

Board Policy No. 11 Real Estate

Summary

This policy establishes real property management goals, objectives, and procedures for NCTD real estate assets.

Purpose

Real estate shall be developed and managed to increase ridership and revenue and to enhance the transit rider's experience.

Use of District Property

Use of District property by third parties shall not interfere with current or future transit use by the District.

District staff and consultants shall adhere to recognized industry standards of conduct and federally-required procedures, where applicable, when negotiating leases, licenses, easements, right to use, acquisitions, dispositions, and relocations.

District Property with Federal Transit Administration (FTA) Interest

Certain NCTD real property has a FTA interest that has resulted from NCTD receiving FTA funding for the purchase of the real property. For purposes of this policy this real property is referenced as "real property with an FTA interest."

1. Real property with an FTA interest shall be managed and used in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA) (PL 91-646), FTA Circular 5010.1D, and 49 CFR part 24, the implementing regulation.
2. Real property with an FTA interest shall be used for the originally authorized purposes as long as needed for those purposes, and NCTD shall not dispose of or encumber its title or other interests unless approval has been obtained from the FTA.
3. Disposition of real property having an FTA interest that is no longer needed for the originally authorized purpose shall be in accordance with the NCTD Excess Real Property Inventory and Utilization Plan as further described in NCTD Board Policy No. 12 Excess Real Property Utilization Plan.

Real Property Inventory

NCTD shall prepare and keep up to date a real property inventory.

1. The inventory list shall include such elements as:
 - a. Property location, Assessor's Parcel Number (APN), and size;
 - b. The inventory shall identify whether each real property is excess;

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- c. Brief description of improvements;
 - d. Current use and condition of the property;
 - e. Summary of any conditions on the title, original acquisition cost, and the FTA participation ratio, as applicable; and
 - f. FTA grant number, appraised value, appraised date and date placed into service, as applicable.
2. The inventory shall identify whether each real property is excess:
- a. An NCTD excess property inventory prepared in accordance with California Government Code § 50569; and
 - b. The District shall prepare and keep up to date an excess property inventory with an FTA interest in accordance with the NCTD Excess Real Property Inventory and Utilization Plan.

Acquisition of Real Property

Acquisition of real property requires Board approval and shall be in accordance with federal and state requirements and applicable federal and state statutory and regulatory requirements, including, but not limited to, the payment of just compensation, which is also just and fair to the public.

Disposal of Real Property

It is the general policy of the Board not to dispose of real property.

1. Disposal of real property requires Board approval.
2. Prior to disposing of excess real property without an FTA interest, a written offer to sell or lease the property shall be sent to entities described in California Government Code § 54222 and otherwise comply with the requirements of California Government Code § 54220, et seq. Guidelines provided by the California Department of Housing and Community Development, particularly as it relates to the Surplus Land Act, shall be followed.
3. All excess real property without an FTA interest shall be sold at fair market value, unless the Board determines that the sale of specific excess real property at less than fair market value serves a public purpose.
4. Excess real property with an FTA interest that is no longer needed for the originally authorized purpose shall be disposed of in accordance with the NCTD Excess Real Property Inventory and Utilization Plan.

Real Property Management

Real Property Management of the District's real estate assets shall be directed by the Executive Director or his/her designee in accordance with this Policy.

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1. All income and expense from real property shall be subject to a separate annual accounting that shall be summarily reported to the Board.
2. Unless there are restrictions on the use of proceeds from real property, all such proceeds shall be accounted for separately from other NCTD revenues and proceeds.
3. Revenue generated from the District's real estate assets will be used to fund the District's activities.
4. The District shall inspect annually all real property under contract to a third party in accordance with Administrative Policy and Procedure DSD-4000: Incidental Use of Real Property
5. Joint development opportunities shall be pursued in accordance with NCTD Board Policy No. 33.

Stormwater

1. NCTD real estate assets shall be maintained, monitored and/or developed in compliance with the applicable NCTD Construction General Permit and NCTD MS4 Program requirements, as well as any other applicable local, state, or federal ordinances, law, rule and/or regulation.
2. For purposes of this Policy, "Construction General Permit" shall mean the State Water Resources Control Board ("SWRCB") National Pollutant Discharge Elimination System ("NPDES") General Permit for Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction and Land Disturbance Activities, as it may be amended or superseded, (currently Order No. 2012-0006-DWQ); and MS4 Program shall mean the RWQCB issued Phase II Small Municipal Separate Storm Sewer System ("MS4") Program (currently Order No. 2013-0001-DWQ) as it may be amended or superseded.

Incidental Use of Real Property


Incidental use of real property shall be directed by the Executive Director or his/her designee in accordance with this policy and Administrative Policy and Procedure DSD-4000: Incidental Use of Real Property.

1. Incidental use of real property, including Right-of-Way permitting, shall be at fair market value and/or charged the appropriate fees as approved by the Board through the District fee schedule established annually with the budget. Monetary fair market values and Board-approved fees for a city or other public agency can be waived without Board approval as long as an equivalent reciprocal benefit is provided to NCTD. An exception to fair market value or any variance from the District fee schedule established annually with the budget requires Board approval.
2. Real Property Lease Terms more than ten (10) years, shall require Board approval.
3. Use of District property by outside parties shall not interfere with current or future transit use or activities by the District. Cost to relocate any facility installed as an incidental use to accommodate the District's activities shall be the responsibility of the entity owning the facility.

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- 4. Any entity requesting incidental use of real property, including public agencies, shall reimburse the District for all costs involved in processing such request, including, but not limited to, NCTD staff time, engineering review costs, appraisal, survey, consultant fees, legal fees, and construction related costs (submittal review, construction inspection, and Right-of-Way support services).
- 5. Incidental use of real property with an FTA interest, excluding Right-of-Way permitting, requires approval of the FTA.
- 6. Incidental use of real property with an FTA interest will not exceed that permitted under applicable federal laws, regulations, and directives.
- 7. All incidental use of real property, with the exception of Right-of-Way permitting, real estate agreements with a fee established by the Board approved Cost Recovery Fee Schedule, such as pipelines or wirelines, and other uses of property that are sole-source justified, will be facilitated by a competitive process and be consistent with Board Policies.

Approvals



Board Chair

10/21/2021
Date



Executive Director

10/21/2021
Date



General Counsel

10/21/2021
Date

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DATE	REVISION NO.	RESOLUTION NO.	COMMENTS
10/18/2012	Adopted	12-10	
10/17/2013	1	13-07	2013 REVISION
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