

Regional Conservation Authority

**CONSIDERATION AND POSSIBLE APPROVAL OF
WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION
AUTHORITY LAND ACQUISITION POLICIES**

Staff Contact:

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Background:

Attached for your consideration is a draft set of land acquisition policies. The policies are based on the practices of other public agencies and internal discussions regarding the RCA's specific needs. The draft policies are fairly clear-cut; however, we would draw your attention to the following.

Acquisition Services: The RCA currently uses the County's "Real Properties Services Division" to assist us with routine research and processing. We also have an arrangement with the Riverside Land Conservancy (from a previously approved Memorandum of Understanding) to handle specific transactions. Staff is also working with other non-profit land conservation organizations for the purchase of selected properties. The draft policies address the following in regard to these outside services:

- Formalize the need for a memorandum of understanding or similar agreement for services (including our relationship with the County Real Properties Division).
- Require the signing of a confidentiality agreement.
- Establish a procedure for qualifying and hiring service providers.

Indemnification: Under our current and this proposed policy, when land is acquired from willing sellers or conveyed as a result of development, Staff and counsel attempt to secure the best possible indemnification from the seller, especially relating to potential site hazards. However, some properties have unique circumstances. In those cases, we may wish to modify the policy to reflect an acceptable level of risk, based on the Phase 1 assessment, any subsequent testing and site visits. The important part of this is that we make the decision using the best available information.

Endowments: This is a subject we have not really addressed in the past, but is important. The Implementation Agreement requires us to have a general endowment of 70 million dollars by Year 25 of the Plan. The endowment is intended to be invested and the earnings are to be used to fund ongoing adaptive management and monitoring. A related challenge is the rising cost of our land

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management program as we increase the size and species complexity of the reserve. Although they are not the ultimate solution, individual land conveyance endowments will offset these costs and incrementally help us reach our adaptive management funding goal in Year 25.

Staff Recommendation:

Staff recommends that the Board adopt the attached land acquisition policies.

Attachment:

Land Acquisition Policies

DRAFT FOR BOARD CONSIDERATION

LAND ACQUISITION POLICIES

Article I. LAND ACQUISITION

Section 1.01 General

- (a) Land acquisition is one of the most important activities of the RCA to reach the reserve goals of the Multiple Species Habitat Conservation Plan (Plan). It is important to maintain policies that are fair and reflect the highest level of integrity.
- (b) Land to be acquired to meet the Plan's goals generally will be secured from willing sellers, through direct donations, donations as a result of development, or by conservation easement. The acquisition process generally will follow the procedure outlined on Exhibit 1.
- (c) Property proposed for acquisition will be evaluated for conservation value under the tenets of the Plan.
- (d) Each prospective acquisition will be reviewed for its relationship to existing reserve land, and its value to reserve habitat cores and linkages. The acquisition will also be evaluated for possible conflicts with planned infrastructure or land acquisitions which might be required for other public purposes. The RCA will make all reasonable efforts to work with the appropriate agency or special district which could be affected to insure the goals of the Plan can be attained.
- (e) The RCA will establish a Memorandum of Understanding for real property services with a qualified agency, organization, or individual to provide routine land acquisition processing at the direction of the Executive Director.
- (f) Opening of all negotiations and offers or agreements to purchase land will be authorized by the Executive Director.
- (g) All Land acquisition files will be retained and managed by the Executive Director or designated RCA staff.
- (h) The RCA Board will approve all purchases.

Section 1.02 Authority to Sign Documents: Only the Executive Director or Chairman of the RCA Board may sign purchase and conveyance documents. The Vice Chairman of the RCA Board may sign in the absence of the Executive Director or Chairman of the Board.

Section 1.03 Appraisal: It is the intent of the RCA to pay a fair price for property acquired to assemble the Reserve. However, the RCA also has an obligation to use

financial resources effectively and efficiently. The following will apply to the appraisal process.

- (a) The RCA will order an independent appraisal of the property under consideration for purchase.
- (b) The RCA will use the appraised value to develop an offer to purchase the property under consideration.
- (c) A seller may provide a separate appraisal, but the seller's appraisal will not be used as a basis for the initial offer.
- (d) When the HANS/JPR review process identifies a property for "100% acquisition," land value differences between a seller's appraisal and the RCA appraisal will be resolved in accordance with Section 6 of the MSHCP.

Section 1.04 Confidentiality: To ensure integrity throughout the process, it is important to maintain confidentiality when the RCA considers land purchases.

- (a) Any agreement for real property services with agencies, organizations or individuals who may provide real property services will contain the following provisions to insure confidentiality of prospective acquisitions:
 - i) Assigned staff will pursue only those acquisitions authorized by the RCA.
 - ii) Investigations, arrangements and transactions will be conducted by assigned staff only.
 - iii) Property information and transactions shall be maintained under the control of the assigned staff.
 - iv) No RCA property information shall be placed in any general electronic or manual data inventory outside of the RCA except as necessary during the acquisition process of a property. All records will be delivered to the RCA at the close of escrow.
 - v) The assigned staff shall sign a confidentiality agreement.
- (b) The Director of Land Acquisition and Management will maintain the working file for all prospective purchases. The file or the information contained in the file will not be released to persons outside the RCA without the authorization of the Executive Director or Deputy Executive Director.

Section 1.05 Indemnification:

- (a) It is the policy of the RCA to secure the appropriate indemnification from future liability resulting from pre-existing conditions on an acquired property. However, the RCA recognizes that circumstances for each acquisition vary, and the indemnification provision may be modified to reflect the level of risk, the

ownership history of the property, the result of the environmental hazards assessment, along with any subsequent testing or other factors.

- (b) A Phase 1 Environmental Hazards Assessment (EHA), in compliance with general real estate practices, will be conducted on each prospective land acquisition or land donation not more than three (3) months prior to the opening of escrow or not more than six (6) months prior to the close of escrow. At the discretion of the Executive Director a Phase I EHA may be required prior to acceptance of a conservation easement.
- (c) In the event that a Phase I EHA or visual inspection by the RCA of a prospective property indicates any potential hazard(s) the Executive Director may require a Phase II Environmental Hazard Assessment or additional information relating to the property history of use.
- (d) No conservation easement will be accepted unless the underlying fee title holder fully indemnifies the RCA.

Section 1.06 Endowments for Management:

- (a) Conservation Easement Offered by a Public Agency: An endowment for management will be required when the RCA accepts a conservation easement from a public agency. However, the RCA may waive the requirement for the endowment, provided the Board makes the following findings:
 - i) The agency is a permit tee or participating special entity under the MSHCP.
 - ii) The land for which the easement is offered is necessary to implement Reserve assembly, or the land is necessary to conserve a specific covered species.
 - iii) The public agency and the RCA have agreed to a shared management program.
- (b) Conveyance of Land or Conservation Easements Required through the Development Process: An endowment for management is required when the RCA accepts land in fee title or a conservation easement as a condition of land use or land development approval. However, the endowment may be waived or reduced if the RCA and project proponent agree to a shared management program, or if the RCA and permittee jointly determine that the land could have been developed but was conserved to meet the Plan objectives.

- (c) Donations of Land (not a result of development): No endowment for management will be required for a land donation; however, an endowment may be accepted if offered by the donor.
- (d) Amount of Endowment: The amount of the endowment will be based the estimated annual cost to manage and maintain the property through the life of the MSHCP, and calculated using a standard program for conservation management.

Section 1.07 Land Acquisition Services

The RCA recognizes that in some instances land conservation organizations and real estate professionals can facilitate the acquisition of selected properties or the completion of a specific transaction. The following policies will apply to the hiring of such individuals and organizations:

- (a) All organizations and persons proposing or solicited to provide acquisition services shall submit a statement of qualifications.
- (b) Organizations and individuals shall provide a proposal for specific services.
- (c) Selected organizations or individuals will sign a confidentiality agreement.
- (d) The Executive Director will issue a work order for the property (ies) of interest.
- (e) The RCA may provide compensation on a time and materials basis or offer a fixed percentage of the sale price or both.