

COACHELLA VALLEY WATER DISTRICT
POLICY FOR DISPOSAL OF SURPLUS REAL PROPERTY
January 1, 2020

This policy is intended to provide specific procedures for the disposal of surplus real property and has been reviewed and approved by the Coachella Valley Water District (“CVWD”) Board of Directors (“Board”). Generally, real property disposal covered by this policy will be valued at fair market value as a minimum. The procedures are as follows:

1. Request For Disposal

(a) A request to dispose of CVWD real property will first be routed by the Right-of-Way Division (“ROW”) to Operations, Facilities and Maintenance, Environmental Services, Service, and Engineering (“CVWD Departments”) to determine whether there is still a need for the real property.

(b) In addition, a request will be made to CVWD’s Environmental Services (“ES”) to prepare the applicable California Environmental Quality Act (“CEQA”) compliance document which will likely include an exemption. For example, and not by way of limitation, it is likely that a Class 12 Categorical Exemption for Surplus Government Property Sales will apply.

(c) ROW will prepare and deliver to the General Manager of CVWD (“General Manager”) the following documents:

- (i) A memorandum which summarizes the various comments from each CVWD Department, including the following:
 - a. the determination of ES whether the proposed sale is subject to or exempt from CEQA compliance;
 - b. ROW’s recommendation if land is deemed “exempt surplus land” or “surplus land” as defined below; and

(ii) A map of the real property in question.

(d) After a review of the foregoing, the General Manager will determine if the real property is surplus, or if additional information is needed to make the determination. The General Manager shall notify ROW of the determination and any conditions or actions to be made by ROW in connection with that determination, or the additional information necessary to make such determination.

2. Requirement For An Appraisal

If the General Manager has deemed the real property to be surplus land, an appraisal will be ordered. In the event the potential disposal has been requested by a private party, ROW may require, in its discretion, that said private party make a deposit to cover the cost of an appraisal, title policy, staff and legal costs, and any other costs and expenses incurred for completion of the potential disposition. ROW may impose additional terms and conditions in regard to deposits, payments and refunds, as applicable.

3. Determination By The Board Of Directors

(a) The Board is required to take formal action, at a regular board meeting, supported by written findings, that the land is either “exempt surplus land” as defined by Government Code Section 54221(f) or “surplus land” as defined by Government Code Section 54221(b).

(i) For CVWD’s purposes, “exempt surplus land” may include the following:

(A) Land that is (i) less than 5,000 square feet in area, (ii) 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 (iii) has no record access and is less than 10,000 square feet in area; *and* is not contiguous to land owned by a state or local agency that is used for open-space or low- and moderate-income housing purposes. *If the land is not sold to an owner of contiguous land, it is not considered exempt surplus land.*

(B) Land that CVWD is exchanging for another property necessary for CVWD’s use.

(C) Land that CVWD is transferring to another local, state, or federal agency for that agency’s use.

(D) Land that is a former street, right of way, or easement, and is conveyed to an owner of an adjacent property.

(b) The Board Action Item may also include the following:

(i) a description of the land;

(ii) a copy of the summary of the appraisal;

(iii) the General Manager’s recommendation that the land is exempt surplus land or surplus land subject to the procedures; and

(iv) the plan for sale.

(c) If the Board determines that the land is surplus, or is exempt surplus land, no further action by the Board will be required unless:

(i) An applicable entity responds timely and properly to the notice described below and the General Manager recommends sale of the land to such an entity;

(ii) The General Manager recommends sale of the land to a party other than an entity that responded to the notice described below; or

(iii) The General Manager recommends that the Board consider selling the surplus land upon terms and conditions materially different from those previously approved by the Board.

4. Notices Of Availability

Upon approval of the Board, ROW will issue written Notices Of Availability to the following entities *within whose jurisdiction the surplus land is located*. The Notices shall be sent by electronic mail, or by certified mail, and shall include the location and a description of the surplus land. The format for a Notice Of Availability is attached.

(a) Notice To Planning Agency

Notice to the planning agency for the applicable county or city, so that the applicable county's/city's planning agency can have the opportunity to report on the conformity of the "location, purpose and extent" of the sale to the county's/city's general plan. (Government Code Section 65402) Failure of the county/city to report within 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 county/city disapproves the location, purpose or extent of such disposition, the disapproval may be overruled by CVWD.

(b) Low And Moderate Income Housing

(i) Local public entities authorized to engage in or assist in the development or operation of housing for persons and families of low or moderate income; and

(ii) Housing sponsors qualified to either own, construct, acquire, or rehabilitate a housing development for the purpose of housing that have notified the California Department of Housing and Community Development ("Department") of their interest in surplus land for the purpose of developing low and moderate income housing.

(c) Open-Space

(i) Park or recreation departments of the county and cities;

(ii) Any regional park authority; and

(iii) The State Resources Agency.

(d) School Facilities Or Open Space For Schools

School districts that may wish to use the land for school facilities construction or open space purposes.

(e) Infill Opportunity Zone Or Transit Village

A county, cities, successor agencies to a former redevelopment agency, public transportation agencies, or housing authorities for the purpose of developing property located within an infill opportunity zone or within an area covered by a transit village plan.

5. 60 Days To Respond To A Notice Of Availability

Any entity or association (“Interested Party”) desiring to purchase or lease the surplus land for any of the above-mentioned purposes must notify CVWD in writing of its interest in purchasing or leasing the land within 60 days after the Notice Of Availability is *sent* via certified mail or provided via electronic mail.

6. 90 Days For Good Faith Negotiations

(a) CVWD and the Interested Party(ies) will then enter into good faith negotiations to determine a mutually satisfactory sales price and terms or lease terms. If the price or terms cannot be agreed upon after a good faith negotiation period of not less than 90 days, the land may be disposed of without further regard to surplus land procedures.

(b) The required 90-day period for participating in negotiations does not include the time for commissioning of appraisals, due diligence prior to disposition, discussions with brokers or real estate agents not representing a potential buyer, or other studies to determine value or best use of land, issuance of a request for qualifications, development of marketing materials, or discussions conducted exclusively among CVWD employees and Board members.

7. Report To California Department Of Housing And Community Development

(a) Prior to agreeing to terms for the disposition of surplus land, CVWD will provide to the Department the following information. This information may be submitted after CVWD has sent Notices Of Availability and concluded negotiations with any Interested Party(ies).

(i) The Notices Of Availability;

(ii) Description of the negotiations conducted with any Interested Party(ies); and

(iii) A copy of any restrictions to be recorded against the land regarding any residential units and any requirement that a certain percentage of such units be sold or rented at an affordable housing cost, as required by the applicable law.

(b) Any purchase and sale transaction shall be contingent upon CVWD not receiving a notice of noncompliance from the Department within 30 days from the date the above-mentioned information is *received* by the Department.

8. Sale Of Surplus Land After Completion Of Surplus Land Procedures

If entities receiving Notices Of Availability do not timely indicate an interest in the purchase of the land, or terms of sale cannot be agreed upon under the requirements of the surplus land procedures, then CVWD may offer the land for sale by competitive sealed bid packages with the following exceptions:

(a) In the event the land is surrounded by one property owner, it will first be offered to that property owner at an agreed-upon price; or

(b) In the event the land was subdivided from a larger parcel that is still whole, it will first be offered to the current owner of the parcel from which it was subdivided at an agreed-upon price.

9. Marketing Of Surplus Land

(a) If CVWD decides to advertise and use a competitive bid process, ROW will prepare the bid packages and work with the Clerk of the Board to advertise the sale in the local newspaper(s). The General Manager may determine, in his /her discretion, to retain the services of a real estate agent/broker and/or engage in any other marketing activities.

(b) The appraised fair market value will be advertised as the minimum bid. It will be stated in the bid package that all appraisal, title, escrow and any site improvement costs will be paid by the buyer.

10. Review Of Bids – Negotiation

(a) The Purchasing Committee will hold a formal bid opening and all bids will be opened. The bids will be reviewed and CVWD will determine who is highest responsive bidder (at or in excess of the minimum bid amount) and the bidder will be notified. CVWD and the potential buyer shall then engage in negotiations and may reach an agreement for the purchase and sale of the land subject to review and approval by the applicable CVWD Departments and the Board.

(b) If the proposed purchase and sale is subject to CEQA compliance, ES will submit the appropriate draft CEQA documents to the Board accompanying the action request for approval. After Board approval, ES will file the CEQA documents with the County Clerk and State Clearinghouse. After any required clearance from the State Clearing House, and if a purchase and sale agreement is entered into, ROW will so notify the buyer and will open escrow.

11. Closing Of Purchase And Sale

Through escrow, the deed will be recorded and proceeds will be transmitted to Finance.

ROW will provide Finance with a copy of the recorded deed and the CVWD Land Acquisition/Conveyed Form to remove it from the real property asset inventory.

ROW will alert all CVWD Departments that the sale has been completed so they can update their records. Technical Services will also be alerted to update the CVWD plat sheet and associated records. A copy of the deed will be scanned and filed into CVWD's Record database.

NOTICE OF AVAILABILITY

SENT VIA ELECTRONIC MAIL [AND/OR] CERTIFIED MAIL

To:

RE: NOTICE OF AVAILABILITY OF SURPLUS LAND
SURPLUS PROPERTY PROCEDURES
GOVERNMENT CODE SECTION 54220 ET SEQ.

Dear :

The Coachella Valley Water District (“CVWD”) is the owner of a parcel of real property located at [insert address] and/or [insert APN] and more particularly described in the attachment to this Notice.

CVWD believes that the parcel is not, and will not, be needed for CVWD purposes. CVWD intends to dispose of the above described property and, pursuant to Government Code Section 54220 et seq., offers the land to the [insert entity name]. The fair market value of the property has been determined to be [insert appraised value of property].

Should the [insert entity name] desire to purchase the property for [insert purpose, e.g., low and moderate income housing, open-space, school facilities/open-space, infill opportunity zone, transit village] purposes, it must notify CVWD in writing of its interest in purchasing or leasing the property within sixty (60) days of the date this Notice was sent as indicated by the date set forth below.

By: _____
Director of Engineering

Date: _____

NOTICE OF INTENTION TO PLANNING AGENCY

SENT VIA ELECTRONIC MAIL [AND/OR] CERTIFIED MAIL

To:

RE: NOTICE OF INTENTION TO DISPOSE OF REAL PROPERTY
NOTICE TO PLANNING AGENCY

Dear :

The Coachella Valley Water District (“CVWD”) intends to dispose of surplus real property located at [Insert APN] in the County of Riverside (the “Property”). Before CVWD can sell this property, the County of Riverside/City of _____ Planning Agency must report on the conformity of the location, purpose, and extent of the sale to any applicable general plan of the County/City (Government Code Section 65402 (c)). Failure of the County/City to report within forty (40) days after the matter has been submitted to it is deemed a finding that the proposed sale is in conformity with the general plan. If CVWD does not hear from the County/City regarding the sale of the property, CVWD will move forward with the sale.

If you have any questions, please contact me at _____.

By: _____
Director of Engineering

Date: _____