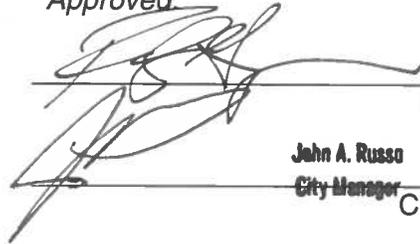




City of Riverside Administrative Manual

Effective Date: 07/2003
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Policy Owner(s): Community & Economic
 Development

Approved:


 _____ Department
John A. Russo
 City Manager
 _____ City Manager

SUBJECT:

Eminent Domain Action

PURPOSE:

To provide guidance for the acquisition of property through the use of the power of "Eminent Domain" as set forth in Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure of the State of California.

POLICY:

When an impasse is reached in negotiating the purchase of property with a property owner, condemnation action is considered. The Property Services Division indicates to the City Attorney's Office when possession is necessary and how title should be taken. The Property Services Division shall assist the City Attorney's Office by providing information concerning the negotiations and the basis of valuation on which negotiations were conducted. The Property Services Division, in cooperation with the City Attorney's Office, shall continue negotiation on behalf of the City until title is acquired.

PROCEDURE:

Responsibility	Action
Property Services	1. Determines that a desired parcel of real property cannot be acquired through normal negotiations; asks the acquiring department if condemnation of the property is desired. If affirmative, commences with the procedural steps to acquire the property through the exercise of the power of Eminent Domain. 2. Obtains a Litigation Guarantee from the appropriate title company.
Public Works	3. If not already prepared, prepares legal descriptions and plats of the property to be acquired for use in the Eminent Domain process as well as a map showing the property sought to be condemned in relation to the project for which it is sought. Also prepares easement rights language if appropriate.
Property Services	4. Furnishes notice package to City Clerk which includes: appraisal reports, appraisal summary statements, offers to purchase, last equalized tax rolls, legal descriptions and plat maps, Project map, notice of exemption

PROCEDURE:

Responsibility	Action
	filing, categorical exemption/categorical exclusion determination form, letter from Caltrans approving right of way phase (if applicable), litigation guarantees, draft council memorandum for adoption of a Resolution of Necessity, project approval and authorization to make offers, property owner and tenant list with addresses and contact name, and project account number.
City Attorney's Office	5. Prepares notice of hearing and forwards to City Clerk.
City Clerk	6. Sends notice to each person or business entity having an interest in the property proposed to be condemned advising them of the time and place of hearing and manner of filing objections. Notice to recipients(s) must be received at least 15 days prior to the hearing, and at least 45 days prior to hearing on Caltrans or federally funded projects.
Acquiring Department	7. Furnishes statement of justification of acquisition to Property Services addressing the following: <ol style="list-style-type: none"> a. Whether the public interest and necessity requires the project. b. Whether the project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury. c. Whether the property sought to be acquired is necessary for the project. d. Has the offer required by Section 7267.2 of the Government Code been made to the owner or owners of record.
Recipients of Notice	8. Notify the City Clerk, in writing, if they wish to be heard at the hearing.
City Attorney's Office	9. Prepares Resolution of Necessity.
Property Services	10. Sends agenda item for hearing, including statement of justification, to City Manager for approval.
City Manager	11. Approves and places on Council agenda as required.
City Council/Agency or Authority Board	12. Following a public hearing, adopts or rejects Resolution of Necessity for eminent domain action.
City Attorney's Office	13. If Resolution of Necessity is adopted, prepares appropriate pleadings and files action with court. If (immediate) prejudgment possession is sought, obtains condemnation deposit. Provides copies of complete complaint package to Property Services. 14. Arranges for service of complaint and summons on the necessary parties. Provides proof of service(s) to Property Services.
Property Services	15. Assists with service as needed.
City Attorney's Office	16. Notifies Property Services of date of prejudgment possession, if any.
Property Services	17. Continues negotiations until property is acquired. Disburses funds to

PROCEDURE:

Responsibility	Action
	proper parties on settled parcels in accordance with Finance Department procedures, and notifies City Attorney's Office of parcels as settled, requesting return of funds deposited with the court.
City Attorney's Office	18. Dismisses action on settled parcels, recovers court deposit, and forwards to Property Services for deposit to proper account.
City Manager's Office	19. Publicly reports on all eminent domain litigation settlements reached involving the City, Housing Authority, Successor Agency, or Community Revitalization Investment Authority at the Council meeting, following the settlement as part of the "City Manager Reports" item on the Council agenda.
City Clerk's Office	20. Retains such settlement agreements on file for public review.
Property Services	21. Obtains Policy of Title Insurance on settled parcels, and forwards policy to City Clerk. 22. Notifies City Attorney's Office of any parcels remaining to be set for trial.
City Attorney's Office	23. Pursues eminent domain action through court for any parcels not previously obtained through final judgment in condemnation.
Property Services	24. Provides valuation witnesses or testimony as may be required for court actions, and assists City Attorney's Office as needed.
City Attorney's Office	25. Prepares judgment/Final Order of Condemnation and records the same. Notifies Property Services of judgment, and provides Property Services with recorded copy of Final Order of Condemnation. Provides original recorded judgment/Final Order of Condemnation to City Clerk.
Property Services	26. Obtains policy of title insurance, completes property records, disburses funds to proper parties, and finalizes transaction, as necessary.