

- Should be native to the area and long lived
- Should provide for landscaping that is relatively maintenance free
- Can provide a living screen that may be used in conjunction with a fence or wall
- Must be watered, cultivated, or mulched and given any required maintenance including spraying for insect control, to keep the planting material healthy

The owner must remove dead plant material immediately and replace it during the next spring or fall planting season. The replacement plants must be at least as large as the initial planting.

The owner may consider earthen embankments for screening such as berms or mounds. After grading, the owner must landscape the area to maintain a natural environmental appearance.

Embankments may be used in conjunction with fences and plant materials.

#### **9.8.4 Screening Determination.**

The regional ROW Section must prepare a determination on each site to determine that the site is feasible to screen as follows:

- Will the owner or operator screen the site by a given date?
- Will DOT&PF have to screen the site and bill the owner or operator?
- What action should DOT&PF take?

If the site is not feasible to screen, recommend what action DOT&PF and the owner should take.

#### **9.9. Excess Land (Resulting from a Highway Project) Management and Disposal**

Disposal of excess land acquired for an FAA project is covered in chapter 10 of this manual.

Excess land (also referred to as excess ROW), for the purpose of this section, is defined as land or interest therein that is no longer required for DOT&PF's needs or the discharge of DOT&PF's responsibilities. Excess ROW may result when one or more of the following applies:

- An entire property is acquired or it is acquired to a logical boundary to avoid severance damage to a remainder;
- An uneconomic remainder is acquired
- There is a modification or termination of the project after property is acquired
- A section of highway is superseded by construction in a new location, and the old portion is removed from the federal-aid system
- A section of highway is removed from the state-maintained system and DOT&PF's interest is conveyed to the successor
- Real property, or interest therein, was acquired by or transferred to DOT&PF through inadvertence or mistake in connection with a highway purpose (see [17 AAC 05.020](#)).

If an entire property is acquired (or acquired to a logical boundary) or if an uneconomic remainder is acquired, the ROW pre-audit unit must furnish the property manager with a copy of the purchase voucher at the time of acquisition of known excess land, together with the [Notice to Relocation and Property Management \(90-Day Notice and/or Excess Land \) \(Form 25A-R245\)](#).

Statutes and regulations governing land disposals are set out in [AS 38.05.030](#), [17 AAC 05.020](#), and [17 AAC 10](#), specifically dealing with the following:

- Reversions to DNR and Municipality Entitlements under [AS 38.05.030](#)
- Disposal of erroneously acquired real property under [17 AAC 05.020](#)
- Land disposal at [17 AAC 10](#)
- Disposal by negotiated sale to an adjoining property owner at [17 AAC 10.105](#)
- Disposal by competitive sale at [17 AAC 10](#)
- Disposal through brokers at [17 AAC 10](#)
- Land exchanges at [17 AAC 10](#)
- Conveyance documents at [17 AAC 10](#)
- Land outside of right-of-way limits at [17 AAC 10](#)

- Appeals at [17 AAC 10](#)
- Definitions used in the regulations at [17 AAC 10](#)

### 9.9.1 Inventory and Control

If property is excess, complete the [Property Management Land Inventory form \(Form 25A-R995\)](#). Maintain appropriate land inventory records.

As part of the management of these lands, make periodic inspections throughout the region to determine if any of these properties are excess property that should be disposed of under Section 9.9.4 of this manual. If an inspection reveals that any property is illegally occupied, notify the occupant that they must vacate the property or apply for an encroachment permit.

### 9.9.2 Requests for Disposal

When a request for the disposal of excess property is received by DOT&PF, the regional chief ROW agent should request the applicant to complete an [Application for Disposal of State Land and Relinquishment of Land Interests \(Form 25A-R992\)](#) and submit it to DOT&PF. When the completed application is received, the property manager will start a [Checklist for Processing Excess Property Disposal Applications \(Form 25A-R993\)](#) and use the form throughout the process.

### 9.9.3 Determination of Need

Before disposal of any property, consult the various sections within the region (Design, Planning, Maintenance, etc.) to ascertain if there is any foreseeable need for the property. If so, consider permitting the non-DOT&PF use of the land rather than disposing of the property. If there is likely to be any adverse effect, permitting may not be allowed.

Consider for permitted uses only those lands that are to be used by DOT&PF in the foreseeable future. Consider all other excess lands for disposal as promptly as possible in accordance with [17 AAC 10.100 – 17 AAC 10.130](#).

### 9.9.4 Methods of Disposal

If land or rights in land are excess to DOT&PF's needs, the regional chief ROW agent must determine whether the land has a potential use for parks, conservation, recreation, or a related purpose. If it does, the regional chief will notify each appropriate federal, state, and local agency. To facilitate notification, the regional office should maintain a list

of agencies responsible for developing such uses. If no agencies are interested in developing the land for parks, etc., DOT&PF may dispose of the land by one of the following methods, some of which have additional regulatory requirements such as issuing public notice:

- If the land is being sold, prepare a [Commissioner's Quitclaim Deed \(Form 25A-R996\)](#).
- If an easement was acquired and the rights are being vacated, prepare a [Commissioner's Deed of Vacation \(Form 25A-R 997\)](#).
- If the property was acquired through inadvertence or mistake, depending on the type of title acquired, prepare a [Commissioner's Quitclaim Deed \(Form 25A-R996\)](#) or a [Commissioner's Deed of Vacation \(Form 25A-R 997\)](#).
- If the land was acquired from DNR or another state agency by Interagency Land Management Assignment/Transfer (ILMA or ILMT), prepare a [Commissioner's Quitclaim Deed \(Form 25A-R996\)](#). This formalizes the transfer and requires a comprehensive review process.
- If the land was acquired from a federal agency with a reversionary clause, notify the agency that DOT&PF no longer has a need for the property, and request the appropriate means of transferring the property back to the federal agency.
- If a section of roadway is being transferred to a municipality for continued use as a public road, prepare a [Commissioner's Deed of Relinquishment \(Form 25A –R999\)](#). See Section 9.9.9 of this manual regarding road transfers.

Send FHWA an informational copy of the disposal document.

### 9.9.5 Request for Authority to Appraise and Dispose of Excess Property

Prepare the [Disposal](#) for the regional chief ROW agent's signature. The regional chief then requests authority to appraise and dispose of the excess land by memorandum to the regional director, accompanied by the certification.

If federal funds participated in the original purchase, direct the request through the director to the federal agency involved, unless FHWA is the agency. If FHWA is the funding agency, approval of the disposal is not required, but send an informational copy of the DOT&PF approval to the FHWA Division Administrator (see Oversight Agreement).

### 9.9.6 Disposal of Access Control

Access control is a property right considered part of the highway ROW, and it must be disposed of in the same manner as any other property right. If a portion of any access control on a federal-aid highway is to be disposed of, it requires prior approval by FHWA.

### 9.9.7 Sale of Structures and/or Excess Land on a Federal-Aid Highway Project

Receipts from the sale or rental of excess property obtained with federal-aid funding must be used for transportation purposes.

#### Revenue Coding for the Sale of Structures and/or Excess Land

Code revenue from the sale of structures, excess land, or a combination of both to the designated program receipts as shown below if the structure or land was purchased with state funds.

Code revenue to designated program receipts if the structure or land was purchased with federal highway funds and the highway project is closed. Section 2.9.8 of this manual has coding instructions for these projects, including showing that revenues were used for Title 23 projects.

If the sale occurs while the federal project is still open, code the revenue to the federal project collocation code and ledger code and unrestricted revenue account.

For FAA projects, the federal participating share of the sale in all situations **must** be returned to the original project. (For more information, see the DOT&PF Financial Management Operations Manual, FMOM 04.40.030/FMOM 05.20.130).

FAA has agreed to allow federally-eligible participating expenditures (actually belonging to closed projects) to be coded to currently active federal projects with the same participating rate/ratio.

The coding is as follows:

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#### Unrestricted Revenue Coding (Federal funding)

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Collocation Code	Federal-aid project
Ledger Code	Federal-aid project
Account Code	65346

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#### Restricted Revenue Coding (State funding)

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##### Central Region:

Collocation Code	25871859
Ledger Code	38000202
Account Code	*

##### Northern Region:

Collocation Code	25000289
Ledger Code	34000918
Account Code	*

##### Southeast Region:

Collocation Code	25060580
Ledger Code	34100800
Account Code	*

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\*55507 – [Commissioner's Quitclaim Deed \(CQD, Form 25A-R996\)](#); [Commissioner's Deed of Vacation \(CDV, Form 25A-R997\)](#), and [Commissioner's Deed of Relinquishment \(CDR, Form 25A-R999\)](#).

### 9.9.8 Appeals

No appeal is available if DOT&PF determines that a parcel of ROW is not excess and is not available for disposal.

### 9.9.9 Road Transfers

Road transfers occur when DOT&PF and another government agency (federal, state, or local) agree that it is mutually beneficial to formally transfer ownership and control for a road or section of road from DOT&PF to that agency. To formalize the transfer, a Memorandum of Understanding (MOU) is entered into between the two agencies, setting out the conditions and responsibilities of each party necessary to effect the transfer. The MOU also sets out the design life of the latest construction project for local, rural minor collectors, or TRAAK (Trails and Recreational Access for Alaska) projects.