



ADMINISTRATIVE PROCEDURE

SUBJECT: LAND ACQUISITION	Number <u>I-21</u>	<u>Effective Date:</u> Issued: <u>7/1/95</u> Revised:	Page 1 of 9
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PURPOSE:

To accomplish land acquisition necessary for the public purposes of the Contra Costa Water District in accordance with the District Code of Regulation, Chapter 7.12, Acquisition and Disposition of Real Property and in a consistent, efficient, reportable and responsible manner.

POLICY:

That the land acquisition, relocation of affected individuals, families and businesses, clearing, and pre-construction property management actions of the Contra Costa Water District, its officials, employees, agents, and contractors shall be directed and conducted in a manner to assure that property owners receive just compensation, utmost courtesy and maximum consideration in the acquisition of their property. All persons displaced by a public project of the Contra Costa Water District, shall receive fair, uniform and equitable treatment, including relocation assistance, as provided by District Regulation 7.12.020. All actions of and for the District shall be without regard to race, color, national origin or sex in compliance with the District Code of Regulations and applicable laws.

PROCEDURES:

1. Planning and Management

The Annual Capital Improvement Plan shall include specific land acquisition projects for future facilities and shall identify land acquisition requirements for all other listed projects. The annual budget process shall provide for the identification of specific land acquisition projects and identification of land acquisition requirements of all other projects. Land acquisitions that may result in the relocation of individuals, families and/or business, churches, other public activities, or that could impact significant natural or cultural resources shall be specifically identified. Land acquisition shall be managed through the Capital Improvement Plan and Budget Implementation program.

2. Certification

Requests for authority to advertise for capital equipment purchase and construction contracts shall be submitted to the General Manager with documentation of the District's acquisition of all land (land, land rights, relocation and utility relocations) necessary for the project, or that the District has possession of the land or land rights, and that the relocations and utility relocations are under contract or a written exemption to this requirement granted by the General Manager. This documentation shall be cited when seeking Board of Directors authority to acquire the property.

Capital equipment purchase and construction contracts for projects that require land acquisition shall be submitted to the Board of Directors with a declaration that the required land (land, land rights, relocations and utility relocations) acquisition is complete, or that the District has possession of the land or land rights, and that the relocation and utility relocations are under contract.

3. Right of Way Engineering

During the development of preliminary design initial property requirements shall be identified and maps and documents required for property acquisition shall be developed. Initial property requirements shall be accepted by the user group. These documents shall include establishing and mapping existing land ownership boundaries, identifying and mapping existing surface and subsurface improvements, utilities, available hazardous waste data, available geological/geotechnical data, historic land use with specific attention to hazardous material usage, etc. and securing preliminary title reports.

Final property requirements, including any construction easements or access easements, shall be defined as part of the final design. Final property requirements shall be accepted by the user group. Right of way engineering documents, property maps, and parcel maps, property descriptions shall be finalized by the responsible department, and title reports secured. Final property requirements shall be accepted by the user group. These final documents shall be made available to the appraiser(s) for determination of value for acquisition purposes.

As necessary, property maps, parcel maps, and property descriptions shall be prepared in conformance with the direction and requirements of General Counsel in preparation for Resolutions of Necessity and condemnation.

4. California Environmental Quality Act (CEQA) Compliance

Acquisition of property may constitute project approval under CEQA; therefore, before appraisals are obtained and acquisition efforts begun, either CEQA compliance must be complete or the actions must be approved in writing by the General Manager.

5. Appraisal

Article I, Section 19 of the California Constitution provides “*Private property may be taken or damaged for public use only when just compensation, ascertained by a jury unless waived, has been paid to, or into the court for, the owner.*”

The measure of just compensation is the fair market value of the property. Section 1263.320 of the Code of Civil Procedure set fair market value as:

- a) The fair market value of the property taken is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purpose for which the property is reasonably adaptable and available.
- b) The fair market value of property taken for which there is no relevant market is its value on the date of valuation as determined by any method of valuation that is just and equitable.

To ensure reasoned and consistent conclusions of just compensation appraisals are necessary. The requisite work product is the appraisal report, which contains the valuations and all data and narrative necessary to support the appraiser’s opinion of value.

State and federal law and regulations set forth the basic requirements for the appraisal of real property for acquisition for public purposes. These requirements are contained in 49CFR, Part 25 and the Department of Housing and Community Development regulations:

- a) Real property shall be appraised before initiation of negotiations with an owner.
- b) The owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection

of the property.

- c) The acquiring agency shall establish an amount which it believes to be just compensation for the acquisition of real property before initiation of negotiations with an owner.
- d) Any decrease or increase in the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the owner, shall be disregarded in determining the compensation for the property.
- e) Appraisers shall not give consideration to nor include in their appraisals any allowance for relocation assistance benefits.

Appraisals of land and improvement for use in property acquisition by the District shall be made in accordance with the principles and techniques applicable to acquisition for public purpose in California promulgated by the leading nationally recognized appraisal organizations.

Private fee appraisers retained by the District shall have senior or equivalent designation from any of the leading nationally recognized appraisal organizations, have a working knowledge of appraisal practices and standards required for public acquisition by a California county water district; and be qualified as an expert witness in Contra Costa County Superior Court, except when an exception is recommended by General Counsel and approved by the General Manager.

Appraisal reports shall be prepared for each separate parcel or combined ownership, except where numerous similar properties are to be appraised and data and narratives supporting the opinion of value for each parcel can be effectively combined in a single report. The Appraisal Report should, insofar as possible, conform to the outline and contents set forth on Exhibit A. To ensure confidentiality, the Appraisal Reports are to be delivered to the District's General Counsel.

6. Acquisition

Acquisition of property rights for water district purposes and uses shall be in accordance with District's regulations and applicable federal and state laws and regulations. In order to protect the rights of property owners, the following

guidelines shall apply:

- a) All discussions for the acquisition of property rights shall be directed to result in the payment of just compensation.
- b) Every reasonable effort shall be made to acquire property rights expeditiously through agreement with the owner without coercion of duress.
- c) The total amount of the highest approved appraisal shall be offered and shall be offered no later than when price is first discussed in acquisition negotiations.
- d) An interest at least equal to the real property interest acquired by the District shall be acquired in all buildings, structures, or other improvements located on the real property and which are subject to removal or other adverse effect by the purpose or use for which the real property interest is being acquired.
- e) Property acquisition negotiators shall not negotiate for any property in which they or their relatives, friends, business associates, or other with whom they are closely associated have any personal, business or financial interest.
- f) Individuals shall not negotiate for the acquisition of property, which they have appraised for the purposes of current acquisition by the District nor shall they appraise property that they have attempted to acquire. Exceptions to the requirement may be granted by the General Manager. Requests for exceptions shall be in writing and shall include the facts and justification for the exception.
- g) Property acquisition negotiators shall maintain, in a timely manner, a written record of all contacts and discussions within the owner or their representative(s).
- h) All property acquisition activities shall be conducted in such a manner as to assure that no person shall be denied the benefits to which that person is entitled, or be subject to discrimination.
- i) In no event shall the item of condemnation be advanced, or negotiation or condemnation and deposit of funds for use by the owner be deferred, or any other coercive action taken, in order to

compel an agreement on the price to be paid for property.

- j) The owner(s) of property or property rights to be acquired by the District shall be given a written statement and summary of the basis for the amount established as just compensation.
- k) Acquisition of real property or property rights shall be by written agreement in the form of a property purchase agreement which shall embody all of the considerations agreed to by the owner and the District
- l) The District may condemn property for District purposes and use provided that the use of eminent domain has been approved, in advance, by the District's General Counsel and the General Manager. The procedures to be followed in the use of eminent domain for each program or project of the District shall be reviewed and approved by the District's General Counsel to assure compliance with current laws and regulations. The following general procedures shall guide the use of eminent domain:
 - 1. Project approved and funded in current Budget.
 - 2. CEQA compliance complete.
 - 3. Owner(s) has been given written offer of highest approval appraisal.
 - 4. Owner(s) has been notified in writing, at least 15 days in advance that the Board of Directors will consider a Resolution of Necessity at a specified time date, and place and that they have the right to appear and be heard prior to the adoption of the resolution on the following matters.
 - a) Whether the public interest and necessity require the project;
 - b) Whether the project is planned or located in the manner that will be the most compatible with the greatest public good and least private injury; and
 - c) Whether the property sought to be acquired is necessary for the project.
 - 5. Owner has been contacted by telephone to assure receipt of the above notice and to facilitate continued negotiation and their Board appearance should they elect to appear.

- m) The District may accept real property by contribution as required for extension of service in accordance with District rules and regulation. Such property shall be handled, as though it was being acquired by the District except that an appraisal of value is not required if the estimated value of the parcel is less than \$10,000.

7. Utility Relocation

Where a District program or project requires acquisition of property encumbered with public or private utilities and those utilities must be removed or relocated to accommodate the District's purpose or use, a Utility Agreement setting forth the obligations of the District and the utility owner shall be used. Costs to be borne by the District shall be consistent with the rights and obligations of the utility in the lands acquired by the District and shall be the least cost, least environmentally damaging means of relocations without betterment. Relocations involving betterment require the advance approval of the General Manager.

8. Relocation/Relocation Assistance

District Regulation 7.12.020 governs Relocation Assistance. That regulation provides:

Relocation assistance and payments under the provisions of Chapter 16 of Division 17 of Title 1 of the Government Code (commencing with Section 7260) shall be administered and implemented in conformity with the guidelines adopted by the Commission of Housing and Community Development.

9. Property Management

Except for property acquired for immediate operating purposes or to be held for future use, property from the time of acquisition until the property is required for construction shall be managed by the responsible Department as a part of the program or project for which it is acquired. Project estimates and budget are to include the cost and funds necessary to secure, clear and maintain such property until completion of constructions.

10. Property Acquisition Records and Documents

For all property acquisitions, a separate file shall be maintained by the responsible Department for each property being purchased. Property files shall be identified by owner name and Assessor Parcel Number(s) [APN(s)]. These files shall include the items identified on Exhibit B. The Management Review Checklist required to be maintained shall include, at minimum, information identified on Exhibit C. The diary

or log required to be maintained shall include the information identified in Exhibit D. These files shall be created and maintained in accordance with the CCWD Uniform File Code and shall be transferred to the Records Center (Archives) upon completion of the program or project.

11. Signature Authority

All property purchase and acceptance documents require Board Authorization and the signature of the General Manager or such individual as the General Manager may designate in writing.

12. Recording of Documents

Final property documents, easement agreements, rights of-entry, grant deeds, final orders of condemnation, and deeds of gift shall be recorded with the County Recorder's Office and entered into the District's records and archives in accordance with the District procedures.

RESPONSIBILITY

Each department head is responsible for a property acquisition project or a program or project requiring property acquisition, shall ensure compliance with this procedure and the preparation of the Management Review Checklist. Any modification to or departure from this Policy and procedure set forth herein must be approved in writing by the General Manager.

APPROVED



Walter J. Bishop
General Manager

Attachments: Exhibit A – Narrative Appraisal Report Outline and Contents
Exhibit B – Property Acquisition Parcel File Required Contents
Exhibit C – Property Acquisition Management Review Checklist
Exhibit D – Acquisition Diary