



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

December 7, 2016

FCD Resolution

Proposed No. FCD2016-22.2

Sponsors

1 A RESOLUTION approving an acquisition policy for the
2 King County Flood Control Zone District.

3 WHEREAS, RCW 86.15.080 provides powers to a flood control zone district to
4 acquire real property and real property interests in order to carryout the district's
5 purposes; and

6 WHEREAS, RCW 86.15.080 further states that the acquisition of necessary
7 property, property rights, facilities, and equipment necessary to the purposes of the zone
8 may be by purchase, gift, or condemnation; and

9 WHEREAS, RCW 86.15.080 states that title to all property or property rights
10 shall vest in the zone; and

11 WHEREAS, the King County Flood Control District ("District") may acquire or
12 reclaim lands when incidental to the purposes of the zone and dispose of such lands as are
13 surplus to the needs of the zone in the manner provided for the disposal of county
14 property; and

15 WHEREAS, the District relies on King County through its service provider, the
16 water and land resources division, and other jurisdictions, including municipalities, to
17 undertake acquisitions on behalf of the District in order to carry out the District's
18 purposes; and

19 WHEREAS, the board of supervisors desires to adopt policies to provide
20 guidance concerning real property and real property interests; now, therefore

21 BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE KING
22 COUNTY FLOOD CONTROL ZONE DISTRICT:

23 SECTION 1. The board of supervisors adopts the "Acquisition Policy",
24 Attachment A to this resolution.

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FCD Resolution was introduced on and passed as amended by the King County Flood Control District on 12/7/2016, by the following vote:

Yes: 8 - Mr. von Reichbauer, Ms. Lambert, Mr. Dunn, Mr. McDermott, Mr. Dembowski, Mr. Upthegrove, Ms. Kohl-Welles and Ms. Balducci


No: 0

Excused: 1 - Mr. Gossett

KING COUNTY FLOOD CONTROL DISTRICT
KING COUNTY, WASHINGTON


Reagan Dunn, Chair

ATTEST:


Melani Pedroza, Acting Clerk of the Council

Attachments: A. Property Acquisition Policy

Attachment A

Property Acquisition Policy

King County Flood Control Zone District

November 29, 2016

1. Policy Intent

- 1.1. This property acquisition policy is intended to provide guidelines for when and how King County Flood Control District ("district") resources are used to acquire real property or real property interests.
- 1.2. The district is a steward of public funds and seeks to make the most cost-effective investments in flood facilities while protecting public safety.
- 1.3. The district is responsible for building and maintaining flood facilities and requires the use of property to fulfill those purposes.
- 1.4. The district's goal is to implement best practices to ensure that the acquisition and stewardship of real property and real property interests, particularly those for flood protection facilities, are documented and understood to ensure that there is clarity in communications about responsibilities for maintenance and managing of flood risk.
- 1.5. Once a facility is built, the district requires on-going access to inspect, monitor, maintain, and repair facilities.
- 1.6. The district's intent is to provide flexibility in its acquisition guidelines to address the unique circumstances of flood emergencies, funding opportunities, and property owner willingness to sell.
- 1.7. The district's policy is to provide relocation assistance to tenants affected by property acquisition under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 whether or not the acquisition is voluntary.

2. Background

- 2.1. Since 2008, King County ("county") through the department of natural resources and its parks, water and land resources division ("WLR Division"), has functioned as the primary service provider to the district under an interlocal agreement between the district and county, as authorized by chapter 39.34 RCW. Among its duties as service provider, the WLR Division implements the district's work program. A substantial portion of the district's work program involves acquisition of real property and real property interests necessary for construction projects, acquisition of structures in high-risk areas, as well as maintenance that often requires acquisition of real property or real property interests.
- 2.2. The district also contracts from time to time with other jurisdictions to implement district capital projects and these contracts often include acquisition of real property and real property interests.
- 2.3. Under section 9 of the interlocal agreement between the county and the district, the county may acquire on behalf of the district real property or real property interests with title to the real property or real property interests taken in the name of the county for later transfer to the district, as required by RCW 86.15.080.

- 2.4. Since 2008, the county, on behalf of the district, has acquired 122 properties related to structural capital projects, to reduce flood risk or to reduce repetitive losses. The majority of these acquisitions were voluntary. The Board of Supervisors of the district ("board") has used condemnation on three projects.

3. Applicability of policy

- 3.1. This policy applies to any acquisition that uses district funds, including but not limited to property tax revenue and grant awards.
- 3.2. This policy applies to WLR Division and to any jurisdiction carrying out a flood capital project on behalf of the district.
- 3.3. This policy does not apply to district funds that are used for the WRIA grant program, Subregional Opportunity Fund program, or Flood Reduction grant program; however, those grant programs must comply with all applicable local, state, and federal laws related to property acquisition and relocation.

4. Citations of applicable state and federal law, other district policies

- 4.1. RCW 86.15.080(5): a zone may "acquire necessary property, property rights."
- 4.2. RCW 86.15.080(7): a zone may "acquire or reclaim lands when incidental to the purposes of the zone."
- 4.3. RCW 86.15.080(3): a zone may "take action necessary to protect life and property within the district from flood water damage, including in the context of an emergency."
- 4.4. RCW 86.15.080(2): a zone may "acquire ... all necessary ... facilities, improvements, and works."
- 4.5. RCW 86.15.100: "The supervisors may authorize the ... acquisition of necessary flood control or storm water control improvements within the zone."
- 4.6. RCW 86.15.080 (1): a zone may "exercise all the powers ... vested in a county for flood water or storm water control purposes under the provisions of chapters 86.12, 86.13, 36.89 and 36.94 RCW."
- 4.7. RCW 86.15.090: a zone "may, when necessary to protect life and property within its limits from flood water, exercise any of its powers specified in 86.15.080 outside its territorial limits."
- 4.8. RCW 86.12.020: " a county may, inside or outside its boundaries, construct, operate and maintain dikes, levees, revetments, bulkheads, rip-rap or other protection, and may "purchase, condemn or otherwise acquire land, property or rights."
- 4.9. King County Ordinance 18227.

5. Types of Acquisitions

- 5.1. Flood or storm water capital projects.
 - 5.1.1. This includes acquisitions for approved capital construction projects.
- 5.2. Voluntary capital acquisition, such as home buy-outs.
 - 5.2.1. This includes acquisitions within mapped flood or channel migration hazard areas that are not part of either a corridor planning effort or an approved capital project.
- 5.3. Environmental mitigation for capital projects.
 - 5.3.1. This includes acquisitions for habitat mitigation or improvements where the flood or storm water protection benefits are secondary or where mitigation is necessary for an approved flood or stormwater capital project.
- 5.4. Imminent flood threat or emergency.

5.4.1. This includes acquisitions resulting from a flood or channel migration hazard and involving an imminent threat to property or life where acquisition is the only way to alleviate the imminent threat.

5.4.1.1. To qualify as an “imminent threat,” there must be a change in circumstance such as recent flooding or change in channel location, and not simply the existence of an historical general flood hazard area threat.

6. Acquisition Considerations and Criteria

- 6.1. Acquisitions should be voluntary whenever possible and within a reasonable market range, except under limited circumstances.
- 6.2. Options to avoid or minimize acquisition should be considered first, including but not limited to the following:
 - 6.2.1. Using alternative design options for the proposed facility, such as raising the levee in place, constructing a floodwall, or improving the structural stability of the existing levee.
 - 6.2.2. Minimizing acquisition of new property or property rights, while still meeting the project goals, so as to meet engineering design standards, such as United States Army Corps of Engineers (“USACE”) guidelines, factors of safety for urban areas, environmental requirements or best management practices.
 - 6.2.3. Acquiring less than fee title if feasible, such as easements, conservation easements, boundary line adjustments, and other forms of landowner approvals (e.g., if publicly owned).
 - 6.2.4. Requesting that real property or real property interests be donated, when the owner is another governmental agency that benefits from the project.
- 6.3. Acquiring residential property should be considered where it is more cost effective than constructing new or expanded flood protection infrastructure.
- 6.4. In order to achieve consensus on multi-party goals for a project, it may be appropriate to acquire more property or more property rights than is necessary for a stand-alone flood protection facility.
- 6.5. Condemnation should be avoided until all reasonable offers for purchase have been rejected.
- 6.6. Condemnation should not be used for non-flood or non-stormwater district capital projects, except for required environmental mitigation.

7. Criteria for evaluating potential acquisitions

- 7.1. Acquisitions for health and human safety are high priorities.
- 7.2. Acquisitions in mapped flood hazard areas when flood depths exceed three feet or flow velocities exceed three feet per second are high priorities, in order to protect residents and emergency first responders.
- 7.3. Acquisition of property in the following categories are priorities:
 - 7.3.1.1. Floodways.
 - 7.3.1.2. Moderate and severe channel migration zones that are mapped and verified.
 - 7.3.1.3. “Repetitive loss” properties, which are properties identified by FEMA based on flood insurance claims, and therefore only cover those properties that have had federally-backed flood insurance rather than all properties that may be vulnerable to flood and

channel migration hazards. Congress has adopted two definitions to identify Repetitive Loss properties as follows:

7.3.1.3.1 The National Flood Insurance Program (NFIP) defines a repetitive loss property as any insurable building for which two or more claims of more than \$1,000 were paid by the NFIP within any rolling 10-year period since 1978. At least two of the claims must be more than 10 days apart but within 10 years of each other.

7.3.1.3.2 Under the Biggert-Waters Flood Insurance Reform Act of 2012, a repetitive loss property is a structure covered by a contract for flood insurance made available under the NFIP that:

(a) Has incurred flood-related damage on 2 occasions, in which the cost of the repair, on the average, equaled or exceeded 25 percent of the market value of the structure at the time of each such flood event
and

(b) At the time of the second incidence of flood-related damage, the contract for flood insurance contains increased cost of compliance coverage

- 7.4. Capital district projects that will protect critical facilities or public infrastructure, such as roads, schools and utilities, as well as economic centers, and productive farmland.
- 7.5. Limit the amount of property rights acquired for access, right of entry, and construction, to those that are needed.
- 7.6. Acquisitions identified during river corridor planning for future potential capital projects are low priority until the district has approved the corridor plan or the board directs WLR Division to pursue an acquisition.
- 7.7. Obtain only the real property or real property interests that are sufficient to meet anticipated inspection, operation, maintenance and repair needs for the future.

8. Acquisition Procedures

- 8.1. By reference, this policy adopts the acquisition planning procedures outlined in the Water and Land Resources Project Management Manual (December 2014) (Manual), Chapter 1.6.9.1 – 1.6.9.3.
- 8.2. All jurisdictions carrying out a flood capital project on behalf of the district or acquiring property for a flood capital project shall comply with the Manual.
- 8.3. The landowner outreach plans described in sections 1.6.9.4 – 1.6.9.5 of the Manual are subject to the procedure described in section 8.5 below.
- 8.4. By reference, this policy adopts the procedures outlined in the Manual Chapter 6, for property evaluation, valuation, offers, relocation, closings, and post-closings such as maintenance plans.
- 8.5. The county shall notify the district Chair and Executive Director of any proposed changes to the acquisition chapters of the Manual (Chapters 1.6 and 6) and shall obtain approval, before these changes become incorporated into this policy, from the district through an amendment to this policy.
- 8.6. WLR Division shall consult with the board or the board's designee such as the Executive Committee, Chair, or Executive Director, as directed by the board, for the following steps in the acquisition process:

Acquisition Policy

November 29, 2016 version

- 8.6.1. Anticipated acquisition analysis associated with river corridor, river basin, and county flood hazard management planning.
- 8.6.2. Capital project goals and charter.
- 8.6.3. Acquisition planning associated with project management in phase 1 of project management manual.
- 8.6.4. Initial landowner outreach.
- 8.6.5. Outreach plan, including plans to communicate with tenants.
- 8.6.6. WLR Division shall keep the Supervisors of the affected Council geographic districts informed about key milestones related to outreach, including initial outreach and the outreach plan.

9. Delegation of Authority

- 9.1. WLR Division is authorized to carry out acquisition procedures in Sections 1.6.9.1-1.6.9.3 and Chapter 6 of the Manual.
- 9.2. The district's Executive Director is authorized to approve a property owner outreach plan and initial property owner outreach.
- 9.3. WLR Division must obtain the district's Executive Committee's prior approval for the following:
 - 9.3.1. Capital project charter and goals.
 - 9.3.2. Selection of design alternative.
 - 9.3.3. Initiation of 30, 60, and 90 percent design.
 - 9.3.4. Outreach plans for all acquisitions.
- 9.4. The district's board is authorized to initiate condemnation proceedings by resolution.

10. Reporting

10.1 WLR Division shall provide the district with an annual inventory database of all property acquired with district funds. The inventory shall include the original property owner, capital project general description and number, river, river reach, parcel numbers, acquisition cost, date closed, acreage, funding source, type of project, and actual or projected date of transfer of the property title to the district.

10.2 The county shall include a status report on all completed acquisitions and those under negotiation to the Executive Committee on a monthly basis.