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# **Orange County Transportation Authority Real Property Policies and Procedures Manual**

## **General Policies**

*This manual and its addendums contain the regulations, requirements and procedural directives governing the operations of the Real Property Department, reporting directly to the Orange County Transportation Authority's (the "OCTA") Capital Programs. This manual will be updated and amended as needed. This manual is neither intended as, nor does it establish, a legal standard for these functions. Policies and practices established herein are for the information and guidance of the officers and employees of OCTA. This manual is not a textbook or a substitute for law, statute, regulation, knowledge, experience, or judgment.*

*The Real Property Department ("Department") shall be responsible for all Right of Way (ROW) activities including property acquisitions, relocation assistance, utility relocations, property management activities and real estate related activities on behalf of OCTA. The Department shall implement all policies and procedures to assist and advise OCTA personnel in the administration of such policies and procedural requirements. The Department shall consult with General Counsel to determine whether OCTA is in compliance with all applicable federal, state and local laws, regulations, policies, and ordinances. The Department shall be supervised and managed by a Department Manager, hereinafter the "Real Property Manager", as defined by the OCTA Human Resources Department who shall report to the Executive Director, Capital Programs.*

*OCTA will comply with the requirements of federal and state laws, statutes and regulations, particularly, 49 CFR part 24, Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended (Uniform Act); Title 25, California Code of Regulations Ch 6, Art 1, Section 6000 et seq., Relocation Assistance and Real Property Acquisition Guidelines; California Code of Civil Procedure; California Government Code Section 7260-7277; and Uniform Standards of Professional Appraisal Practice (USPAP). When implementing ROW and Property Management activities, OCTA shall utilize the California Department of Transportation ("Caltrans") Right of Way Manual and the Caltrans Local Assistance Manual, if applicable.*

*The Real Property Manager, with the concurrence of the Executive Director, Capital Programs, shall interpret the Caltrans Right of Way Manual and the Caltrans Local Assistance Manual to determine how policies and procedures identified within the manuals are applicable to OCTA as a County Transportation Commission formed pursuant to Public Utilities Code sections 130000 et seq. and are applicable to directives as established by OCTA Board of Directors.*

## **I. Right of Way Engineering**

*For OCTA projects, Right of Way Engineering will be the responsibility of the Project Designer of record who will report to the assigned Project Manager or Program Manager. The Real Property Department is not the responsible department for this function.*

- For Projects On the State Highway System: OCTA will seek the Project Designer's and Caltrans concurrence of ROW requirements prior to completing the appraisal.
- For Projects Off the State Highway System: OCTA will seek the Project Designer's concurrence of ROW requirements prior to completing the appraisal.

## **II. Environmental Soil Assessment, Remediation and Mitigation**

*Environmental policies address concerns involving residential, commercial and industrial properties which may be wholly owned by OCTA or jointly held with other owners.*

- For Projects On the State Highway System: OCTA will follow the Caltrans Request for Acquisition of Contaminated Property (RACP) policies and procedures.
- If the Hazardous Material Disclosure Documents (HMDD) recommends a Phase II study with remediation and requires concurrence prior to purchase, the acquisition of the property must be approved by the Executive Director, Capital Programs.

## **III. Appraisals**

*Appraisals are used to establish a basis for determining just compensation. The Uniform Act requires that an appraisal and a reviewer's analysis be obtained on all parcels proposed for acquisition. Regulations implementing appraisal standards of the Uniform Act are found in 49 CFR Part 24. The Uniform Act applies to any federal or federally-assisted programs or projects and it applies when federal funding is to be used in any phase of the programs or projects. If federal funds are going to be used in any part of the project, but not in acquiring ROW, the Uniform Act applies to the appraisals and acquisitions.*

- OCTA will secure an appraisal of all properties to be acquired, exchanged or sold, except those that are exempt under the Uniform Act. Appraisers are instructed that the appraisal shall conform to the requirements of the Uniform Standards of Professional Appraisal Practice (USPAP) and the Uniform Act.
- All acquisition appraisals shall be reviewed by an independent review appraiser who will either approve, amend or reject the appraisal.
- An independent review appraiser shall confirm their review of the appraisal in writing.
- All property owners shall be given notice of the date and time of inspection of their property by the appraiser and shall be given the opportunity to be present or have a representative present

when the appraiser inspects their property. Property owners may submit information as to the value of their property during the appraisal process, and such information shall be considered by the appraiser.

- Property owners will be permitted to review the approved real estate appraisal for their property.
- Fixtures and equipment appraisals, if applicable and available, shall be included in the appraisal report.
- A loss of business goodwill appraisal will be performed upon receipt of a loss of business goodwill claim. The loss of business goodwill appraiser shall review and consider tax returns and any other supporting financial data that is furnished by the business owner.
- The selection of independent appraisers is based on qualifications and experience for the property being appraised in accordance with criteria for appraisals contained in 49 CFR Part 24. Appraisers must be qualified to give expert testimony in support of their value estimates in the event of condemnation proceeds.
- FTA, FHWA and Caltrans (depending on the funding source) concurrence thresholds, appraisal and settlement guidelines should be strictly followed.
- OCTA shall establish a current Roster of Approved Contract Appraisers through the OCTA Procurement Process.
- OCTA shall establish a current Roster of Approved Review Appraisers through the OCTA Procurement Process.

#### **IV. Acquisition and Negotiations**

*OCTA is empowered by law, to purchase, lease or condemn real or personal property. The intent and purposes of Acquisition and Negotiations Policies and Procedures are to assure uniform acquisition practices, which will provide consistent and equitable treatment of owners and tenants of real property acquired by OCTA for public purposes. In accordance with State of California law, OCTA will make an effort to interpret acquisition policies to the benefit of the property owner while understanding it cannot make interpretations that would result in the gift of public funds.*

*It is the policy of OCTA that all negotiations shall be expeditious and result in the property owner receiving just compensation. The goal is that any settlement will be just and fair to the property owner and the public. Every courtesy and consideration will be extended to the property owner in order to establish trust in OCTA, the members of its Board of Directors and its employees.*

- All property acquisitions must be approved by OCTA Board of Directors.
- For Capital Improvement Projects, upon adoption of the National Environmental Policy Act and the California Environmental Quality Act (NEPA/CEQA) environmental document, OCTA staff will seek OCTA Board of Directors authority to acquire property or property interests based on the preferred design.
- All statutory offers shall comply with Section 7267.2 of the California Government Code.

- All statutory offers will include acquisition of all applicable real property interests, land and improvements, fixtures and equipment, if applicable and available, and tenant interests, if applicable and available.
- For commercial properties, an un-segregated offer for fixtures and equipment will be made to the property owner and business owner, if applicable.
- Owners of appraised fixtures and equipment will be advised of their right to remove fixtures and equipment from a valuation list and be permitted to relocate the fixtures and equipment at the expense of the project.
- An offer for loss of business goodwill, if any, will be made upon an approved loss of business goodwill appraisal. A loss of business goodwill appraisal will be completed after the business owner files a claim for loss of business goodwill.
- Prior to making the loss of business goodwill offer, the acquisition agent shall recognize any “in-lieu” or reestablishment payments that may have been or will be made under relocation assistance in order to avoid duplication of payment.
- The Real Property Manager has the authority to approve Just Compensation based on an appraisal and the independent review appraisal.
- Prior to making the statutory offer, OCTA’s Staff and consultants shall confirm the offer is consistent with the design needs and the appraisal.
- Property owners are entitled to obtain their own independent appraisal of the real property interests being acquired by OCTA in compliance with the California Code of Civil Procedure Section 1263.025.
- OCTA’s Right of Way Consultants, under the direction of the Real Property Manager and/or OCTA’s General Counsel, will conduct negotiations for acquisition of property rights on behalf of OCTA.
- At any time during the acquisition process, if the property owner is represented by legal counsel, OCTA’s General Counsel shall be notified.
- For mobile home acquisitions, condominium complexes, or when there is a home owners’ association ownership involved, a legal opinion as to ownership interests shall be obtained.
- When acquiring real property pertaining to real estate, a mobile home or manufactured dwelling requiring a limited power of attorney to transfer title, the Real Property Manager shall obtain an authorization memorandum from OCTA’s General Counsel’s Office to execute documents on behalf of OCTA.

## **V. Title and Escrow Services**

*Title Reports are needed for the purpose of establishing ownership, property lines and transferring clear title to the property or property rights being acquired by OCTA. Title Reports are used in the preparation of surveys, legal descriptions, Right of Way Contracts and utility relocation plans, and to ensure that the title and ownership of properties and property interests acquired by OCTA are free and clear of liens and encumbrances that will adversely affect the use of the property for the Project.*

- OCTA will secure title insurance for acquired property interests at the discretion of the Real Property Manager.
- The purchase and sale of permanent interests in real property will be handled through an escrow with a title company at the discretion of the Real Property Manager.
- Matters where there are title issues, vesting is in question, or there is a cloud on title will be referred to OCTA's Legal Counsel.

## **VI. Settlement Delegation Authority**

*The Settlement Delegation Authority thresholds described in this paragraph may not be increased by amendment, as described on Page 15, Paragraph XVII, Procedure Amendments. Any increase in thresholds requires approval by OCTA Board of Directors.*

*Administrative and legal settlement delegation authority thresholds (real property interests only, excludes relocation assistance):*

- The Executive Director, Capital Programs, is authorized to approve an administrative or legal settlement when the difference between the approved appraisal and the proposed settlement is no more than 20% over the approved appraisal and no more than \$250,000 over the approved appraisal;
- The Chief Executive Officer is authorized to approve an administrative or legal settlement when the difference between the approved appraisal and the proposed settlement is no more than 50% over the approved appraisal and no more than \$250,000 over the approved appraisal;
- The Chief Executive Officer is also authorized to approve an administrative or legal settlement when the difference between the approved appraisal and the proposed settlement is more than 50% over the approved appraisal, but not more than \$25,000 over the approved appraisal;
- The OCTA Board of Directors must approve an administrative or legal settlement when the difference between the approved appraisal and the proposed settlement is more than 50% and greater than \$25,000 over the approved appraisal, and must approve all administrative or legal settlements when the proposed settlement is \$250,000 over the approved appraisal.

## **VII. Administrative and Legal Settlements**

*Administrative settlements are made for the purpose of concluding negotiations for amounts considered reasonable, prudent and in the public interest, after reasonable efforts to negotiate agreements at the approved offers have failed. When federal or state funds pay for or participate in acquisition costs, a written justification shall be prepared which indicates that available information (e.g. appraisals, recent court awards, estimated trial costs or valuation problems) support such a settlement. (see 49 CFR 24.102(i)).*

- All administrative settlements must be accompanied by a written recommendation prepared by a Senior Real Property Agent, recommending the administrative settlement to the Real Property Manager, who will determine if the settlement is fair and reasonable. The Real Property Manager shall recommend and seek approval for all administrative settlements from the authorized level of approval.
- All legal settlements shall be accompanied by a written justification prepared by OCTA's General Counsel.

## **VIII. Eminent Domain and Resolutions of Necessity (RONs)**

*If negotiations have not reached an agreement with the owner or owners of any property interest required for a project, in an effort to maintain the approved project schedule, eminent domain proceedings may be recommended by the Real Property Manager to the Executive Director, Capital Programs to proceed with a recommendation to the Board of Directors to adopt a Resolution of Necessity (RON). Upon approval of the Chief Executive Officer to proceed with the recommendation, the Real Property Manager and the Executive Director, Capital Programs will coordinate with OCTA'S General Counsel to seek the adoption of the RON.*

- For Projects On the State Highway System: Consideration of whether to adopt and, if appropriate, the adoption of the RON shall be approved by OCTA's Board of Directors, pursuant to a Cooperative Agreement with Caltrans.
- For Projects Off the State Highway System: Consideration of whether to adopt and, if appropriate, the adoption of the RON shall be approved by OCTA's Board of Directors.
- For Projects On the State Highway System: OCTA will follow the Caltrans Right of Way Manual pertaining to the Notice of a RON Hearing.
- For Projects Off the State Highway System: Property owners shall be given at least thirty (30) days to consider the statutory offer prior to receiving Notice of a RON Hearing.

*The following describes the OCTA Administrative Review Process prior to a RON Hearing for Projects On and Off the State Highway System:*

- If the property owner has questions or concerns relating to project design and the necessity of the property interests for the project, the property owner can request a Condemnation Evaluation Meeting at any time during the acquisition process.
- If an agreement has not been reached with the property owner and staff intends to proceed with requesting OCTA's Board of Directors to consider the adoption of a RON, the Real Property Manager will request a Condemnation Evaluation Meeting with the property owner prior to the mailing of a Notice of RON Hearing.
- The Capital Programs Division will conduct the Condemnation Evaluation Meeting. The Condemnation Evaluation Meeting will be attended by the property owner(s) and/or their representatives, OCTA Staff and/or OCTA's Right of Way Consultant, the Project Manager or designer of record, OCTA's Legal Counsel, if necessary, and shall be chaired by staff of the Real



Property Department. This Condemnation Evaluation Meeting is an effort to identify and resolve all the property owner's issues. If issues remain unresolved after the Condemnation Evaluation Meeting, a Fact Sheet will be prepared and provided to the Executive Director, Capital Programs by the Real Property Manager. Upon completion of the Condemnation Evaluation Meeting, OCTA staff shall make a property owner or their representatives aware they may request a Condemnation Panel Review Meeting.

- If requested by the property owner, a Condemnation Panel Review Meeting will be scheduled within thirty (30) days after the request. The Condemnation Panel Review Meeting will consist of OCTA management and decision makers consisting of: a Chairperson (Executive Director, Capital Programs or designee), the Real Property Manager, the Director, Highway Programs or Transit Programs, the assigned Program Manager, OCTA's Legal Counsel, if necessary, and a Caltrans representative(s), if applicable, and the designer of record. If issues remain unresolved after the Condemnation Panel Review Meeting, the following documents will be prepared: (a) a written summary of unresolved issues; and (b) a chronology of contacts with the property owner or their representative(s). The Executive Director, Capital Programs will make the final determination to proceed with the recommendation to adopt the RON once the Condemnation Panel Review Meeting is complete.
- If a Condemnation Evaluation or Condemnation Panel Review Meeting has not been conducted with the property owner and/or their representative and they timely submit a request to speak and be heard at the RON adoption hearing, then OCTA will send a request immediately to the property owner and/or their representative to schedule a combined Condemnation Evaluation and Condemnation Panel Review Meeting prior to the RON hearing.

## **IX. Conflict of Interest: Employee or Board of Director Owned Property**

*The policies on acquisition of property owned by an OCTA employee or member of OCTA Board of Directors shall be as follows:*

- When the property or property rights to be acquired are owned by an OCTA employee or member of OCTA Board of Directors, the Real Property Department shall order one appraisal for the property/property rights to be acquired. If the property owner is a member of OCTA Board of Directors or an OCTA employee, and the Director or employee rejects the appraisal, the Real Property Department shall immediately notify OCTA's General Counsel for further direction. General Counsel shall as soon as possible determine the extent to which negotiations can legally continue and who may conduct negotiations. The Real Property Department may continue to receive information provided by the employee or Director and forward to OCTA's independent appraiser for evaluation.

## **X. Relocation Assistance Program**

*The law, regulations, policies, and this manual are intended for the benefit of the displaced person to ensure that such persons receive fair and equitable treatment and do not suffer disproportionate injuries*

*as the result of programs designed for the benefit of the public as a whole. California state law requires that all right of way determinations/interpretations be construed to affect this intent.*

*The Relocation Assistance and Payment Program is applicable to all Orange County Transportation Authority projects, regardless of whether the project receives federal or state funds, and other activity which requires the acquisition of real estate by OCTA.*

- Anyone who is wholly or partially displaced as a result of an OCTA project is entitled to relocation assistance and benefits as defined in the Uniform Act, 49 CFR part 24 (Implementing Regulations), California Government Code 7260, and Title 25 California Regulations, Chapter 6, Article 1, Section 6000 et seq. (Guidelines); except in cases of voluntary sales where the owner-occupant of the property sells their property to OCTA, after being informed in writing prior to negotiations, that if a mutually satisfactory agreement cannot be reached, the property will not be acquired by eminent domain.
- If the project will cause residential or business displacements, a relocation plan must be prepared in accordance with the Uniform Act and Title 25, California Code of Regulations Ch 6, Art 1, Section 6000 et seq.,
- Eligibility for relocation assistance shall begin on the date of initiation of negotiations.
- Appeals Process: Anyone who is wholly or partially displaced that wishes to appeal the decision to deny or limit relocation assistance shall file an appeal in writing with the relocation agent representing OCTA, who will then forward the appeal to the Real Property Department. The Senior Agent on the project and the Real Property Manager will either concur or disagree with the issues presented in the appeal. If OCTA Staff agrees with the issues presented in the appeal, additional relocation benefits will be awarded and/or eligibility status will be adjusted accordingly. If OCTA Staff does not concur with the issues presented in the appeal, a date will be set within thirty (30) days from the receipt of the appeal request for a review panel to hear the claimant's appeal (the review panel shall be appointed by the Executive Director, Capital Programs). The Chief Executive Officer or designee and a panel of knowledgeable personnel, not a party to the project, will hear the appeal (the "appeal board"). Within thirty (30) days, OCTA Staff will notify the claimant of the appeal board's decision. The appeal board's decision is final; however, the claimant has the right to seek judicial review of the appeal board's decision. The claimant may be represented by legal counsel during any phase of the appeal process; however, there will be no reimbursement to the claimant by OCTA of legal fees incurred.
- The Real Property Manager shall determine if a displacee qualifies for relocation benefits upon a recommendation by OCTA's qualified Relocation Agent. This shall include permanent or temporary relocations.
- The Real Property Manager shall authorize and execute all relocation assistance claims forms and any related documents.

## **XI. Utility Relocations**

*During the design and engineering process, utilities affected by the proposed construction will be identified. Typically, the affected utilities may need to be relocated, protected in place or possibly abandoned. Early identification of affected utilities and early coordination with the affected utility*

*companies is highly recommended as timely design and completion of all utility adjustments affect the OCTA's ability to commence construction.*

*OCTA is responsible for relocation or removal of utility facilities that are in physical conflict with a proposed project. This responsibility shall be delegated to the Real Property Department to implement OCTA's policies.*

- OCTA staff will seek OCTA Board of Directors authority to enter into utility agreements with utilities that have facilities which are in conflict with the preferred design. OCTA will follow the Caltrans Right of Way Manual on all Projects located On the State Highway System and adhere to the cooperative agreement entered into between the Agencies. OCTA will follow the Caltrans Local Assistance Procedures Manual for all federally funded Projects Off the State Highway System.

## **XII. Right of Way Certification**

*ROW Certification is a written statement summarizing the status of all right of way related matters pertaining to a proposed construction project. The purpose of the ROW Certification is to document the construction project is ready for advertising and states that, real property interests have been, or are being, secured, physical obstructions including utilities and railroads have been or will be removed, relocated, or protected as required for construction and right of way acquisition and relocation assistance program requirements were conducted in accordance with applicable federal and state laws and procedures.*

- For all Projects On and Off the State Highway System with federal funds and Caltrans oversight: OCTA will follow the Caltrans Right of Way Manual and Caltrans Local Assistance Procedures Manual. The Real Property Manager will recommend right of way certification to Executive Director, Capital Programs for approval and will seek Caltrans approval or concurrence.
- For Projects Off the State Highway System with no Caltrans oversight, including rail and FTA projects: OCTA will follow the Caltrans Right of Way Manual and Caltrans Local Assistance Procedures Manual. The Real Property Manager will recommend right of way certification to Executive Director, Capital Programs for approval.

## **XIII. Environmental Mitigation Program**

*For the Measure M2 freeway environmental mitigation program acquisition process, the Real Property Department will appraise properties requested by the Planning Division to establish just compensation per the Uniform Standard of Professional Appraisal Practice (USPAP) in accordance with 49 CFR and state rules and regulations. The Planning Division will make a determination, through an analysis, as to the environmental value of the property to be acquired, including the cost of start-up and long-term maintenance. The environmental value will determine a basis for the percentage amount of the established just compensation for which an offer will be presented to a willing seller. This percentage*

*amount established by the Planning Division will be reviewed and approved by OCTA General Counsel. The terms and conditions agreed upon with the willing seller shall require approval by the OCTA Board of Directors.*

#### **XIV. Property Management**

*OCTA acquires real property for both rail and highway transportation purposes. OCTA strives to manage its real property with the objective of maximizing existing and future public transportation benefits, safety, and financial income by means of professional property management policies and procedures. This includes entering into lease agreements, issuing licenses and rights of entry for authorized third-party uses, as well as investigating and resolving issues regarding uses that are not authorized by OCTA. On certain occasions, OCTA may also grant easements. General maintenance activities and security measures are also part of the property management scope of work on all OCTA properties.*

The OCTA Real Property Department shall have management responsibilities for properties acquired and owned by OCTA, including the following:

- Manage existing leases, licenses, and rights of entry through periodic field inspections to ensure compliance with the terms and conditions of their respective agreements.
- Review the terms and conditions of existing agreements, ensuring annual license/lease rates are based on the property's fair market value and consistently implement fair market adjustments (FMA) and Consumer Price Index (CPI) adjustments. The Real Property Department shall, at least every five (5) years, through an independent consultant, conduct a fair market analysis of the revenue generating real estate interest owned by the OCTA. The Real Property Manager will make a recommendation to the Executive Director, Capital Programs whether or not to enforce any FMA in leases. If recommended and approved, the FMA shall be applied in accordance to the terms and conditions of its corresponding Lease.
- If an adjustment is approved, it shall be applied within ninety (90) days (or, per the lease terms). If the adjustment is not applied due to negotiations and/or other considerations, this decision must be documented, validated by the Real Property Manager, and approved by the Executive Director, Capital Programs.
- Maintain a tenant revenue spreadsheet that flags fair market adjustments ninety (90) days in advance of scheduled adjustment dates.
- Implement insurance requirements as determined by the Risk Management Department. Consult with OCTA's Risk Management Department for approval of changes to the standard insurance requirements. Review tenant insurance certificates to ensure compliance with the insurance terms and conditions in their respective agreements.
- Prepare and issue new licenses, leases and rights of entry for use of OCTA property in conformity with OCTA policies.
- Consult with OCTA's General Counsel for approval of changes to the standard rights of entry, licenses and lease agreements.
- Coordinate with OCTA's Accounting Department in the organization and maintenance of a revenue collection system designed to operate in conjunction with other OCTA departments.

- Manage all properties to minimize maintenance and prevent unauthorized uses.
- Identify excess/surplus properties that may be candidates for sale and maximize benefits to be received from sale.
- Manage and oversee demolition services.

*OCTA is a County Transportation Commission formed pursuant to Public Utilities Code sections 130000 et seq. and is not required to follow Government Code Sections 54220-54232 in the disposal and sale of excess or surplus properties. The OCTA Board of Directors shall approve the disposal of any property deemed excess. Excess land shall be defined as fee property interests determined to be no longer needed for an OCTA project or no longer needed as an OCTA asset. OCTA shall dispose of excess land under the following guidelines:*

- An OCTA Excess Land Committee shall assemble and is empowered by the OCTA Board of Directors to declare OCTA owned property as excess.
- The Excess Land Committee shall include a representative from the OCTA Executive Office, Capital Programs, Finance and Administration, External Affairs, Planning, Risk Management and OCTA's General Counsel. The Real Property Manager may extend an invitation to any staff member that may provide additional input in determining whether the property should be disposed.
- The OCTA Excess Land Committee shall meet when there is a need to present a request to declare a property as excess. The real property department shall provide an appraisal of the excess property.
- Once a property is declared excess, OCTA Staff shall seek OCTA Board of Directors approval of the disposition at the appraisal amount or higher.
- If property is being acquired as part of a capital improvement project, and a remnant is created or the entire property is no longer needed, OCTA staff must seek OCTA Board of Directors approval to sell the property as excess at the appraised amount or higher upon completion of the project. This action would not require the approval of the OCTA Excess Land Committee.
- Provided OCTA's disposition efforts do not achieve an offer to purchase at the appraised amount or higher, OCTA Board of Directors approval is required to sell an excess property at an amount less than an appraised amount.
- It is recommended that the disposition of excess land should be based on an approved appraisal dated no more than two years from the acceptance of a written offer by a prospective Buyer.
- The Executive Director, Capital Programs, as designee of the Chief Executive Officer, may execute deeds that dispose or transfer permanent or temporary easement interests or other real property interests provided the disposition or transfer is in the best interest of OCTA. All documents must be recommended for approval by the Real Property Manager and reviewed by General Counsel.

## **XV. Project Development**

*The Real Property Department shall coordinate with assigned Program Managers, Project Managers and consultants to develop and establish all right of way, relocation assistance, utility relocation and property management project cost estimates and budgets needed for the overall project delivery.*

- The Real Property Manager shall execute project data sheets and make the final determination of project right of way, utility relocation and property management costs estimates and shall coordinate with management to establish project budgets, including budget amendments.
- The Real Property Department shall coordinate with assigned Program Managers, Project Managers and consultants to develop and establish all right of way, relocation assistance, utility relocation and property requirements project cost estimates and budgets for each fiscal year prior to OCTA Board of Directors approval of the annual budget. The Real Property Manager shall review and approve each project right of way, utility relocation, and property management costs estimates and fiscal year budgets for OCTA Board of Directors Approval.
- The Real Property Department shall coordinate with the assigned Program Managers, Project Managers and designer of record to ensure the preferred design has taken into consideration the least private injury to a property, and recommend design changes if warranted. The Real Property Manager shall seek concurrence of OCTA's General Counsel to make certain that any proposed project is planned in a manner that will be most compatible with the greatest public good and the least private injury.

## **XVI. Department Administrative Procedures**

### *Execution of Contracts*

- The Chief Executive Officer or designee is authorized to execute all contracts and/or agreements and other real estate documents (Real Property Contracts). The Chief Executive Officer designates the Executive Director, Capital Programs to execute real estate agreements, right of way contracts, utility agreements, deeds, certificates of acceptance, leases, licenses, permits or any Real Property Department agreement document. All documents must be recommended for approval by the Real Property Manager and reviewed by OCTA's General Counsel.

### *Right of Way Consultants*

- The Real Property Manager shall assign work to Senior Real Property Agents, Real Property Agents and Associate Real Property Agents and, if required, assign a Right of Way Consultant to assist in the delivery of the assigned work. The Right of Way Consultant shall be selected through the OCTA's Contract Administration and Material Management (Camm) procurement process.
- The Senior Real Property Agents will oversee all work assigned to the Right of Way Consultant to ensure compliance with OCTA's policies and procedures, federal and state regulations, and in cases of On the State Highway System Projects, the Cooperative Agreement with Caltrans.

- The assigned Right of Way Consultant shall make recommendations on given assignments for review and concurrence by a Senior Real Property Agent. The Senior Real Property Agent shall make recommendations to the Real Property Manager for approval. The Real Property Manager shall approve all decisions and execute documents for the Real Property Department within the Real Property Manager's delegated authority or seek approval of the Executive Director, Capital Programs.

#### *Payment Authorization*

- The Real Property Manager is authorized to release funds for payment of invoices, escrow fees, just compensation, relocation claims, condemnation deposits, return of security deposits, rent credits, and any other right of way or property management related payments. If the amount to be released exceeds the Real Property Manager's signature authority, the Real Property Manager will submit a request for approval to the Executive Director, Capital Programs, Director, Highway Programs or the Director, Transit Programs.

#### *Document Control*

- The Real Property Department shall maintain an electronic file copy and a physical file copy for each parcel which is either being acquired, leased or maintained by OCTA.

### **XVII. Procedure Amendments**

*The Real Property Policies and Procedure Manual may be amended by a recommendation for approval to the Chief Executive Officer from the Executive Director, Capital Programs upon recommendation by the Real Property Manager. Any recommendation must be concurred with by OCTA's General Counsel. Any recommended amendment to the Real Property Policies and Procedure Manual must be in compliance with the requirements of all federal and state laws, statutes and regulations, as referenced above. Any recommended amendment to the Real Property Policies and Procedure Manual must be in compliance and must not be in conflict with any action approved by the OCTA Board of Directors.*

### **XVIII. Supplemental Guidelines and Procedures**

*The Real Property Manager may incorporate and modify additional supplemental guidelines and procedures that detail the day-to-day steps needed to insure work product quality when implementing Policies and Procedure as approved in this Manual, the Caltrans Right of Way Manual and the Local Assistance Manual. These additional supplemental guidelines and procedures are unofficial daily steps intended to assist the Real Property Department when working with OCTA staff and consultants and are not applicable to the authorized provision under Paragraph XVII Procedure Amendments.*