property for public use when a public necessity exists.

Consideration: The inducement, generally monetary, that moves a party to enter into a contract.

Contract: A legally enforceable agreement between two or more people or parties.

Convey: The act of deeding or transferring a title to another.

Conveyance: A written instrument by which a title, estate, or interest in property is transferred.

Covenant: A written agreement in a conveyance or other instruments setting forth assurances by the grantor.

D

Damages: In condemnation, the loss in value of the remainder property as a result of a partial taking. Generally, it is the difference between the value of the property before the acquisition and the value of the property after the acquisition.

Deed: A written instrument, usually under seal, by which the ownership interests in real estate are transferred from one party to another.

Dwelling: The place of permanent or customary and usual residence of a person, including a single-family house; a single-family unit in a two-family, multifamily, or multipurpose property; a unit of a

condominium or cooperative housing project; a nonhousekeeping unit; a mobile home; or any other residential unit.

E

Easement: A nonpossessory interest held by one person in property of another where the first person is accorded partial use of the property for a specific use. An easement restricts but does not repeal the fee owner's rights to the use and enjoyment of the property.

Eminent domain: The right or power of public and quasi-public agencies to take private property for public purposes.

Estate: A right or interest in property.

Eviction: A process to oust a person from the possession of property.

Excess land: Land not required for the construction and maintenance of the existing highway. Often, excess land is acquired along with land required for the highway project.

Excess land inventory: A comprehensive inventory of excess land currently held by the State of Iowa for the use and benefit of the DOT. Each entry includes the original project number, parcel number, and seller name from the initial acquisition, as well as the size of the excess area (measured in acres or square feet) and the date the DOT purchased the property.

F

Fair market value: The most probable price which a property should bring in a competitive and open market under conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated.
2. Both parties are well informed or well advised, and acting in what they consider their best interests.
3. A reasonable time is allowed for exposure in the open market.
4. Payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto.
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales granted by anyone associated with the sale.

Fee simple: The most complete and highest form of property ownership, granting the owner absolute and indefinite control over the land, including the right to use, sell, transfer, or inherit it.

G

Grant: A transfer of property or an interest in property.

Grantee: 1. One to whom property is conveyed. 2. The buyer.

Grantor: 1. One who conveys property. 2. The seller.

H

Hectare: A land measurement equaling 10,000 square meters or 2.471 acres.

I

Improvement: A building or other structure permanently attached to the land.

Instrument: Any legal document (e.g., deed, lease, mortgage, will).

Inventory value: The prorated acquisition cost of the excess land. The cost of the entire parcel acquired is prorated on the basis of the acreage of land acquired as excess, including the cost of acquiring buildings or improvements located on excess land.

J

Just compensation: The compensation for property acquired under eminent domain that places a property owner in the same position as before the property is taken. It is usually the fair market value of the property acquired.

L

Land contract: An installment contract for the sale of property. The seller (vendor) retains title until paid in full by the buyer (vendee).

Land surveyor: A person whose occupation is to establish property boundary lines.

Lease: A contract where the owner transfers the right of possession and use of the real estate for a specified time period and on payment of consideration, usually rent.

Legal description: A method, acceptable in court, that geographically locates property.

Lessee: The party to whom a lease is given in return for a consideration, usually rent.

Lessor: The party who gives a lease in return for a consideration, usually rent.

License: A personal privilege to do some act on the land of another.

Local public agency: An organization (i.e., municipality, county, etc.) charged with the responsibility for proper administration, planning, and development of a public project.

Location: 1. Position with respect to human activities. Location is considered one of the basic elements contributing to the value of a property; and accessibility is the principal measure of the value of location. 2. The fixed position of the highway on the ground, including curves and tangents.

M

Mitigation: Measures taken to reduce adverse impacts on the environment.

O

Offer: An explicit proposal to contract which, if accepted, completes the contract and binds both the party that made the offer and the party accepting the offer to the terms of the contract.

P

Parcel: A piece of land of any size in one ownership.

Patent: 1. A grant of some privilege, property, or authority made by the government or sovereign of a country to one or more individuals. 2. A document or title issued by a government or state for the conveyance of some portion of the public domain to the individual.

Personal property: 1. Property that is movable. 2. Property that is not permanently attached to, or part of, real estate. 3. Identifiable, tangible objects that are considered by the general public as being “personal”; for example, furnishings, artworks, antiques, gems and jewelry, collectibles, machinery, and equipment. 4. All tangible property that is not classified as real estate.

Plat: An individual property map that shows property lines and other features (e.g., buildings and topographic elements).

Price: The amount asked, offered, or paid for a property.

Property: Anything, real or personal, that is owned.

Property management: Administration of property with the objective being to maintain, enhance, or maximize its productivity and value.

Property manager: A person who manages property for an organization.

Public use: A use benefitting the entire community.

Q

Quitclaim deed: A deed conveying, without warranty, any title, interest, or claim the grantor may have in the property conveyed.

R

Real estate: 1. An identified parcel or tract of land, including improvements, if any. 2. The physical land and attachments (e.g., buildings).

Required right of way: The land required for a roadway and its maintenance (including auxiliary features) as long as the road shall exist.

Reservation: A right retained by a grantor in conveying property.

Restriction: The restrictions and prohibitions placed on the property owner from doing certain things relating to the property.

Right of way: 1. The right to pass across the lands of another. 2. Land or property, or an interest in land or property for transportation purposes (e.g., roads, public transport, utilities, etc.).

S

Scenic easement: A servitude which is acquired by gift, purchase, exchange or condemnation and is designed to permit land to remain in private ownership for its normal agricultural, residential or other use and, at the same time, to restrict and control the future use of the land for the purpose of preserving, restoring or enhancing the natural and historic beauty of the land subject to the scenic easement.

Site: Land that is ready to be used for a specific purpose.

T

Tenant: One who holds possession of the real estate of another.

Title: 1. The evidence of a person's right to own or possess property. 2. The quality of ownership as determined by a body of facts and events.

V

Valuation: The process of developing a value opinion.

Value: 1. The monetary relationship between properties and those who buy, sell, or use those properties. 2. The monetary worth of a property, good, or service to buyers and sellers at a given time.

W

Wetland: An area that is saturated by surface or groundwater with vegetation adapted for life under those soil conditions, such as swamps, bogs, fens, marshes, and estuaries.



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