

**COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

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Easements and Rights-of-Way on County-owned or Special District-owned Real Property	I-81	1 of 3

Purpose

The purpose of this policy is to provide a written policy establishing guidelines for the granting of easements and rights-of-way on County-owned or Special District-owned real property.

Background

From time-to-time the County receives requests from other public agencies, municipalities, public and private utility companies, Special Districts, real estate development companies, and private parties to grant an easement or right-of-way for various purposes such as utility lines, pipelines, pole lines, roads, access, and other public or private purposes over County or Special District-owned real property. The Department of General Services (DGS) processes these requests on behalf of the County of San Diego and for Special Districts such as the San Diego County Sanitation District and San Diego County Flood Control District that are managed by the Board of Supervisors (Board).

Granting an easement or right-of-way request creates an encumbrance on the land. The Real Estate Services Division of DGS and the department or business unit that controls the property determines whether to grant such requests by evaluating the following factors: the potential impact on the property; overall net benefit to the County or Special District; compliance with laws, including County or Special District ordinances, codes, policies, and guidelines; consideration to be received from requesting party; mutual cooperation between public agencies and quasi-public entities and the general public; and overall benefit to the residents of the County or Special District.

Requests for the granting a of right-of-way in fee for road or other uses over County or Special District-owned real property are occasionally received from real estate development companies for access required to develop adjacent property. Private entities are not always aware that under law, prior to the granting of a fee ownership interest in a County or Special District-owned property, the property or the interest in the property may need to be declared surplus real property by the governing body of the responsible public agency after a determination is made that the property is no longer needed for a public use or purpose.

A right-of-way for road or other purposes may be granted in fee or by easement in instances where the governing body of the agency has elected to participate as a land owner with adjacent owners in a public improvement such as a 1911 Improvement Act project or when there is a benefit to the encumbered public ownership.

Policy

It is the policy of the Board of Supervisors that:

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All requests for easements or rights-of-way shall be directed to the Real Estate Services Division of DGS. The Real Estate Services Division and the responsible County department or division that controls the property shall review the request to determine the following:

1. That granting the easement or right-of-way will not substantially interfere with the existing or proposed use of the County or Special District-owned property and will not be detrimental to any adjacent County or Special District uses. The proposed easement or right-of-way shall be reviewed across County departments and Special Districts or divisions for any existing, planned, or conditioned easement, environmental mitigation area, ongoing maintenance requirement or restriction, or other use that could be incompatible with the use intended under the requested easement or right-of-way. If there is a potential conflict between the uses, the requested easement or right-of-way will not be granted unless the uses can be modified to ensure compatibility.
2. Where feasible, that the grantee receiving the easement or right-of-way will be responsible for the maintenance, repair, replacement, or removal of any improvements in the easement area or right-of-way.
3. That the County or Special District receives full market value for the easement or right-of-way area conveyed, except in instances where the primary purpose is to serve a County or Special District facility or property.
4. That the potential impact to the County or Special District is minimal or that the overall public benefit is greater than the potential impact on the County or Special District-owned property.
5. That the most efficient design that mitigates and minimizes impacts to County or Special District property or facilities is used.
6. Whether any project stemming from the granting of an easement or right-of-way will benefit the County or Special District by improving access to the property or by the installation of improvements such as roads or utilities on the property.
7. That the party requesting the easement or right-of-way will secure all necessary permits and approvals for the proposed project, obtain environmental review and CEQA certification, and where necessary, restore the land to as good as or better condition than existed prior to the start of any work.
8. Except in cases where the primary purpose of an easement or right-of-way is to serve County or Special District-owned property or facility, the County or Special District will be paid in full for staff expenses to process the transaction based on estimated expenses included in a contract conveying the easement/right-of-way and/or as a fee established in accordance with Board Policy B-29 Fees, Grants, Revenue Contracts – Department Responsibility for Cost Recovery.

Procedure

All requests for an easement or right-of-way shall be directed to the Real Estate Services Division of DGS. The request will be reviewed by the Real Estate Services Division and the responsible department or division that controls the property. Requests for an easement or right-of-way that are in accordance

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with this policy will be processed for approval by the Director of DGS for County property pursuant to Government Code Section 25526.6 and Ordinance No. 7206 (New Series).

The party requesting an easement is required to submit a formal request to the Real Estate Services Division and to provide any necessary legal descriptions, drawings, and maps at their sole expense. The party requesting the easement or right-of-way will be required to provide a deposit in an amount sufficient to cover staff expenses for the review of items such as the legal description, drawings, and maps pursuant to the full cost recovery requirements of Board Policy B-29 Fees, Grants, Revenue Contracts – Department Responsibility for Cost Recovery. Other administrative expenses related to the request that are not covered by a deposit shall be paid by the requesting party through a contract conveying the easement or right-of-way interest in the property.

An easement or right-of-way where the primary purpose is to serve County or Special District property or facilities will be processed and granted with the department or division benefitting from the easement or right-of-way absorbing all expenses related to the transaction.

An easement or right-of-way that may be beneficial to the County or Special District property being encumbered, but where the primary purpose does not serve a County or Special District-owned facility or property, shall be appraised to determine the full market value of the easement or right-of-way interest and be sold to the requesting party for the full market value.

This policy does not apply to licenses and right-of-entry permits for the temporary use of County or Special District-owned property.

Sunset Date

This policy will be reviewed for continuance by 12-31-2026.

Board Action

- 07-01-80 (13)
- 12-15-87 (42)
- 06-15-93 (41)
- 12-08-98 (53)
- 06-21-05 (16)
- 12-09-08 (33)
- 12-04-12 (13)
- 10-29-19 (26)

CAO Reference

1. Department of General Services
2. Department of Public Works
3. Department of Parks and Recreation