

Regional Conservation Authority

**RESOLUTION NO. 08-013,
RESOLUTION OF THE BOARD OF DIRECTORS OF THE
WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION
AUTHORITY ADOPTING A SURPLUS REAL PROPERTY POLICY**

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Background:

The RCA Board of Directors adopted the current RCA Surplus Real Property Policy on April 3, 2006. The proposed update to the Policy is necessary to reflect RCA's Joint Powers Authority amendment changing the RCA's exercise of governing authority from the laws which govern a county to the laws which govern a city. The changes made to the Policy have not affected the substance of the policy in any way.

On June 18, 2008, the Resolution to adopt an updated Policy was presented to the Executive Committee. In addition to the revision mentioned above, the Executive Committee voted to amend the time period found in Section III.B of the Policy from forty (40) to sixty (60) days. This increase will allow additional time for the City or County in whose jurisdiction RCA is planning to dispose of surplus property to report to the RCA whether a proposed sale is in conformity with the "location, purpose and extent" of that jurisdiction's General Plan.

Therefore, the proposed Resolution No. 08-013 updates the Surplus Real Property Policy in these two ways and is submitted to the RCA Board for approval.

Executive Committee and Staff Recommendations:

That the RCA Board of Directors adopt Resolution No. 08-013, *A Resolution of the Board of Directors of the Western Riverside County Regional Conservation Adopting a Surplus Real Property Policy.*

Attachments:

- 1) Resolution No. 08-013, *A Resolution of the Board of Directors of the Western Riverside County Regional Conservation Adopting a Surplus Real Property Policy*
- 2) Surplus Real Property Policy

AGENDA ITEM NO. 7.1

Attachment 1 Resolution No. 08-013 Adopting a Surplus Real Property Policy

RESOLUTION NO. 08-013

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE WESTERN
RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY ADOPTING A
SURPLUS REAL PROPERTY POLICY**

WHEREAS, the laws of the State of California applicable to the general law cities govern the Western Riverside County Regional Conservation Authority (the "Authority") in the manner of exercising its powers; and

WHEREAS, the Authority owns significant amounts of real property; and

WHEREAS, the Authority desires to properly and prudently dispose of real property determined to be surplus; and

WHEREAS, the Authority believes it is important to adopt a policy to govern the proper disposal of surplus real property.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Western Riverside County Regional Conservation Authority hereby adopts the "Surplus Real Property Policy," a copy of which is attached hereto and incorporated herein. This policy shall supersede, replace and rescind the policy adopted by the Board on April 3, 2006.

PASSED AND ADOPTED at the regular meeting of the Board of Directors at the Western Riverside County Regional Conservation Authority held this 6th day of October, 2008.

By: _____
Eugene Montanez, Chairman
Western Riverside County
Regional Conservation Authority

ATTEST:

By: _____
Honey Bernas, Clerk of the Board
Western Riverside County
Regional Conservation Authority

AGENDA ITEM NO. 7.1

Attachment 2 Proposed Surplus Real Property Policy

**WESTERN RIVERSIDE COUNTY REGIONAL CONSERVATION AUTHORITY
SURPLUS REAL PROPERTY POLICY**

The intent and purpose of this policy (the "Policy") is to establish uniform guidelines related to the disposition and sale of surplus real property owned by the Western Riverside County Regional Conservation Authority (the "Authority"). In the event that a person decides to exercise a reversionary interest in accordance with a contract, the provisions of said contract shall govern over any conflicting provisions of this Policy.

I. ANNUAL INVENTORY

On or before December 31st of each year, the Authority shall prepare an annual inventory of surplus real property. (*Government Code* section 50569) Surplus real property is property that is not necessary for the Authority's use and is in excess of the Authority's foreseeable needs (*Government Code* sections 54221(b); 50569). The Authority shall list property in its inventory as surplus real property provided the Authority makes all of the following determinations: (i) the biological value of the property is low or marginal in terms of species recovery or sustainability; and (ii) the property is not required to assemble the Reserve.

Periodically, during the course of the year, the Authority may amend its inventory of surplus real property to account for dispositions and acquisitions affecting the status of its surplus real property since the last annual inventory. The Authority shall provide a copy of the surplus property inventory, which is a matter of public record, to any person or entity who requests a copy. (*Government Code* section 50569)

II. RESEARCH PRIOR TO DISPOSAL OF SURPLUS PROPERTY

Prior to disposing any surplus real property, the Authority should do the following:

A. Determine Biological Need for Land. Prior to disposing of any property acquired by the Authority, the Authority shall perform a habitat assessment to determine the value of the land for conservation purposes. Except in exceptional circumstances, property may be conveyed only if it is determined that its conservation value is low or marginal or that the property is not required to assemble the Reserve.

B. Determine whether there are any conveyance restrictions. The Authority should research whether the property in question is subject to covenants or conditions imposed by any original grantees of the property. For example, gifts of real property often involve conditions subsequent whereby real property "reverts" back to the grantor if the property is not used for a specific purpose.

C. Determine whether Property was purchased with federal or state grant funds. Prior to disposing of any real property purchased by the Authority with state or federal grant funds, the Authority should consult the terms of the agreement under

which the funding was accepted. In some cases, disposal of property purchased with such grant funds may be prohibited or restricted or subject to other regulations. Also, upon the sale of surplus properties, the Authority may be required to reimburse any federal or state agency that contributed funds for the property's original acquisition.

D. Determine whether Property is subject to any leases, licenses, or other encumbrances. The Authority should determine whether there are any leases, licenses, or other encumbrances attached to the property.

III. EXEMPTION DETERMINATION AND NOTICE TO PUBLIC AGENCIES

A. Determine whether Surplus Land Act applies. The Authority staff shall determine whether the surplus property is "exempt surplus land." If real property can be characterized as "exempt surplus land," then the Authority need not follow the procedures set forth in this Section III. The term "exempt surplus land" means either of the following:

- (1) Surplus real property which is transferred pursuant to *Government Code* section 37364, which states, among other things, that the Authority may sell real property at less than its fair market value "to provide housing affordable to persons and families of low or moderate income."
- (2) Surplus real property which is 1) less than 5,000 square feet in area, 2) less than the minimum legal residential building lot size for the jurisdiction in which the parcel is located, or 5,000 square feet in area, whichever is less, or 3) has no record access and is less than 10,000 square feet in area. The property must not be contiguous to land owned by a state or local agency which is used for park, recreational, open space, or low- and moderate-income housing purposes or is not located within an enterprise zone (a depressed area in which private investment is promoted to stimulate business and industrial growth, as well as employment opportunities) pursuant to *Government Code* section 7073, nor a designated program area as defined in *Government Code* section 7082 (high priority areas for resources designated by the Office of Criminal Justice Planning). If the property is not sold to an owner of contiguous land, it is not considered exempt surplus land and is subject to the provisions of the Surplus Land Act.

Notwithstanding subsection (1) and (2), the provisions of the Surplus Land Act shall apply if the property is located within 1,000 yards of a historical unit of the State Parks System or eligible for the National Register of Historic Places. Further, notwithstanding a determination that a property is "exempt surplus land," if the Authority sells property which was purchased using Local Development Mitigation Fees, the

proceeds of the sale shall be placed in the Local Development Mitigation Fee fund and accounted for in a manner consistent with the Mitigation Fee Act.

B. Contact local planning authority. If it is determined that the Surplus Land Act is applicable to the property, the Authority must contact the planning agency of the City or County where the property is located so that the City or County can have an opportunity to report on the conformity of the “location, purpose and extent” of the sale to the City’s or County’s general plan. (*Government Code* section 65402) Failure of the City or County to report within **sixty forty (40)** days after the matter has been submitted is deemed a finding that the proposed sale is in conformity with such general plan. It is important to note that even if the City or County disapproves the location, purpose or extent of such disposition, the disapproval may be overruled by the Authority.

C. Notice to selected public entities. At the same the Authority contacts the local planning authority, the Authority shall send a written offer to sell or lease the property to the following entities within whose jurisdiction the property is located:

- (1) The local entity assisting in developing low and moderate income housing. (*Health & Safety Code* section 50079)
- (2) Housing sponsors who request a written offer. (*Health & Safety Code* section 50074)
- (3) The city and county parks/recreation department, any regional park authority, and the State Resources Agency for park and recreation or open space purposes.
- (4) The local school district if the property is suitable for school facilities construction or use by a school district for open-space purposes.
- (5) Any local nonprofit neighborhood enterprise association corporation. (*Government Code* section 7073)
- (6) Any program area agent established by the Economic Employment and Incentive Act. (*Government Code* section 7078)

All offers shall be sent by first-class mail and include the location and a description of the property. Any of the entities desiring to purchase surplus land must notify the Authority within sixty (60) days of receiving the written notice. The Authority must then enter into good-faith negotiations to determine the sales price. If no agreement is reached within sixty (60) days, the Authority may proceed with the general disposition process set forth below; there are no other statutory requirements.

D. Proceeds of Sale of Property Purchased with Local Development Mitigation Fees. If the Authority sells any property which was purchased using Local Development Mitigation Fees to any public entity listed above, the proceeds of the sale

shall be placed in the Local Development Mitigation Fee fund and accounted for in a manner consistent with the Mitigation Fee Act.

IV. SALE OF PROPERTY

The procedures of this Section shall govern the disposition of any surplus property once the Authority has fully complied with the procedures set forth above.

A. Sale to Prior Owner. If the Authority decides to dispose of a property within three (3) years of acquisition and the Authority paid no more than the appraised value for the property as determined in an appraisal prepared by the Authority at the time of purchase, the Authority shall first offer the property to the person or entity who sold the property to the Authority. The Authority shall not sell the property at a price less than the total of all of the following: (i) amount the Authority paid the seller for the property (including all costs and expenses incurred by the Authority for the purchase), plus interest calculated at the average rate earned by the Authority on invested funding during the time of its ownership and (ii) administration, maintenance and repair costs incurred by the Authority during its ownership of the property.

B. Notice to Certain Affected Agencies. Prior to commencing the sale of property to a third party, the Authority should notify and receive the concurrence of the following agencies:

- (1) The city or county within which the property was located when originally purchased by the Authority; and
- (2) The city or county within which the property is currently located and/or within which sphere of influence the property is currently located.

C. Sale to Other Parties. If subsection A is not applicable, the Authority may proceed with the sale of the property to any party. The Authority shall conduct an appraisal of the property to determine its fair market value upon a recommendation by the Authority's staff.

D. Limitations. It is anticipated that the Authority shall not:

- (1) Sell property within five (5) years of acquisition; and
- (2) Sell water or mineral rights unless fully compensated therefor.