

**HIGHWAY DIVISION  
PROJECT DELIVERY BUREAU  
OFFICE OF RIGHT OF WAY**

**PROPERTY MANAGEMENT MANUAL**



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The Iowa DOT recognizes the October 1, 2014 effective date for amendments to the Uniform Act pursuant to Section 1521 of the Moving Ahead for Progress in the 21st Century Act (MAP-21). This manual has been updated to reflect this most recent federal guidance.

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## **Introduction**

### **Our General Responsibilities**

The Property Management Section is a part of the Office of Right of Way 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 Office of Right of Way 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, during, and after projects. After a project is completed, it disposes of land and improvements 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, conflict 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.

# Chapter 1 Preletting 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. Property Management remains responsible for designated excess right of way.

## 1.2 Types of Possessions Determined by Acquisition and Relocation

The Relocation Assistance Section provides, through the project scheduling system (PSS), 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 occurs 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 surrender of 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

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

- 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 located in ProjectWise. Additional visual aids may be located in the appropriate folder in ProjectWise.
- 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 junk 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.
- Determine whether improvements shall be sold or demolished.
- Transfer or disconnect utilities based upon the preceding decision.
- Enter the possession date in PSS.
- 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 do not 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 possession, the property manager is required to complete the demolition form. Submit a draft copy along with related documents (such as aerials, photos, plats, and summary sheets) which the agent may have in their possession to the district construction engineer for approval and comments. Upon the district construction engineer's approval, submit to the Office of Contracts. Copy other offices as shown on the bottom of the form.

#### 1.5 Other Preletting Responsibilities for the Property Manager Agent

##### 1.5.1 Reserved Item Valuations

Reserved item valuations are administered and determined through the Acquisition Section.



## **Chapter 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 a number of 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), 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, exhibit, 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.

Office of Facilities properties leased in excess of \$25,000 per year require a 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 coordinates 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 in arrears 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 (or at the end of a lease), 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 the lease is renewed, 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. Property management 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 the 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.

## 2.11 Lease Conditions

- Leasing for mutual benefit (MB): Leasing for mutual benefit 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.

## Chapter 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

- Authority and approvals to dispose
- Decision to sell the land
- Determining the Iowa DOT's ownership
- Obtaining the survey plat
- Appraisal 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.

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

1. 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.
2. The cash down payment shall be equal to or in excess of five percent of the total purchase price.
3. The term of the contract shall not exceed ten years.
4. 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.
5. The department shall advertise for cash bids and contract offers before accepting a contract offer.
6. The appraised value of property sold under a land contract sale shall be at least \$5,000.

7. Any tract of land sold on contract shall be listed on the tax rolls by and taxed to the contract purchaser, as provided 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.

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

1. 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.

2. 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.

3. 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. The Office of Right of Way requires staff action on all disposals of excess lands.

### 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, Property Management may proceed to obtain necessary internal recommendations.

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, Support Services, 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 warranty deed
- 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, Property Management must determine the type of ownership the Iowa DOT holds (for example, fee title or easement). A State 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.

#### Interpreting Acquisition Documents

Acquired prior to 1956 under the authority of what is now IC § 306A, the acquisition language usually would read:

- 1) Deed "For road purposes and for use as grantors Public Highways."
- 2) Condemnation "Property [\_\_\_\_\_] County for Highway Purposes."  
or

"Real property for Primary Highway Purposes."

Acquired post-1956 under IC § 306A

This language was omitted. Added the warrant to "defend the title to said premise."

This language was omitted. Added "Fee title sought to be appropriated."

The attorney general's staff and the Office of Right of Way have agreed that the pre-1956 acquisitions acquired only easements for highway purposes unless further language in the specific instrument or proceeding provide more specific language. Any lands acquired under the authority of IC 306A, using current acquisition language, acquire a fee interest, and disposal is to be made by a State Patent.

Pre-1956 acquisitions are generally permanent easements. However, permanent easements have been and are still being acquired for highways that do not require access control, as well as for local public service roads, and for specific, highway-related purposes, such as the construction and maintenance of culverts.

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 are located in the Right of Way

Records Center in the Property Management Section. 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 legal description and plat of survey is required to describe 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 with a legal description. 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 survey and description preparation. 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 Appraisal of the Parcel of Land

Once the decision to sell has been confirmed and the Property Management Section has received the survey plat, the property management coordinator initiates the appraisal contract with a certified appraiser to complete the appraisal for the parcel of land. All parcels being disposed of require both an appraisal and appraisal review to be completed by an appraiser who is licensed in the state of Iowa. Right of Way appraisal staff may only be utilized for the review function of the appraisal process. The appraisal and review are both electronically filed and retained permanently in the patent file. Upon completion of the appraisal, another certified appraiser reviews and approves the appraisal, which completes the appraisal process.

### 3.2.8 Four-Step Excess Land Disposal Process

- Step 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 pursuing a partial acquisition)
  - Send an Offer to Buy (OTB) by certified mail 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
- Step 2: Offer to other government agencies
  - These include state agencies, school districts, conservation boards, counties, and cities
  - The purpose must be for permanent public use
  - 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
- Step 3: Offer to abutting land owners
  - 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
- Step 4: Conduct a public sale
  - The selection of an approved auction company is managed by the Office of Purchasing
  - The Iowa DOT reserves the right to refuse any and all bids if no acceptable offer is received
  - Once the public auction has ended and the auction company receives at least 10 percent funding from the winning bidder, 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 electronically to the auction company
  - The auction company presents the sales packet to the winning bidder and secures the necessary signatures
  - The auction company sends the OTB and the MB lease documents back to the property manager along with a closing statement and the remaining funding (if applicable)

### 3.2.9 Issuing the State Land Patent

- Deposit of funds
  - When the final funding proceeds check has been received, the property manager completes the deposit memo form, attaches the proceeds check, and gives them to the Payment and Audit Unit for Property Management. These documents are delivered 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. The customer acknowledgement letter, along with a copy of the deposit receipt, is mailed to the payor. Once the Property Management Section receives the approved Income Deposit Form from the Accounting Section, the property manager can proceed with staff action approval. At this time, the value of the parcel of land is deleted from the Iowa DOT excess land inventory book.
- Staff action
  - The property manager prepares the staff action, which includes completion of the

- Recommendation for Staff Action Form, the sales narrative 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 office and division approvals.
- Patent
    - Once the property manager has received the approved staff action, the Payment and Audit Unit of Property Management prepares the patent requests in compliance with the requirements of IC 9G.
    - Access control fencing rights: An access control fencing clause is to be inserted into State Patents to assure the Iowa DOT the continued right of entry to construct and maintain access control fence. The following clause is inserted after the legal description:
 

The state retains the right of entry thereon for the purpose of constructing and maintaining the right of way fence. The fence shall be maintained for vehicle access control purposes only. The state will be held blameless and without liability for fencing private property or maintaining the same. The buyer may pasture against said fence at their own peril and the state will be held blameless and without liability for fencing private property or maintaining the same to restrain livestock.
  - Property Management 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 actually owns the land, or interest in the land, that Property Management proposes to sell;
    - The form of conveyance is adequate to convey the land or proposed interest; and
    - 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 Payment and Audit Unit then 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 an original Certificate of Payment and Request for Patent, the original prepared but unsigned State 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 Payment and Audit Unit.
  - The Ground Water Hazard Statement is prepared along with an e-file recording cover sheet for the local county recorder's office to record the documents.
  - When the county recorder's office returns the recorded documents, notifications and copies of the documents are sent to the Property Management Section and district personnel. An email is sent explaining that the State Land Patent has been completed and that copies of the recorded document are included. The original State Land Patent is sent by certified mail to the new owner. A complete copy of the patent file is retained in records, and the file is submitted to electronic records management system (ERMS) 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 correction State Land Patent or a correction certificate form, which is completed on secretary of state letterhead. A correction 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 correction State Patent or the correction certificate, the forms are sent back to the property manager. The property managers then e-file the document with the local county recorder's office.
- Once the local county recorder sends confirmation of the recorded document, the property manager sends notification to the appropriate district personnel for records updating. A copy of the document is scanned and retained permanently in the ERMS. The original documents are sent to the property owner.
- IC § 354.24 is concerned with errors in plats. Should there be a major surveyor's error in the plat, 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.

### 3.4 IC § 306.23 Rights Nontransferrable

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.

## Chapter 4 Other Types of Land Transactions

### 4.1 Purpose

The purpose of this chapter is to describe various other land transactions that the Iowa DOT may engage in, including, but not limited to, transfer by Quitclaim Deed, intergovernmental transfer of land, easements, abandonment of easements, and contract sales.

### 4.2 Right of Way Agreements with Local Public Authorities

Project agreements can contain obligations that require right of way to convey land to cities and counties. These obligations normally require a frontage road or other right of way to be initially acquired in the name of the local public authority, eliminating the need for a second transfer of right of way from the Iowa DOT to the local authority.

IC § 306.42 ("Transfer of Rights of Way") requires that title to right of way for local roads or streets that are not acquired in the name of the local authority, but rather in the name of the Iowa DOT, must be transferred to the local political authority that is, by law, responsible for its maintenance.

A record is kept of all land transferred to cities and counties by Quitclaim Deed. If an original agreement with a city or county is needed to transfer land under IC § 306.42, the property manager determines if an IC 28E agreement exists. The agreement states the conditions of the transfer.

Several procedural commission orders set out transfer of jurisdiction agreement approval and Quitclaim Deed execution responsibilities. These commission orders are:

- Commission Order H-81-169, dated September 16, 1980  
Authorizes the Iowa DOT director to execute Quitclaim Deeds in accordance with approved transfer of jurisdiction agreements without further commission or staff action.
- Commission Order H-84-45, dated July 19, 1983  
Authorizes the Iowa DOT director to execute Quitclaim Deeds in accordance with ratified and affirmed transfer of jurisdiction agreements and orders transferring roads or parts of roads to local highway authorities executed or ordered prior to July 1, 1980, without further commission or staff action.

When there is no prior agreement, the commission is requested to approve agreements to authorize the Iowa DOT director to execute Quitclaim Deeds in accordance with requests by local authorities to transfer title to local streets or roads. The Iowa DOT director executes a Quitclaim Deed when title to right of way is needed for local road or street purposes or a road or street is being maintained by the local jurisdiction as a local road or street. No further commission action is required to document the Iowa DOT director's acceptance of the agreements.

### 4.3 Transfer of Jurisdiction and Quitclaim Deeds

Quitclaim Deeds to transfer highway right of way to the authority responsible for its maintenance are prepared both by Property Management 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.

Property Management is responsible for preparing transfers of jurisdiction by Quitclaim Deed when local authorities request that the Iowa DOT transfer title to what already is or is planned to be part of a local street or road. When the land to be transferred consists of three parcels or less, Property Management completes the transfer.

The form for Quitclaim Deeds has been standardized with the assistance of General Counsel. The form of the Quitclaim Deed is reviewed and approved by the General Counsel. The executed Quitclaim Deed is recorded in the county in which the land is located. Property Management notifies the title and closing production coordinator by email with attachment of the completed transfer. The original is sent to the grantee and a copy is retained by Property Management.

### 4.4 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 Office of Location and Environment (OLE) are required prior to initiating the Quitclaim Deed. As the wetland mitigation is a highway purpose, the transfer is similar to the transfer of a roadway that is proposed to become a local road.

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.

The conveyance is conducted by Quitclaim Deed and contains the following provisions:

- The property described within this conveyance was acquired for highway purposes as part of highway project\_\_\_\_\_. The specific highway purpose for these premises is the mitigation of wetland and/or other required environmental impacts created as a result of this highway project. As part of the process of securing necessary permits to proceed with the highway project, the Iowa DOT was required by the United States Army Corps of Engineers (Corps) and the Iowa Department of Natural Resources (DNR) to implement mitigation procedures. The Corps 404 permit number\_\_\_\_\_ is on file with the Iowa DOT and the Corps. The property remains subject to the requirement of said permit.
- The grantees, their heirs, assigns, and successors in interest maintain the property as required by the Corps' 404 permit and shall not attempt to use the premises described in

this conveyance contrary to the terms, goals, and intentions of the permit conditions issued by the United States Corps of Engineers and the Iowa Department of Natural Resources without the expressed written consent of the agencies.

Should grantee elect to dispose of these premises in the future, grantee acknowledges that these premises were acquired for highway purposes, and therefore any future disposal shall be in accordance with the IC in regard to the disposal of highway right of way.

#### 4.5 Intergovernmental Transfer of Jurisdiction and Control

The instrument to transfer jurisdiction of land to another state agency is an intergovernmental 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 agreements specify the duration of the transfer. If permanent, specify that it is permanent. If not, specify the duration for which it is effective.

The agreement indicates the monetary consideration, if any, and terms or conditions under which money or other consideration is to be paid.

Indicate the purpose for which the lands are being transferred and state who or what authority is to maintain the facility. The agreement is to be filed for record with the county recorder.

#### 4.6 Resolution of Abandonments

Abandonment of permanent easements is handled through the use of a resolution of abandonment. Internal recommendations are required. A resolution of abandonment is used when, in the opinion of the Iowa DOT, the described easement 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.

IC § 327G.77 and IC § 478.17 discuss responsibilities when abandoning easements. 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. Property Management 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.

The 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. IC § 327G.77(3) allows utilities on abandoned railroad right of way to remain in place subject to their purchase or condemnation of an easement from the property owner. IC § 478.17 gives utilities the right to enter and repair their existing power lines, but assumes that the utility has an easement or right to remain in the first place.

All resolutions of abandonment briefly state the circumstances leading to the request for abandonment, contain a description of the property, and include a plat.

The Right of Way director signs the resolution of abandonment on behalf of the Iowa DOT. The signature is notarized.

The original resolution of abandonment is electronically recorded in the appropriate county. The original recorded resolution is scanned and entered into ERMS.

#### 4.7 Granting 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.

Property Management is responsible for the processing of requests for easements. Internal recommendations and a plat and legal description 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.

Staff actions approving the conveying of easements are required for transactions in excess of \$25,000. Similar to the State Land Patent, the easement conveyance requires the attorney general's approval and the signatures of the governor and secretary of state.

#### 4.8 Flowage Easements

Flowage easements are conveyed by the Iowa DOT under the authority of IC § 306.39 and IC § 306.40. Flowage easements that are conveyed to the United States are submitted to the governor and the secretary of state for signature.

- Flowage easement request:

Requests are directed to the Executive Council under explanatory cover. Documents required include an original and one copy of an application to the Executive Council, an order directed to the governor, the original prepared but unsigned flowage easement, and one county or city map showing the location of the land for which the flowage easement is required.

- Preparation of application and order:

The application and order are prepared in a form. They must contain a complete description of the land, the subject of the request. Care should be taken to ensure that the authority by which the flowage easement is to be conveyed is set out. Any conditions as may be prescribed by the Executive Council are made a part of the flowage easement.

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.

- Cover letter

The cover letter contains:

- Reference to all attachments
- The name and address of the agency to which the flowage easement is to be granted
- A request to place the matter before the state Executive Council for its consideration and direction concerning to whom the flowage easement is to be sent

- Easement distribution

After receipt of the flowage easement, the following process concludes the transaction:

- The signed original flowage easement is recorded and placed on record
- The original executed flowage easement is sent to the agency to which the flowage easement is being granted
- A copy of the executed flowage easement is sent to the appropriate county auditor
- A copy of the executed flowage easement is sent to the appropriate district engineer, resident construction engineer, and district maintenance manager
- Property Management retains two copies:
  - One for the Records Center to be microfilmed, indexed, and made a permanent part of the Right of Way land title records
  - Property Management retains a copy in the flowage easement file

- Flowage agreements other than with the federal government

Sometimes cities, counties, or drainage/levy districts need to occupy and/or use portions of primary highway right of way for water control projects. Property Management 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.

- IC § 306.39 and IC § 306.40: Floodway easement agreement

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



## 4.9 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.

Property Management is responsible for providing the Office of Maintenance 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 Office of Maintenance 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 district is notified.

### 4.9.1 Disposal of Scenic Easements

If the scenic easement is no longer necessary, the easement may be disposed of as long as it is demonstrable that the disposal is in the best public interest or that retention of the interest is no longer necessary to carry out the purposes of the Highway Beautification Act. The person(s) requesting the disposal should provide market value for the disposal of the easement. The proceeds realized from the disposal or relinquishment, if for other than highway purposes, must be deposited into the Primary Road Fund.

## 4.10 Release of Patent Reservations and Restrictions

Property Management may be asked to consider requests by property owners to release restrictions placed on patents issued in the past.

Requests to remove mineral rights restrictions are reviewed by the Iowa DOT.

If the Iowa DOT has reserved a mineral right, it is necessary to patent the mineral fee. The present owner of the surface rights is given the opportunity to acquire the mineral right through a direct purchase for its appraised market value.

Requests for the release of patent restrictions are presented to the secretary of state in a manner similar to the making of an application for the original patent. The release is also recorded in the same manner as the original patent and attached thereto. The cover letter to the secretary of state explains the need for the release. The final document signed by the governor and secretary of state is on a release restrictive covenants form.

## 4.11 Land Sale by Contract

The Iowa DOT is authorized by IC § 306.22 to sell land through a real estate land contract with approval from management.

## Chapter 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 Property Management may manage these responsibilities through bidding contracts or onetime service provisions.

### 5.2 Responsibilities

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

- Property Management is responsible for acquired right of way from the time of possession until the construction contract letting.
- Property Management is responsible for the maintenance of excess right of way until the parcels are sold or disposed of by other means.

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

While properties are under the control of the Property Management Section, property managers are responsible for general maintenance and upkeep. Unless a demolition contract has been let by the Office of Contracts, the property manager coordinates the removal of all debris, junk, and other miscellaneous items from the property through private contractors. Vacant buildings may be secured by a lock box or by boarding up, and open excavations should be fenced.

### 5.3 Contracting for Maintenance Services

All maintenance work must be administered through the Property Management Section. The property manager determines any maintenance services needed and forwards that request, along with the necessary documentation, to the property management production coordinator. If the services are repetitive and necessary for an entire season up to one year, then the maintenance contracts are let through the Purchasing Section of the Office of Operations and Finance Division. The production coordinator gathers all information needed and determines if the requested maintenance service should be forwarded to the Purchasing Section for letting or entered into a miscellaneous service contract within the Property Management Section. Upon request of the production coordinator, the property manager provides a list of qualified local contractors to perform the contracted service. All contractors selected to provide services are required to provide the following:

- Form W-9 (which is provided to the Payment and Audit Section)
- Certificate of insurance
- Signed Purchasing Section contract or Property Management Section miscellaneous service contract

### 5.4 Maintenance Services

Seasonal mowing is a maintenance service or a service needed until such time as the highway

project is let for contract. Mowing services are bid and let through the Purchasing Section with the exception of onetime mowing projects. The mowing contract starts no sooner than May 1 and conclude no later than October 15. The contract requires no more than two mowings per month with at least twelve days between mowings. The mowing services defined in the contract require compliance with local ordinances for the contract area and are considered to be maintenance mowing. The contract provides that there are no charges for trimming, landscaping, debris removal, or equipment damages.

In the event that additional work beyond the scope of services identified in the contract 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).

Seasonal snow removal and ice control is a maintenance concern or a service needed until such time as the highway project is let for contract. Snow removal and ice control services are bid and let through the Purchasing Section with the exception of onetime snow removal and ice control projects. The public's safety in traversing the areas (sidewalks) covered in the contract is the primary concern for the property manager. The snow removal and ice control contract starts no sooner than November 15 and concludes no later than April 15. The property manager has discretion over authorizing snow removal and ice control events which occur outside of the contract period. All snow removal and ice control activities in this contract should be in compliance with local ordinances.

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.

## 5.5 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 enter into a miscellaneous maintenance contract 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 onetime occurrence, and a miscellaneous maintenance contract is administered by the property management coordinator.

Question 3: Does a potential contract bidder exist for service within the Iowa DOT accounts payable system? If yes, then the production coordinator obtains quotes from qualified contractors. If possible, a minimum of two quotes are obtained. If no, a search for qualified contractors is initiated.

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

Staff action: Iowa DOT Policy and Procedure No. 300.02 requires that transactions over \$25,000 be submitted for staff approval through a staff action. The property management supervisor is authorized to enter into agreements for amounts up to \$25,000. Whenever practical, cost quotes should be obtained from at least two firms or individuals for purchases of more than \$1,000.

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:

- The property manager manages the contract. Any concerns or complaints received are the property manager's responsibility to address.
- The property manager receives and approves 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 Payment and Audit for payment.
- Copies of the maintenance contracts are retained by the production coordinator, property manager, and the Payment and Audit Section in the Office of Right of Way.

Breach of contract is described in Item 10 of contracts let by the Purchasing Section and under Item 9 in the Miscellaneous Services Contract administered by the Property Management Section. If the property manager observes that a contractor is not performing to the specifications agreed, the property manager notifies the property management production

coordinator. The property management production coordinator notifies the contractor that they are in breach of the contract and if the concern is not addressed, the contract may be canceled. If the contract was let through the Purchasing Section, the property management production coordinator notifies the Purchasing Section and advises them of the breach of contract. It is understood that all services may be canceled at the discretion of the Property Management Section.

## 5.6 Expense Vouchers

Expenses for necessary costs are processed with a Universal Payment Voucher (Form 181001). Invoices are stamped and signed for approval by the property manager and the property management supervisor prior to the Payment and Audit Section processing the Universal Payment Voucher (Form 181001). After the Universal Payment Voucher (Form 181001) has been completed, the property management supervisor signs as the approval authority. The voucher is then forwarded to the Office of Finance.

## **Chapter 6 Administrative and/or Record Keeping Activities**

### **6.1 Purpose**

This section of the manual discusses how to finish the 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 Section maintains financial data that account for Property Management activities, such as reporting income vouchers 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 Vouchers and Long-Term Receivables**

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

Long-term receivables (LTRs) are prepared for rental income purposes. The LTRs are transmitted through the Office of Finance to make a cost account audit, ensuring proper credit is given to the appropriate project. The Property Management Section prepares and requests invoices from these LTRs for rental income on a monthly basis and requests delinquent invoices based on the monthly rental invoices. All rental income is posted to the lease accounting reconciliation ledger, and the lease accounting system database is brought up to date.

The Property Management Section forwards all checks or monies not originally sent to the Office of Finance. The Property Management Section prepares documentation and support data for miscellaneous income vouchers, performance and removal bonds, and sales tax. Income received from sales of miscellaneous items, buildings, and property, the value of which is included in the excess land inventory, is vouchered. Proceeds of these sales are identified by project and parcel numbers. The Office of Operations and Finance Division issues a receipt for all sale proceeds. The receipt is referenced on the income voucher or bill of sale. Copies of income vouchers and bills of sale are kept in the appropriate sale file.

#### 6.4 Property Maintenance and Expense Vouchers

Expenses are processed through a Universal Payment Voucher. Expenses may include maintenance costs, surveillance costs, publication, advertising, report of lien cost, and other normal and necessary property management expenses.

All such vouchers and accompanying payment support data are audited for cost accounting purposes by the Payment and Audit Unit of Property Management and for reimbursement purposes by the Office of Finance. Copies of all Universal Payment Vouchers are kept in the appropriate sale or lease file.

#### 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 is also kept. All original title instruments are scanned and indexed in the office's land title record system. All Property Management Section parcel files are retained in accordance with Iowa DOT policy.

#### 6.6 Statistical Reports

The Property Management Section provides reports, information, or statistical data as requested. Property Management receives requests from several sections within the Iowa DOT, the FHWA, other governmental entities, and the private sector.

## Chapter 7 Property Management Exhibits

### Property Management Exhibits

- 306.23 Offer to Buy Notification Letter
- Abutting Owner Offer to Buy Letter
- Certificate of Payment\_Request for Patent
- Easement Certificate
- Easement Ltr to Sec. of State 2014
- Easement-Utility Income Voucher PM 2014
- Environmental Covenant
- Income Deposit Form
- Intergovernmental Agreement & Transfer
- Municipalities Ltr
- Offer to Buy Abutting Owner & Municipality PM 2014
- Parcel Inspection Removal of Improvements
- Patent Format
- Patent of Easement
- Possession Warrant Cards
- Quitclaim Blank Form 2014
- Quitclaim Deed\_Wetlands Form 2014
- Real Estate Transfer\_Groundwater Hazard Statement 7-18-12
- Release of Restrictive Covenants
- Resolution of Abandonment PM 2014
- Secretary of State Letter
- Staff Action Recommendation for Land and Improvements
- Staff Action Recommendation for Land PM
- Staff Action Sale Narrative PM



## **Glossary**

### **A**

#### **Abandonment.**

1. The relinquishment of all rights and interests in real property without intention to reclaim. 2. A conveyance of a portion of a highway right of way or facility or governmental agency to another party.

#### **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.

#### **Acre.**

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

#### **Acquisition.**

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

#### **Adjacent owner.**

IC § 306.23 and IC § 6B.59 prescribe how excess land shall be disposed. The term "adjacent owner" is defined in those Code sections as the person(s) owning the remaining tract from which the property was originally acquired. 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.

**Appeal.**

The complaint to an appellate court of an injustice done or error committed by a trial or lower court whose judgment or decision the appellate court is called on to correct or reverse.

**Appraisal.**

The act or process of developing a value opinion.

**Appraisal process.**

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

**Appraisal report.**

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

**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.

**Assignment.**

The method by which a right or contract or property is transferred from one person to another.

**B****Borrow.**

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

**Borrow land.**

Borrow describes land necessary to provide fill material for the actual highway area. Borrows purchased in fee simple and held for borrow material to be used on a project are committed land until after the completion of the project, when they become noncommitted land. Borrow land that is acquired by easement is not placed on the inventory. Borrow lands are identified on the excess land inventory under the remarks section. Currently, the Iowa DOT requires all borrows to be furnished by the contractor.

**Breach.**

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

**Bridge.**

A structure of over 20-foot span.

**Broker.**

A person licensed to engage in real estate business.

**C****Closing statement.**

A listing of the debits and credits of the seller and buyer in the settlement of a real estate transaction.

**Code of Federal Regulations.**

A document that codifies all rules of the executive departments and agencies of the federal government.

**Committed land.**

This land may be described as land that is being held until the present highway project is completed or that is being held for future highway improvements. For example, the land may not be required for the current highway, but the land will be needed for an anticipated future expansion. Alternatively—for example, as in the case of a borrow—the land is required during construction activities, but after construction, the land will no longer be needed.

**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.

**Conditions, covenants, and restrictions.**

A list of uses and restrictions usually contained in the conveyance, to which property can or cannot be put. Commonly used by land subdividers.

**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.

**Cost.**

The total dollar amount necessary to create an improvement.

**Covenant.**

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

**Culvert.**

Any structure not classified as a bridge which provides an opening under a roadway.

**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.

**E****Environment.**

The sum of all external conditions affecting the life, development, and survival of an organism.

**Easements.**

When the Iowa DOT requires something less than fee ownership, an easement may be acquired. An easement is a right to use property only for a specified purpose. Easements may be permanent or temporary acquisitions.

**Eminent domain.**

The right or power of public and quasi-public agencies to take private property for public purposes without the owner's consent on payment of just compensation and following due process of law.

**Estate.**

A right or interest in property.

**Eviction.**

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

**Excess land.**

Excess land is simply 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 is also often acquired under the assumption that it would never be used as highway right of way and can be purchased with or without Federal-aid participation. The determination to acquire excess land may be made during the acquisition process for a number of reasons.

**Excess land determination form.**

This form is also known as an "excess land plat." Excess land should normally be identified through an Excess Land Determination Form. This form originates in the Right of Way Design Section and a copy is sent to Property Management. The form should indicate if federal funds were used to purchase the excess land. The Right of Way Design Section records and plats the acquisition of excess land by quantity and location. After acquisition, Payment and Audit (within the Property Management Section) codes or audits coding for payment and for cost accounting. The excess land is then entered in the inventory, payment is provided, and Property

Management obtains possession of the parcel. For a number of reasons, an excess land determination form may not be available at the time of acquisition. When the final project plans are available, the property manager will need to request a completed form from the Design Section.

**Executor.**

A person designated in a will or appointed by the probate court to carry out the terms of a will.

**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; and
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 or acquired in fee.**

"Fee" describes exclusive ownership of real property. All of the owner's property rights have been acquired. The Iowa DOT may sell the property upon disposal and convey the ownership rights. Title is acquired through a warranty deed or condemnation of a fee simple interest.

**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.**

1. 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.**

1. The earth's surface. 2. In an economic sense, one of the agents or factors in production. 3. In a legal sense, the solid part of the surface of the earth, as distinguished from water.

**Land contract sale.**

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.

**Lessee.**

The party to who 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.

**Legal description.**

A method, acceptable in court, which geographically locates property.

**License.**

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

**Lien.**

A hold or claim that one party has on the property of another (e.g., security for a debt or a charge, judgment, mortgage, tax, etc.).

**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****Market.**

1. The place where people interact to sell and buy. 2. The area in which buyers and sellers of a commodity are in communication with each other.

**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; and
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.

**Miscellaneous lands.**

These are properties that were not acquired as part of a highway project—for example, maintenance sites and material pits. When these types of properties are disposed, the sites are placed on the excess inventory and then removed after disposal.

**Mitigation.**

Measures taken to reduce adverse impacts on the environment.

**N****Negotiation.**

The primary method used to acquire property. The process by which two or more people resolve differences to reach a mutually acceptable agreement.

**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.

**Parcels acquired with federal funding.**

The land inventory shall identify those lands acquired with federal funding.

**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.

**Permanent easement.**

Often, the Iowa DOT acquires a permanent easement over property. Examples of permanent easements are ones used for highway purposes or to construct and maintain a structure. Easements may be abandoned, terminated, or transferred as part of highway right of way to another governmental agency.

**Personal property.**

1. Property that is movable. 2. Property that is not permanently attached to, or part of, the 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).

**Portfolio.**

A collection of like assets.

**Prescription.**

The right to use the property of another, which is established by exercising this right over a period of time.

**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.

**Prorate.**

To allocate between buyer and seller their proportionate share of an obligation or interest paid; for example, a proration of real estate property taxes.

**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).

### **Relinquishment.**

1. The release or quitclaim of an easement to the underlying fee property owner. 2. The conveyance of a portion of a transportation facility from a state transportation facility to another government agency for transportation purposes.

### **Relocation assistance.**

Advisory and financial aid assistance to residential occupants, businesses, farms, and nonprofit organizations displaced by a public program or project under the Uniform Act.

### **Remainder.**

The portion of a parcel that is retained by the owner after a partial taking.

### **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.**

An easement for conservation and development.

### **Site.**

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

### **Specifications.**

A general term covering all directions, provisions, and requirements contained within a specifications manual.

## **T**

### **Take.**

The acquisition of property.

**Taking.**

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

**Temporary easement.**

These easements acquire the right to use land for a specified purpose for a specified time. For example, the right to construct a sidewalk and the easement terminates upon completion of the construction.

**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.

**Title search.**

An investigation of public records and documents to ascertain the history and present status of title to a property, including ownership, liens, charges, encumbrances, and other interests.

**U****US Army Corps of Engineers**

A federal agency with the mission to provide engineering services related to the nation's water resources, army and air force facilities, and other defense and federal agencies.

**Uncommitted land.**

Land not being held for highway purposes that can be disposed of.

**V****Valuation.**

The process of developing a value opinion.

**Value.**

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

**Venue.**

The location of a judicial action, hearing, or proceeding.

**W****Warranty deed.**

A deed warranting that the grantor has a good title free and clear of all encumbrances and will defend the grantee against all claims.

**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.