

Oregon Parks and Recreation Commission

April 22, 2025

Agenda Item:	5a	Action
Public Comment Allowed:	Yes	
Topic:	Real Property Policy – PRP.010.000	
Presented by:	Matt Rippee, Deputy Director Field & Community Services	

Background:

Oregon Parks and Recreation Department (OPRD) fulfills its mission through strategic, thoughtful real property acquisitions, dispositions and exchanges to ensure that the property portfolio provides public benefit to the state park system, its visitors, and the citizens of Oregon.

In June 2023, the OSPRC adopted the Real Property Acquisition Policy (OPRD Policy # PRP.010.000). The purpose of this policy is to provide the Oregon State Parks and Recreation Commission (OSPRC), OPRD staff, and interested stakeholders with overview of the criteria and process by which real property decisions are made, specifically for property acquisition and exchange. The policy related to property disposition, Surplus Land Disposal (OPRD Policy # PSP.170) was last published in November 1991.

In an effort to update this important information and streamline agency policy, the department is proposing incorporating disposition criteria and language into the existing Real Property Acquisition Policy which would be renamed to: Real Property Policy. The DRAFT disposition criteria reflect not only an inverse of the acquisition criteria but include key language that would need to be met in order to justify removal of a property from the OPRD portfolio.

Prior Action by Commission: Adopted PRP.010.000 – June 2023

Action Requested: Action

Attachments:

- DRAFT Real Property Disposition Policy

Prepared By: Matt Rippee



Real Property Policy

PRP.010.000

<p>Policy Owner Procurement and Real Estate Services</p>	<p>Effective Date</p>	<p>Supersedes PSP.170, PSP010, COM 10-4</p>
<p>Reference/Authority ORS 390.121 OAR 736.019</p>	<p>Review Interval 3 years</p>	<p>Page Number Pages 1 of 10</p>
<p>Approved Signature Lisa Sumption, Director</p>		

Overview

Policy Summary Statement

Oregon Parks and Recreation Department (OPRD; the department) fulfills its mission through strategic, thoughtful real property acquisitions, exchanges and dispositions to ensure that the property portfolio provides public benefit to the state park system, its visitors, and the people of Oregon. The purpose of this policy is to provide the Oregon State Parks and Recreation Commission (OSPRC), OPRD staff, and interested stakeholders with overview of the criteria and process by which decisions are made.

Goals

Oregon is fortunate when it comes to outdoor recreation and heritage. We have an abundance of special places that capture our hearts and fire the imagination, like the Oregon Coast, which was protected for the benefit all people through a landmark law more than 50 years ago. We have people who hold our history and pre-history in high regard. Oregonians proved it when they voted twice to dedicate Lottery funding for parks and heritage. We have leaders who choose to protect the public investment in these traditions.

Agency wide, the department pursues its mission through three broad goals:

“To take the long view to protect Oregon’s special places and provide the greatest experience while creating stable future funding.”

1. **Protect Oregon’s Special Places.** Policymakers and Oregonians take action to protect priceless places in Oregon. OPRD builds on that legacy by maintaining and improving parks and community heritage programs.
2. **Connect People to Meaningful Experiences.** OPRD invests in well-trained people to deliver outdoor recreation and heritage experiences, and by leading others to work cooperatively to meet Oregon’s total recreation and heritage needs. Key to success is making sure all people feel equally welcome to tap into these experiences.
3. **Take the Long View.** As we build and maintain parks and protect Oregon heritage, we balance the needs of today with the need for longevity. Not only do we need to conserve resources by using sound methods of construction and maintenance, but we also must find ways of stabilizing revenue and improving agency governance and administration.

Background

OPRD is a large land owner and is frequently involved in real property transactions as it seeks to fulfill its mission of providing recreation opportunities, preserving culture, natural resources and scenic values, and ensuring public access to its sites. The department works with many landowners, and each situation is unique. Transactions can carry a large price tag, and by virtue of operating in the public environment, the department's decisions are subject to intense public scrutiny. The first OPRD acquisition policy was developed in 1991, and the last update was done in 2011. The most recent version of the OPRD disposition policy is from 1991.

Policy Provisions

Definitions

Acquisition: Obtaining title to real property or any right or interest therein, or an interest in timber or other assets, by purchase, agreement, donation, exchange, gift, devise, or by exercise of eminent domain.

Eminent Domain: The power to take private property for public use following the payment of just compensation to the owner of that property. The government takes private property through condemnation proceedings.

Exchange: The simultaneous, mutual transfer between willing parties of one or more interests in land, timber, other assets of equal value, or any combination thereof.

Disposition: Removing real property from designation as state-park-managed property. OPRD may choose to dispose of real property via transfer, exchange, or sale.

Non-Essential Lands: OPRD working term for “endowment property”, which is defined as OPRD-owned land having no known outstanding resources or recreational values to support the state park system mission and role (OAR 660-034-0010(5)).

Other assets: Cash or forms of consideration other than land or an interest in timber, including but not limited to access rights, mineral rights and water rights.

Real property: Land and any structures that are affixed to land; also includes property rights and interests such as water rights, timber, gas, minerals, airspace, and easements.

Third party: Any person or entity other than the department or the owner(s) of property that is the subject of an acquisition or exchange.

Overwhelming public benefit: An OSPRC determination in the approval of an externally proposed property exchange that accounts for the natural, scenic, cultural, historic, recreational, and operational benefits of a proposal that are likely to be above and beyond the monetary value of the exchange.

Policy Statements

The department shall:

1. Use due diligence and sound real estate principles when acquiring, exchanging or disposing of real property.
2. Only make land acquisitions, dispositions or exchanges with the approval of the OSPRC.
3. Comply with all federal, state and local laws.
4. Promote transparency and accountability by ensuring the fiduciary responsibility in the use of public funds is of foremost importance.

5. Conduct real property transactions in an atmosphere of openness, honesty and integrity with buyers and the public. Exercise confidentiality of such transactions when it serves the public interest or to avoid harm to private citizens' interests and is within our expressed statutory authority to do so.
6. Balance the need for access to public open space with concern for loss of local tax revenue and private economic opportunity.
7. Seek to purchase from willing sellers as the preferred method of buying land.
8. Exercise the greatest of restraint in using the power of eminent domain, consistent with the spirit and intent of the laws authorizing such power.
9. Request OSPRC approval to acquire, dispose, or exchange department lands. However, if OSPRC has granted approval for park development, which includes utilities to service only OPRD lands, additional approval to enter into an agreement for these services may not be required.

Acquisition

1. The department will engage in acquisition practices that serve the department's purpose and public's interests.
2. The department will follow procedures described in OAR 736-019-0060, Criteria for acquisition.
3. Criteria for considering property acquisitions are derived by viewing real estate opportunities through the following considerations:
 - a. **Mission Impact:** Areas of outstanding natural, scenic, cultural, historic and recreational significance for present and future generations. Considerations include acquisition that would improve the department portfolio by adding properties with these attributes:
 - i. Properties that have recreational, natural, scenic, historic, or cultural attributes not currently represented in the state park system.
 - ii. Properties with stable partners who manage or are capable of managing properties that embody these values.
 - iii. Resource-rich properties that benefit the human experience; rather than by preserving lands and waters by excluding people.
 - b. **Strategic Objective:** Acquisition is consistent with long-range planning, enhances existing areas or strategically leverages replacement lands or funding. Considerations include:
 - i. Property consistent with priorities stated within a Park Master Plan or other plan adopted by the OSPRC (SCORP, statewide trails plan, Park System Plan, etc.)
 - ii. Acquisitions that buffer existing properties, resolve management or legal issues or provide replacement lands anticipating the wholesale loss of parks.
 - iii. Acquisitions that position the department to extend or improve public service in the face of changes wrought by human development, climate change, and major environmental events like earthquakes, tsunamis, volcanic eruptions, floods, and wildfire.
 - iv. Property that enhances access in identified underserved areas of the state or may contribute to reduction in overcrowded areas.
 - c. **Urgent Opportunity:** Agency is able to remain flexible when a pressing or unique opportunity arises. Considerations include:
 - i. The owners' ability to commit to a sale and allow the department time to secure funds.

- ii. The likely outcomes if the department is unable to acquire the property. E.g.: Loss of significant potential resource (natural, historic, etc.) or property access.
 - iii. Willing partners available to secure the site if the department is unable to work fast enough to acquire or have the adequate funding. This may include a partner who could hold the property until the department can acquire.
- d. **Engagement:** Responds to changes in public demand including local community impacts. Considerations include:
- i. Acquisition, subsequent development and operation as state park land is feasible in terms of local community support, staffing and anticipated visitation.
 - ii. The department is ready to commit development and management resources to provide tangible public benefits through access or by some other means, once acquired.
 - iii. Evaluation of known or anticipated local community impacts, both positive and negative. Long-term public benefit outweighs near-term considerations.
 - iv. The acquisition would create an access or experience for an under-represented population.
4. Properties deemed not suitable for acquisition by the department, will be evaluated for potential referral to partners. While a parcel may not reach a level of statewide significance it may be an outstanding historical, local or regional resource. The department will make connections when possible and encourage proponents to seek other options.
5. The department shall apply all elements of the practices of acquisition to any exchange or disposition of department land. See PRP #030.000: Property Disposition Policy for additional details.
6. **For exchanges initiated by the department**, the following provisions also apply as described in OAR 736-019-0070(2). The department shall:
- a. Identify for the OSPRC the reasoning and justification for an exchange based on the department's mission, strategies, objectives and work plan;
 - b. Consult with Tribes, local governments and communities; and
 - c. Initiate exchanges only if there is a significant benefit to the department. (e.g. adding adjoining properties, improving access, resolving in-holdings, adjusting property lines to facilitate operations or management, and acquiring identified property needs.)
7. **For exchanges initiated by other parties**, the following provisions also apply, as described in OAR 736-019-0070(3). The department shall:
- a. Determine for the OSPRC whether the exchange:
 - i. Aligns with the department's mission, strategies, objectives and work plan;
 - ii. Will accommodate public use and access, and be in the best interest of the department; and
 - iii. Consult with Tribes, local governments and communities.
 - b. Require the proponent to provide a written environmental review for all lands the department is to receive in the exchange. The department may determine that an environmental report provides information that further requires the proponent to provide additional environmental assessment;
 - c. Require that all proposals made to the department be in writing with adequate detail to evaluate the transaction for the following elements:
 - i. Natural Resource assessment, impacts and protection;
 - ii. Cultural assessment, impacts and preservation; and
 - iii. Overwhelming public benefit to the park system.

- d. The OSPRC may approve an exchange that a party other than the department initiates if OSPRC determines that the proposed exchange provides an *overwhelming public benefit* to the park system, its visitors and the people of Oregon. Additional considerations for a public benefit to the Oregon State Park system may include, but are not limited to, an exchange in which the department receives:
 - i. One or more properties already identified in department acquisition priority documents;
 - ii. The ability to exchange out of one or more properties already identified as a priority as non-essential;
 - iii. An endowment for long-term stewardship that provides significant and meaningful stewardship resources to the department; or
 - iv. Other contributions to the park system, beyond the property to be received which the OSPRC determines will—when combined with the property to be received by the department, and when weighed against the property to be transferred out of the park system, along with all of the department's transaction costs—result in an overwhelming public benefit to the park system.

Disposition

1. The department will engage in disposition and exchange practices that comply with this Commission policy, serve the department's purpose and public's interests.
2. Disposition actions taken by the department shall be in alignment with procedures described in OAR 736-019-0060 (Criteria for Acquisition).
3. Criteria for considering property dispositions are derived by viewing the department's real property portfolio through the following considerations:
 - a. **Mission Impact:** Real property disposition should not deprive the state park system of natural, scenic, cultural, historic, and recreational qualities of statewide significance. Considerations include:
 - i. The real property being considered for disposition should not have natural, scenic, cultural, historic, or recreational attributes that are significant, rare, or lacking elsewhere in the state park system.
 - ii. Stable, like-missioned partners who manage or are capable of managing properties may be considered for real property transfers or exchanges based on their ability to care for and maintain the property.
 - iii. Consideration should include the department's historic use of the property and the impact a property disposition could have on public benefit, including access.
 - iv. Disposition of real property where compensation is less than market value, including transfers and exchanges, should include appropriate deed restrictions and reversionary clauses.
 - b. **Strategic Objective:** Real property disposition should be consistent with long-range planning and strategically benefit the department. Considerations include:
 - i. Real property with less desirable attributes (low visitation, unintended public use, inadequate access to law enforcement resources leading to staff or visitor safety, inefficient use of staffing resources) may be considered for disposition.
 - ii. Real property not required for access or consolidation of parks, trails, and greenways; necessary for legal or management issues; or does not provide a buffer to existing properties may be considered for disposition.

- iii. Real property that does not meet the department's goals for extending or improving public service in the face of changes wrought by human development, climate change, and epic environmental events (earthquakes, tsunamis, volcanic eruptions, floods, wildfire) may be considered for disposition.
- iv. Real property that is important to department planning efforts should not be considered for disposition.
- v. If the department is considering a disposition of real property as part of an exchange, the department should determine if a disposition best leverages the opportunity and consider what other avenues are available.

c. **Urgent Opportunity:** Timely disposition or exchange of property allows for the department to leverage an opportunity that would otherwise be lost. Considerations include:

- i. Successful disposition or exchange likely with minimal risk.
- ii. Disposition can leverage something more desirable for department and the public.
- iii. The likely outcomes if the department is unable to complete a proposed exchange. E.g.: loss of significant potential resource (natural, historic, etc.) or property access.

d. **Engagement:** Real property disposition responds to changes in public demand including community impacts. Considerations include:

- i. Disposition or exchange of the property considers feasibility in terms of community and local government support, property obligations, restrictions or limitations and department resources.
- ii. The department may not have a development plan and/or management of the property may not be cost effective or represents an unacceptable risk to the agency.
- iii. Evaluation of known or anticipated community impacts, both positive and negative. Long-term public benefit may not be present.
- iv. Disposition of real property would not diminish an access or experience for an under-represented population.

4. Properties deemed to be Non-Essential Lands to the park system will be evaluated for potential transfer to partners. While a parcel may not reach a level of statewide significance it may be an outstanding local or regional resource suitable for management by another entity. With OSPRC approval, the department may convey to other public agencies and Tribes at less than fair market value if there is a reversionary clause in the conveyance instrument that insures the property will be used for public park and recreation purposes.

5. The department shall apply all applicable elements of the practices of acquisition to any exchange or disposition of department land.

6. It will remain a priority for the department and the OSPRC to ensure that non-essential lands remain in public ownership.

Funding Practices

7. As outlined in OAR 736-019-080, the department will engage in the following purchasing activities, as they pertain to a possible exchange:

- a. Purchase lands with appropriations granted by the legislature;

- b. Use proceeds from land sales to purchase other lands, as directed in applicable Oregon Revised Statutes;
 - c. Accept donated private funds and donated lands;
 - d. Seek state, federal and private grants for land purchases when appropriate; and
 - e. Employ land exchanges when the land traded away is less suitable for open space and recreation than the land received.
8. Per OAR 736-019-0100(1)(g), the director may pay up to \$10,000.00 for an option or earnest money agreement if there is a high degree of certainty, without committing a future legislature that the funds to complete the subject purchase will be forthcoming. Option payments in excess of \$10,000.00 shall only be made if approved by OSPRC.

Collaboration and Partnership

1. As described in OAR 736-019-0120, the department may collaborate on land acquisitions, dispositions, and exchanges with Tribes, county governments, state and federal agencies, non-profits, private corporations and landowners of every type. It is the policy of the department to seek out and engage in these collaborations when they are of mutual benefit and further the attainment of shared values and goals.
2. OPRD employees will work with collaborative partners to ensure that a successful collaboration will occur when the following elements are present:
 - a. **Strategic alignment:** Projects must align with the department goals, strategies, and priorities for land acquisition and disposition as established by the OSPRC;
 - b. **Local support:** Compelling projects are those supported by the Tribes, county, local community, interested state and federal agencies, and that accommodate public use and access; Public participation is an integral part of real property transactions;
 - c. **OSPRC approval:** Discussions with department staff are always subject to a final commitment that can only be attained by a vote of OSPRC;
 - d. **Complex legal environment:** The department operates in a complex legal and political environment that influences all real estate transactions. More specifically, the following apply:
 - i. The department is subject to specific and extensive state statutes, rules, and public accountability that may be seen as constraints, but help explain why the organization operates the way that it does;
 - ii. Department real estate transactions must be transparent and involve willing parties; and
 - iii. In addition, while there are great benefits to working with the department, it is not for every organization. Successful partners must dedicate time and commitment to communicating with the department throughout the process and ensuring an agreement is in place before moving forward. They must have respect for the mission, awareness of the multiple responsibilities of the department and role for OSPRC decision-making authority.
 - e. **Early and frequent communication:** Successful projects are those where partners engage department staff early in the process, and frequently throughout, including full disclosure and transparency on all of the details of a transaction. In turn, the department commits to treat partners in the same way, both for projects brought to it, and where the department seeks out a collaborator;
 - f. **True partnership:** Part of the respect that the department requests from partners is that they do not look at it solely as a pass-through funding source to meet partner goals. Where partner goals and those of the department coincide, there is room to work together. Likewise, the department

commits to treat other parties as partners, not merely fund sources. There is important work to accomplish, and this can be achieved by each showing this mutual regard;and

- g. **Publicity:** The department is very willing to give attention and publicity to projects and the accomplishments of partners and believe its participation in a deal can add to that.

Implementation

3. In order to allow the department to make an informed decision regarding a real property disposal or exchange, procedures to support implementation of this policy will be developed and may be updated regularly. Those procedures may include but are not limited to:
 - a. Procedures captured in statute and rule;
 - b. Consultation with local government taxing entities when a land ownership change has potential to cause a significant loss of property tax revenue;
 - c. Consultation with Tribal interests who have Treaty rights or historical interests in potential acquisition areas; and
 - d. Recordkeeping to ensure all relevant documents are maintained. Attorney General review for legal sufficiency of all purchase and sale agreements over \$150,000, as required under OAR 137-045-0030.

Exceptions/Exemptions

Only the OSPRC can authorize an exception or deviation from the policy, and only if the exception is consistent with ORS and OAR.

Roles

Oregon State Parks and Recreation Commission: Approve acquisitions of real property rights and authorize any exceptions to this policy.

Deputy Director of Statewide Operations or equivalent position: Reviews and provides feedback on this policy and future revisions. Consult with other deputies and division administrators on the implications of this policy and its revisions to their areas. Obtain final approval from director. Ensure policy is monitored and reviewed.

Policy Lead: Educate users on the provisions of this policy; evaluate the effectiveness of this policy, review the policy according to the schedule and recommend modifications as needed.

Real Estate Services Staff: Educate users on the provisions of this policy; negotiate and conduct real estate transactions; complete appropriate paperwork and finalize deals approved by OSPRC.

Employees: Follow this policy when involved in or approached by external parties regarding real estate transactions.

Evaluation

Suggested elements for evaluating this policy's effectiveness include but are not limited to:

- The policy lead will periodically review transaction files to ensure documentation is complete and accurate. In addition, the policy lead may conduct a formal program review;
- The policy lead may survey, formally or informally, individuals who worked with the department on real property transactions;
- The policy lead will be able to assess the effectiveness of some aspects of this policy based on interactions with OSPRC as part of the real property transaction approval process. In addition, the policy lead may ask OSPRC members for more specific feedback if necessary; and

- The policy lead will review any policy feedback received from department employees.

Supporting Documents

ORS Authority

The authority for this policy is established in:

- **ORS 390.121**, which gives OSPRC the authority to sell, lease, exchange or otherwise dispose of real property if not needed for department purposes. (ORS 390.121(3)).
- **OAR 736-019**: While ORS 390.117(5) gives the OSPRC permission to delegate property acquisition responsibilities to the director, the OSPRC chose to retain that power and be the final authority on property acquisitions and exchanges (OAR 736-019- 0100 (l)(f)).

Related laws, policies and procedures

This policy is influenced by the following authority:

- **ORS 390.112**, which directs the department to propose to the OSPRC additional criteria for acquiring and developing new historic sites, parks and recreation areas, including but not limited to:
 - Addressing opportunities that may be lost to the department if acquisition is delayed;
 - Protecting significant cultural and historic properties; and
 - Satisfying the need for overnight and large group use facilities on the perimeter of urban population centers.
- **ORS 390.121(3)**, which directs the department to offer the prior owner of real property for which sale, lease, exchange or other disposal is proposed the first opportunity to reacquire the property if the property was acquired by the agency through eminent domain proceedings. (In accordance with ORS Chapter 35.)
- **ORS 270** which details rules regarding State Real Property including disposition of property not needed for public use and DAS lease approvals for agreements longer than 5-years.
- **ORS 273** which details general State Lands guidance regarding real estate transactions.
- **OAR 125.045** requires that before the department may unconditionally offer to dispose of a State Real Property Interest, DAS shall provide notice of the intended Terminal Disposition to all Agencies authorized by law to acquire Real Property Interests (other state agencies, local agencies, and qualified districts). OAR 125-045-0225 (5) & (9) allows for DAS to skip notification of other agencies if, in its reasoned judgment, DAS finds it unlikely that transfer of the State Real Property Interest to any other agency could satisfy the Disposing Agency’s needs and that as a result, would be a futile act.
- **OAR 736-019**, which details real property acquisition purposes, criteria for acquisition and exchanges, funding sources, acquisition practices and provisions for working with other parties.
- **OAR 137-045-0030**, which directs state agencies before a public contract is binding on the State of Oregon, and before any service may be performed or payment may be made under the contract, the Attorney General must approve for legal sufficiency if the contract provides for payment in excess of \$150,000 (OAR 137-045-0030 (1) (a)).
- **OAR 660-034-0010(5)**, which defines the term ‘Endowment Property’ in State and Local Park Planning rules.

- **OPRD Procedure # PSP.000.070.PR:** Procedure for Proposing, Reviewing and Approving Property Dispositions and Building Decommissions (revised 2014);
- **OPRD Procedure # PSP.000.080.PR:** Procedure for Implementing Property Dispositions or Building Decommission Decisions

Procedures

- PRP.010.000.PR Property Acquisition Procedure
- PRP.010.020 PR Property Disposition Procedure
- PRP.010.030.PR Property Appraisal Practices Procedure

<p>Responsibility Policy Lead: Deputy Director of Statewide Operations Sponsor: Deputy Director of Statewide Operations Questions: policy.feedback@opr.oregon.gov</p>	<p>Dates First approval date: 11/13/1991 Effective date: 03/24/2025 Revision schedule: Minimum every 5 years Next revision date: 03/24/2029</p>
---	--