

<h1>POLICY MANUAL</h1>	Date Adopted: April 22, 2015
Classification: PROGRAMS	Date Last Amended: 8/28/2024
Subject: Sale of Excess Land and Recovery of Costs	Approved By: <i>Peter Sanchez</i>

I. Background

The District may sell real property that it deems to be "surplus." The Surplus Land Act (SLA) requires all local agencies, when disposing of surplus land, to make written offers to sell or lease the property to certain groups for affordable housing or other identified purposes. The SLA was originally enacted in 1968 but has since undergone numerous amendments and clarifications in case law, with some of the most significant amendments occurring in 2019.

II. Purpose:

The purpose of this Policy is to provide opportunity for the disposition of excess District property, without increase in public cost, i.e.: avoiding duplicate public expense for analysis, engineering, design, staff time, appraisal fees, legal fees, escrow fees, etc., which are necessary for the transfer of the property, to the extent feasible and consistent with the SLA.

III. Policy:

A) When the District is contemplating disposing of property that it deems excess, it

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shall comply with all applicable provisions of the SLA and all other State laws.

When the District is contemplating interest from an outside party to acquire excess property owned by the District, the District shall require the proponent to submit a proposal and deposit funds with the District, or otherwise guarantee payment, to pay all costs associated with analysis and disposition of the property. Such costs include, but are not limited to, staff time, material costs, and outside legal and consultant fees. District staff shall estimate costs associated with such proposals and the proponent shall deposit with the District that amount in advance of commencement of any such work by the District or consultant, the terms of which shall be set forth in a prior written agreement executed by the proponent. District staff shall comply with all applicable provisions of the SLA and Housing and Community Development (HCD) guidelines.

- B) Proposals submitted by other public entities and/or non-profit organizations, when determined by the General Manager that such proposals will result in additional benefits to the District, or general public, consistent with the objectives and purposes of the District are exempt from the deposit requirement.

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IV. Definitions:

- A. Dispose – either of the following: (i) the sale of Surplus Land; or (ii) entering into a lease for Surplus Land, which is for a term longer than 15 years, inclusive of any extension or renewal options included in the terms of the initial lease, entered into on or after January 1, 2024.
- B. Excess District Property – real property owned by the District and declared by the District’s Board of Directors as Surplus Land or Exempt Surplus Land at a regular public meeting, if applicable, supported by written findings.
- C. Exempt Surplus Land – Surplus Land that meets an exemption under the SLA.
- D. HCD – the California Department of Housing and Community Development and is charged with administering the SLA on behalf of the State of California.
- E. Surplus Land – land owned by the District in fee simple which is no longer necessary for the District’s use, or as otherwise defined by the SLA.
- F. Surplus Land Act – The law governing the disposition of land owned by local agencies in Government Code section 54220 et seq., as may be amended from time to time, and pursuant to HCD guidance.

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V. Procedure:

- A. Prior to the District initiating any work on the disposition of Surplus Land initiated by an outside party, the proponent must submit to the District a written proposal describing the property to be acquired, and must receive written conceptual approval of the District’s participation.
 - i. The District General Manager or their designee shall have the authority to give conceptual approval of sale of Surplus Land proposals that meet District criteria and are Exempt Surplus Land as defined in the SLA. The District shall ensure that notice of the Exempt Surplus Land determination is publicly noticed pursuant to the SLA, if applicable, and that notice of the exemption shall be submitted to HCD at least 30 days before the disposition of the land.
 - ii. If the excess property is not defined as Exempt Surplus Land in the SLA, conceptual approval shall be presented to the District Board of Directors for review and approval or disapproval.
- B. Prior to disposing of the Surplus Land or participating in negotiations to dispose of that property with a prospective transferee, the District shall issue a written notice of availability to all entities required by the SLA and HCD guidelines.

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- C. Parties have 60 days to respond to the notice of availability with a written proposal to the District.
- D. The District shall negotiate in good faith with any responsive parties for 90 days.
- E. The District reserves the right to impose any reasonable terms and conditions on the disposition, including but not limited to requiring an affordability covenant on the property as part of the disposition, as may be required by the SLA or HCD guidelines.
- F. Prior to the District initiating work on a proposal subject to this Policy, the proponent must enter into a written agreement and deposit an amount determined by the General Manager or their designee necessary to cover the estimated District expenses to effect the disposition of the Surplus Land. As work progresses, the proponent shall promptly deposit additional funds as necessary to maintain a positive deposit balance.
- G. The District shall provide an accounting of the expenditures to the proponent as determined appropriate by the General Manager or their designee. Reimbursements received for District staff time and for outside service providers shall be deposited to the District's General Fund. Once work is completed or the

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proposal terminated, any unexpended funds deposited by the proponent shall be returned to the proponent.

H. The District retains the right to terminate work at any time. Termination of work on a proposal is not a basis for refund to the proponent of expended funds, and no refund shall be made for such expenditures without the approval of the District Board of Directors.

I. All work is undertaken at the risk of the proponent and no warranties are made, or obligations, or liabilities assumed by the District as to the outcome of the analysis.

J. To the extent practical, the District shall encourage the proponent to secure its own analysis of the property by qualified professionals for presentation to the District for review and consideration at the proponent’s sole expense and risk. Acceptance of such work will be at the sole discretion of the District.

K. Regular District service program work, services and responsibilities shall be given priority over proposals undertaken pursuant to this Policy.

L. Prior to agreeing to the terms of the disposition of the Surplus Land, the District shall provide notice of the proposed disposition and all relevant information to HCD pursuant to the SLA and HCD guidelines. The District reserves the right to

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cancel or terminate any proposed disposition that is not approved by HCD and shall return any portion of the deposit that has not been expended pursuant to this Policy.