

ORANGE COUNTY SANITATION DISTRICT ("OC SAN")
RELINQUISHMENT AND DISPOSITION PROCEDURE
REGARDING EXCESS EASEMENT INTERESTS IN REAL PROPERTY

In the event that OC San determines that an easement interest in real property owned and held by OC San is no longer necessary for its use (i.e. for access, maintenance and operation of a facility) after conducting an investigation of the easement interest, it may be made available for OC San to sell the easement to the underlying or adjacent property owner or to a public agency. Priority is given to public agencies. A direct negotiated sale based on current appraised fair market value to an underlying or adjoining property owner may be accomplished in accordance with the procedures outlined below. Relinquishments and sale of real property interests must be done in accordance with all applicable rules, laws and regulations, including California Health & Safety (H&S) Code Sections 4700 et seq., more particularly H&S Code Sections 4730.65, 4730.66, 4740 4743 and other laws applicable the disposition of land. The procedures outlined below does not apply to fee interests owned by OC San.

Requests for relinquishment of excess land, in particular, an easement interest, by or on behalf of the underlying or adjoining fee interest real property owner, may be considered pursuant to the process outlined below and by submission of an offer to purchase the easement interest(s) through the online portal discussed below.

A. Statutory Authorities – Disposition of Real Property Interests.

The Orange County Sanitation District was established pursuant to the County Sanitation District Act (California Health & Safety (H&S) Code Section 4700 et seq.), and more particularly H&S Code Sections 4730.65, 4730.66 4740 and 4743. Pursuant to H&S Code Section 4743, OC San *"may sell, lease, or otherwise dispose of any property of the district or any interest therein whenever it is no longer required for the purposes of the district, or when its use may be permitted without interfering with its use by the district."*

B. Online Portal.

1. OC San will or is creating an online portal (the "Portal") where homeowners can submit an application to have OC San relinquish easement(s) burdening their properties. Upon such submission, OC San shall follow the policies and procedures outlined herein.
2. OC San is separately establishing a website whereby homeowners can check whether their property is burdened by an easement, an encroachment agreement or both. The website will include a search engine whereby users can access recorded OC San easement documents associated with their property address.

C. Correspondence.

The Portal shall have a communication function allowing users to communicate

directly with OC San regarding outstanding requests for relinquishments.

1. Receipt of Request. Once an offer or request is received, OC San will determine if the easement is excess to OC San's needs and uses.
2. OC San will evaluate real property interest requested to be relinquished to determine if the interest is no longer needed for OC San purposes and provide a recommendation on whether the request should be further processed.
3. When a recommendation to further process the request has been made, OC San will:
 - a) Request applicable survey, valuation of interest, and any other pertinent actions to facilitate the transaction.
 - b) Commence negotiation and preparation of the agreement terms for the conveyance or quitclaiming of the easement.
 - c) Submit the Agreement for the purchase and sale of the real property interest to the General Manager where the payment for said relinquished easement does not exceed One Hundred Fifty Thousand Dollars (\$150,000.00). Any Agreement for the purchase and sale of the real property interest where the payment for said relinquished easement exceeds One Hundred Fifty Thousand Dollars (\$150,000.00) must be submitted to the OC San Board of Directors for approval.
4. If the easement interest is determined to be excess and the request is recommended for further processing, OC San will require the interested party to deposit a minimum of \$500.00 (the "Deposit") for cost reimbursement to OC San to further process the sale and relinquishment of the easement.
5. Receipt of the Deposit (to cover costs incurred by OC San) is required. The Deposit must be received by OC San before further processing of the relinquishment request is undertaken.

D. Excess Land Evaluation And Investigation.

Evaluation must be undertaken of the property interest, the reason for the disposition of the property interest, the reason the property interest is no longer needed for OC San's use or purposes, the reason why the retained property interest is adequate for the facility and use, under current standards, and any additional background information, to establish written finding to support the excess easement declaration. In addition, an evaluation will be considered if there any reservations or exceptions that need to be assumed by the buyer or relocations of property interests instead of relinquishment.

NOTE: A case-by-case consideration must be made on whether the California Surplus Land Act (the “Act”) applies to a particular situation. The general rule is that disposition of surplus land, land owned in fee, by a local agency is subject to the Act unless a statutory exemption applies to the disposition. If a particular situation is determined to be subject to the Act and is eligible for an exemption under the Act or other express statutory basis, then the procedure in Section F.1. below must be followed.

E. Costs and Timeframes.

The requesting party/buyer of the easement is responsible for paying for all costs associated with the purchase and sale, which includes staff costs, administrative costs and professional services costs. Due diligence must be completed to accurately identify the property interest and its present use by OC San.

1. A survey may be required, at the buyer’s cost, to determine the exact size and dimensions of the easement. A legal description and plat map must be provided to OC San.

Timeframe for survey work: 5-7 weeks

2. Other environmental or statutory reviews (i.e. CEQA and Surplus Lands Act) may be required at the buyer’s cost and expense.

Timeframe: Varies, a minimum of 9 months.

F. Valuation and Timeframes.

As part of the due diligence, valuation of the interest must be established. Valuation of easement is established by conducting an appraisal based on state guidelines (or federal if applicable). An appraisal must be done on behalf of OC San, at the buyer’s costs and expense, by an OC San approved appraiser. The inquiring party must pay for the appraisal report on OC San’s behalf and names OC San as the client. This is to establish the purchase price amount for the interest(s) to be relinquished and conveyed. OC San will procure the appraiser pursuant to its standard procurement policies. OC San will provide to the selected appraiser information about the easement to be appraised and the rights to be conveyed by OC San. The appraiser determines the fair market value of the easement and provides the appraisal report to OC San for its review.

Timeframe: 7 weeks

G. Preparation and Processing of Documentation.

The documents for the excess declaration, purchase, sale and relinquishment of the easement will be prepared if OC San determines that the easement interest can be relinquished and after Buyer provides confirmation that it will purchase the easement interest.

1. IF IT HAS BEEN DETERMINED THAT THE SURPLUS LAND ACT IS APPLICABLE, then a declaration of exempt surplus land by Resolution shall be made by OC San's Board of Directors. A Declaration of Exempt Surplus Land Resolution must be submitted to the California Department of Housing and Community Development (HCD) at least thirty (30) days before disposition when surplus land is deemed as exempt under the Surplus Land Act and supported with written findings. (i.e. under Section 54221(f)(1)(E), surplus land is exempt that is a former street, right of way or easement, and is conveyed to an owner of the adjacent property). A draft of the resolution should be sent to HCD for a preview. HCD requires at least 30 days to complete the review.
2. A Purchase and Sale Agreement between OC San and the Buyer and conveyance documents will be prepared and finalized for execution. OC San's Board of Directors ("Board") will be notified of entry into the Agreement.

Timeframe: minimum of 6 weeks for preparation of and finalizing the documents
3. Where the payment for said relinquished easement exceeds One Hundred Fifty Thousand Dollars (\$150,000.00), a Resolution and Board Agenda report regarding the approval of the Agreement are prepared and submitted to the Board. The approval process generally takes one action by the Board; however, some situations may warrant taking at least two Board actions to complete the relinquishment process.

Timeframe: 8 weeks for approval of the documents

H. Closing Actions.

After the Agreement is fully executed, escrow is opened and closed for the purchase and sale of the easement within the timeframe provided in the Purchase and Sale Agreement.