



KING COUNTY

1200 King County Courthouse
516 Third Avenue
Seattle, WA 98104

Signature Report

FCD Motion FCD18-04

Proposed No. FCD18-04.1

Sponsors

1 A MOTION directing King County to implement the
2 recommendations from the independent audit report
3 relating to real estate acquisitions and property
4 management policy and procedures.

5 WHEREAS, the King County, through the water and land resources division
6 ("WLRD"), is the primary service provider for the King County Flood Control Zone
7 District ("the District"), and

8 WHEREAS, WLRD acquires land to support the work of the District, and

9 WHEREAS, the District desires its service provider to use industry best practices,
10 and

11 WHEREAS, WLRD commissioned an independent audit to determine whether its
12 real estate acquisition management controls, policies and procedures are consistent with
13 industry best practices, and

14 WHEREAS, the independent audit report contains recommendations for process
15 change to ensure WLRD's real estate acquisition management control, policies and
16 procedures are consistent with industry best practices;

17 NOW, THEREFORE, BE IT RESOLVED BY THE EXECUTIVE COMMITTEE
18 OF THE KING COUNTY FLOOD CONTROL ZONE DISTRICT:

19 SECTION 1. The District directs WLRD to implement the recommendations

20 contained in the King County - Water and Land Resources Division Real Estate
21 Acquisition and Property Management-Policy and Procedures Report, dated August 29,
22 2018, as set forth in Attachment A to this motion.
23

FCD Motion FCD18-04 was introduced on and passed by the King County Flood Control District on 12/10/2018, by the following vote:

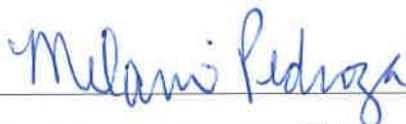
Yes: 8 - Mr. von Reichbauer, Ms. Lambert, Mr. Dunn, Mr. McDermott, Mr. Dembowski, Mr. Upthegrove, Ms. Kohl-Welles and Ms. Balducci
No: 0
Excused: 1 - Mr. Gossett

KING COUNTY FLOOD CONTROL DISTRICT
KING COUNTY, WASHINGTON



Reagan Dunn, Chair

ATTEST:



Melani Pedroza, Clerk of the District



Attachments: A. King County - Water and Land Resources Division Real Estate Acquisition and Property Management-Policy and Procedures Report, dated August 29, 2018



Miller & Miller, P.S.

**King County-Water and Land
Resources Division**

**Real Estate Acquisition and
Property Management-Policy and
Procedures Report**

August 29, 2018

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**KING COUNTY-WATER AND LAND
RESOURCES DIVISION**

**Real Estate Acquisition
and Property Management**

Policy and Procedures Report

Table of Contents

Table of Contents	i
Project Report- Executive Summary	1
Introduction.....	1
Project Objectives	1
Information Contained in this Report.....	1
Scope, Approach and Methodology.....	2
Summary of Results, Findings and Recommendations	2
Summary of Results and Recommendations	3
Results Summary.....	3
Recommendations Summary.....	3
Scope and Methodology	4
Introduction.....	4
Real Property Function Environment	4
Scope of Project	4
Project Objectives and Reporting Requirements	5
Project Methodology	5
Results and Recommendations	7
Results	7
Recommendations	8
Appendix A: Inventory of Existing Policies and Procedures	11
Appendix B: WLRD Workflow	14
Appendix C: Risk Assessment Analysis	18

King County Water and Land Resources Division

Project Report- Executive Summary

Introduction

We are pleased to present this report on King County's Department of Natural Resources and Parks (DNRP), Water and Land Resources Division's (WLRD) real estate acquisition activities. The purpose of this project is to determine whether WLRD real estate acquisition management controls, policies and procedures are designed to meet its goals. The Water and Land Resources Division (WLRD) acquires land to support the work of the division, Department of Natural Resources and Parks, and the Executive Office. Land is acquired for open space, forest and farmland preservation, parks, trails and capital projects ranging from small habitat restoration projects to green stormwater infrastructure to multi-million-dollar flood risk reduction and habitat-forming process projects.

The goal of WLRD in all these acquisitions is to meet the highest standards of integrity, to fully comply with local, state and federal regulations, treat property owners fairly and equitably, and to ensure that individuals and businesses impacted by acquisitions (neighbors, tenants, etc.) are treated fairly and favorably when statutory and/or other requirements (e.g., federal relocation policy) are carried out.

Project Objectives

This project's objectives are to:

- Determine if policies and procedures are sufficient to appropriately direct the work of the Open Space Acquisition (OSA) Unit and other functions involved in real property acquisition activities.
- Determine if the workflow, financial systems, management controls and audit systems support the division's objectives.
- Determine the processes used in managing encumbrances for property acquired, such as easements or leases, and how risks related to such arrangements are managed.
- Identify opportunities for process improvements.

This project focuses on certain activities performed by WLRD's OSA Unit and other functions, such as project management. This project does not address any other King County functions involved in real estate acquisition activities.

Information Contained in this Report

This report is a summary of the project outcomes. Appendix A presents the inventory of pertinent laws, regulations and policies used in this project. Appendix B presents the workflow analysis and Appendix C presents the results of the risk assessment analysis.

Scope, Approach and Methodology

The scope of work for this audit involves evaluating operating and compliance aspects of OSA and other related staff's involvement in acquiring real estate and right-of-way interests in King County's programs. The scope of this project does not involve any work by King County's other functions that may be involved in real estate acquisition or any other King County programs.

We focused our assessment efforts on activities occurring during 2017. Since the real property and easement acquisitions were the largest expenditure of funds during 2017 and in consideration of its overall importance to WLRD's capital programs, we focused our assessment effort on acquisitions. However, our assessment also extended to moving and relocation costs.

We selected property and easement files to test the administrative internal controls and to determine whether acquisitions occurred in compliance with current policies and procedures.

Summary of Results, Findings and Recommendations

We found that WLRD's real estate function performed well in that real property and related interests were acquired in accordance with policies. While we found no issues related to our project objectives, we have discussed areas where WLRD should consider improvements in its internal processes. Those areas are more fully described in the Results and Recommendations section of this report beginning on page 7.

We wish to thank WLRD's management and staff for the outstanding level of support and assistance provided in this project.



Certified Public Accountants

August 29, 2018

Summary of Results and Recommendations

Results Summary

We found that WLRD acquires property and property interests following its own policies and procedures. Certain key internal controls are effective, and the internal control system is functioning as described. We noted an issue regarding how leases are managed¹. Issues and recommendations are more fully discussed in the section titled "Results and Recommendations".

Recommendations Summary

In accordance with our project objective to identify opportunities for process change improvement, we have developed certain recommendations for WLRD to consider. We consider each recommendation to be relatively minor and present them for your consideration in the section titled "Results and Recommendations" where they are more fully discussed.

¹ Typically, the Leasing Unit of Real Estate Services in the Facilities Management Division of the County's Executive Services provides services related to leases. However, understaffing at the time of the most recent lease management resulted in the Open Space Acquisitions Unit taking on the responsibility in an effort to keep the related project moving forward. Should leasing arrangements be needed again in the future, the Leasing Unit of RES now appears to be adequately staffed to provide lease management services (including approval of lease arrangement, signatory authority, billing and site management).

Scope and Methodology

Introduction

WLRD has established the scope of this project in our contract. This section describes the project requirements, objectives and the limitations on the scope of work that was conducted.

Real Property Function Environment

The WLRD real property unit provides a critical function for DNRP's programs that acquire land and easements for open space, forest and farmland preservation, parks, trails and capital projects. Without acquiring property for these purposes, the Department's program requirements cannot be completed.

The WLRD Real Property function operates in an environment with many external constraints on its performance. Governmental jurisdiction laws may limit WLRD's ability to condemn property owned by other governments. In addition, Washington state laws prohibit a "quick take" process that is allowed in other states. This means that reluctant owners could delay project use of their property until a court trial is held to adjudicate the value of property to be "taken". These external constraints act as an incentive for WLRD to seek voluntary sellers, rather than use eminent domain to acquire property. The vast majority of WLRD acquisitions are voluntary sales.

While the OSA function is critical to the program plans, it is dependent on other DNRP and WLRD functions, such as project management, to identify both the properties and easement rights to be acquired and the necessary timeline to ensure that the programs can be completed on the planned schedule and within budget constraints. The OSA function may also be dependent upon King County's legal function in cases where condemnation proceedings are required. Design changes within WLRD functions can have a significant impact on timely, cost-effective delivery of land acquisition services.

Navigating the external and internal constraints is a significant effort.

Scope of Project

The scope of work for this project involves evaluating operating and compliance aspects of WLRD staff's recent involvement in acquiring real estate and right-of-way interests for WLRD's programs. The scope of this project does not involve any work by King County's other functions that may impact the real estate acquisition function or any other King County programs.

We considered all recent processes involved in the administration of the real property and real estate rights acquisition to be included in the scope of this work. Of the approximately \$29.7 million expended during the calendar year ending December 31, 2017, approximately \$19.1 million was expended on fee simple property and approximately \$10.6 million was expended on easement acquisitions. We focused our efforts on property and easement costs, but also sampled some of the relocation and moving costs.

Project Objectives and Reporting Requirements

This project's objectives are designed to:

- Determine if policies and procedures are sufficient to appropriately direct the work of the Open Space Acquisition (OSA) Unit and other functions involved in real property acquisition activities.
- Determine if the workflow, financial systems, management controls and audit systems support the division's objectives.
- Determine the processes used in managing encumbrances for property acquired, such as easements or leases, and how risks related to such arrangements are managed.
- Identify opportunities for process improvements.

This project focuses on certain activities performed by WLRD's OSA Unit and other functions, such as project management. This project does not address any other King County functions involved in real estate acquisition activities.

Project Methodology

Our work in this project included an assessment of the policies, procedures, financial systems and internal control procedures used in real estate and easement acquisitions relevant to WLRD's programs. Our work included evaluating results of individual acquisitions in relation to the stated project objectives.

Work Flow and Internal Controls:

We obtained the policies and procedures, the current workflow and organization of processing real estate acquisition and rights from WLRD documents and tested related procedures against the sample of documents contained in OSA's files. We judgmentally selected one fee simple acquisition for \$2.7 million that involved relocations and one easement for \$1.6 million. The purpose of the judgmental selections was to provide evidence for large and complex acquisitions. We believe our sample selection was sufficient to provide the appropriate evidence.

The relevant WLRD policies and procedures are provided in Appendix A of this report. Based on our tests to observe documents that provide evidence of WLRD's compliance with its own policies and procedures, we can conclude that the internal control system is functioning as described.

Based on our analysis, we can confirm that the following key internal control procedures are effective:

- Title searches on properties identified in preliminary engineering plans are obtained. WLRD does not obtain independent surveys as the legal descriptions are deemed to be sufficient. A Title and Escrow Officer reviews the title reports and documents the review in a memorandum.
- Owners are informed of WLRD plans to "use" their property. However, the communication of interest is informal until an offer letter is provided.

**King County Water and Land Resources Division
Real Estate Acquisition and Property Management**

- Appraisals are obtained, those appraisals are reviewed (the appraisal review is documented), and the result is used to prepare the offer document.
- A diary of the WLRD's OSA Unit real estate agent assigned to each property is prepared that documents acquisition steps and property owner contacts. We noted that diaries were maintained for the one fee simple acquisition and the two relocations but not on the easement transaction. WLRD's policies do not require that a diary be maintained, but it is a sound business practice.
- If applicable, the owner's counter-offer and related appraisal is obtained (owners cannot be compelled to negotiate or make their appraisals known during negotiations).
- Results of negotiations were documented in the files via an administrative settlement memorandum approved by WLRD's OSA Unit. There was one administrative settlement in our selection, and the related information was presented to representatives of the governing board.
- The closing documents are included in the files.

In addition, WLRD's OSA Unit uses an acquisition file checklist to document that all required activities related to closing are completed and documented.

Risk Assessment:

We collaborated with WLRD's OSA Unit management, to produce a risk assessment of the objectives, risks and risk control procedures. The results of this risk assessment analysis are provided in Appendix C.

Results and Recommendations

Results

We found that WLRD's real property function was compliant with its own policies and procedures (see Appendix A). We also found that WLRD performed and documented the following on a consistent basis:

- Potential real estate necessary for the various programs were identified and included in approved budgets.
- Title searches and correspondence with property owners were conducted early in the process. Agreements that allow access to the property were not formally documented but are based on phone contacts. The files document that required environmental studies and hazardous materials studies were conducted if deemed necessary (there is a policy for WLRD for conducting environmental assessments but no formal policy for "Parks/OOS" for requiring such environmental assessments). The files document the "Just Compensation" determination based on an appraisal, the appraisal review, and the related offer to purchase.
- The real estate agent's diary was generally complete when provided, but not all files contained an agent's diary. There is no policy that requires an agent's diary to be included in the property acquisition files, although the diary is required for federally funded projects; otherwise it is simply encouraged. The files also contained the approval from appropriate officials of the administrative settlement.
- While the relocation and moving payments are considered relatively insignificant to this project, we did note that the relocation payments made followed the same scrutiny as other real estate payments.
- While we found a draft policy that allows for leases of 12 months or less to be assumed or newly created on acquired properties as long as the lease does not negatively impact the project, there is no policy on how these leases should be managed. Without a formal written policy, responsibility for managing leases is not assigned (see footnote 1, page 3). WLRD's finance function records rent and lease payments when received as miscellaneous income in the County's financial system. The finance function has no mechanism to set up a lease receivable to allow them to track delinquent payments. Without a policy to assign responsibility for managing leases and mechanisms to identify lease receivables and track their payment status, WLRD runs the risk that leases are not identified, and therefore, payments are not tracked in the county's financial systems to identify late payments. This will not be an issue in the future if WLRD uses RES for lease-related services.

In addition, we found the following:

1. WLRD's practice does not include a requirement to send a letter to the identified impacted property owner notifying them of the impending acquisition action. However, we understand that such written communication is not deemed necessary as informal contact seems to be sufficient.

**King County Water and Land Resources Division
Real Estate Acquisition and Property Management**

2. In each instance from our file review either one or two appraisal reports (depending upon anticipated acquisition value) were obtained.
3. In each instance an appraisal review report was prepared within a reasonable timeframe.
4. Once the estimate of just compensation was recommended by the review appraiser, WLRD's internal reviewer prepared the Determination of Just Compensation. The written offers were made to the property owners within a reasonable time frame after the establishment of the estimate of just compensation. The written offers were appropriately prepared and were typically delivered via mail.
5. We noted that, for the sample selected, all property and rights were obtained on a "negotiated" basis and condemnation was not used. By law, and in the context of OSA clients, condemnation is only available for flood hazard management facilities, and has been applied only 3 times in the last 18 years (including the current instance).

Overall Conclusion

WLRD is in substantial compliance with its policies and applicable Federal and state requirements for acquisition of real estate and related rights. WLRD needs to use RES for the purpose of lease management and adopt policies and procedures related to management of leases assumed or newly created leases on acquired properties.

Recommendations

Since we have found a limited number of issues, the following recommendations are provided to allow WLRD to consider possible improvements. WLRD will need to assess the feasibility of each of the following recommendations.

Policies

Appendix A provides the policies that direct the real property efforts of WLRD. There is nothing wrong with having two sets of policies that complement Federal and State laws and regulations. However, WLRD should consider combining the two sets of policies and procedures into one integrated set of policies and procedures. We also noted that certain actions involved in acquiring properties are not necessarily listed in the formal policies and procedures, and those actions should be considered for inclusion in the formal policies and procedures. Because federal funding is rarely used in acquisitions, the effort benefit of merging the two policies may not merit the cost in staff resources.

Lease Management

First and foremost, WLRD needs to designate staff member(s) to fulfill the role of a Lease Manager for the Division, with an ultimate goal to centrally track all leases with lessees for WLRD properties. For leases assumed and or new leases issued with King County on purchased properties that are in excess of a very short-term (e.g., 30 or 90 days month to month rent), the lease agreement should be noted on the "Real Estate Routing Package" for signature approvals, and the actual lease agreement should be forwarded to the designated

**King County Water and Land Resources Division
Real Estate Acquisition and Property Management**

Lease Manager for WLRD.² The King County Prosecuting Attorney's Office should have already reviewed and accepted the lease document prior to closing the property acquisition.

The designated Lease Manager should inform Finance & Administration (F&A) of necessary information to account for each lease (lease identification (lessee), start date, end date, monthly lease payment, etc.). If possible, the contract purchase document should allow for the withholding of the lease obligation from the proceeds from the purchase and sale agreement so that King County is not required to use administrative resources to collect the lease payments. Another option is to provide the lessee with a letter stating the amounts of the monthly lease fee, that no monthly billings will be issued, dates required to be received before eviction is allowed, etc. Another option is to use the accounting system to produce 12 months (for example) of invoices (rent billings) all sent at the beginning of the lease period that the lessee may use to pay the monthly fee. The schedule of payments would be entered into the rent management accounting system. Monthly, a rent/lease receivable aging report would be run and provided to the Lease Manager, who would be responsible for collecting on past due lease payments. The Lease Manager should be authorized to begin eviction procedures when the lease is past due more than the King County policy allows. In accordance with the terms of the lease(s), F&A should assume responsibility for timely collection of any lease payments along with periodic financial reporting of such leases to the designated Lease Manager and Division leadership. In event of non-compliance of lease terms, including late payments, the designated Lease Manager should be authorized, in collaboration with other County Department/Division, to begin eviction procedures as deemed appropriate by the Division Director.

In regard to 30-day and 90-day rents on relocation beneficiaries, the OSA Unit should continue to collect rent on relocation beneficiaries until they are moved so that all related files are in one location.

WLRD/OSA Activity Scheduling:

1. WLRD/OSA currently assesses risks through conversations with clients and real estate agents at the start of each acquisition process. The Rural and Regional Services Section, where acquisitions are an ongoing part of OSA, should formalize a risk assessment process that combines risks to the project construction schedule with risks involved with potentially difficult property acquisition and relocation issues, so that OSA may effectively organize its work activities to meet proper priorities³.
2. Establish a property acquisition agent diary policy. As noted in the Results section discussion, the real estate agent in the sample transaction had an acquisition diary that was complete. However, not all files contained a diary. A diary offers an effective way to capture interactions with property owners and tenants during an acquisition, and can provide an important record if issues arise later in the course of a transaction. We recommend that WLRD create a policy that all agents maintain a diary of their transactions.

² During the course of this analysis, OSA took the step to add a question on its document for acquisitions form to identify any leases associated with the acquisition and will include a routing to RES.

³ OSA has added the following to their "Request for Acquisition & Right-of-Way Services" form: "Risks and/or Special Considerations: Describe any potential risks that may exist on this property, i.e. mining, contamination, etc. Please advise if you would prefer to review this information personally with the Agent."

**King County Water and Land Resources Division
Real Estate Acquisition and Property Management**

3. Prior to a signed Purchase and Sale agreement, WLRD does not have permission to enter a property to do an environmental assessment. However, when possible, WLRD should include environmental reports in the risk-based approach contained in item #1 above. Specifically, WLRD should weigh the risks of performing appraisals before the required environmental reports are obtained. Environmental reports should be obtained prior to appraisal work, but there may be situations where the risk to the project schedule outweighs the risk of RP re-performance of appraisals.
4. WLRD should establish a process whereby project management and OSA management agree on an acquisition schedule that best utilizes RP resources and addresses specific property risks. Prior to complex acquisitions, meetings should be held with Division and Section management⁴ to ensure awareness of the potential challenges ahead. The process used in certain acquisitions and relocations is a good example of how this approach was used in WLRD.
5. RP workload is driven by Right-of-Way (ROW) engineering and project management needs. Forecasts of staffing needs to meet construction schedules should be provided and sufficient staff obtained and trained prior to workload spikes. To date, OSA staffing has been adequate for demand. However, this recommendation will require increasing focus as the Land Conservation Initiative comes on line and should scheduling for delivery of Flood Control District (FCD) capital or WLRD habitat projects accelerate.

Community Relations

6. OSA staff accompany outreach staff once an acquisition has been initiated through the submission of a "Request for Acquisition & Right-of-Way Services" form and assignment by the OSA Unit Supervisor. WLRD may want to consider having OSA staff accompany outreach staff in initial visits, or at least provide talking points. OSA staff may identify potential risks from this early interaction. Also see Appendix C, Note X to risk assessment. Within the Rural and Regional Services Section of WLRD, outreach staff have been working closely with OSA staff for many years and are skilled in boundaries of the outreach process. However, as new staff are brought on, WLRD may want to initiate training sessions to ensure consistency across the Division in the approach to land owners whose property may be of interest to the county.
7. See comments in Appendix C, Note Y regarding the risk assessment analysis.
8. WLRD's RP function should train or refresh all functions that impact RP compliance in federal compliance issues.

⁴ In some cases, this will include WLRD, Parks Division, WLR Rivers' and Floodplain Management Section, WLR Rural and Regional Services Section and related Parks Division Sections leadership.

Appendix A: Inventory of Existing Policies and Procedures

The Department of Natural Resources and Parks, Water & Land Resources Division (WRLD) provided policies and procedures related to the scope of work in this project. We expect that there are other King County policies and procedures that govern property related transactions in other King County Departments and functions, but those other possible policies and procedures were not considered in this project.

King County Code Section 4.56 governs real property activities. We present two pertinent sections as follows:

4.56.060 Real property Responsibilities.

A. Except as otherwise provided in this chapter, the facilities management division, acting under the supervision of the county administrative officer, shall be the sole organization responsible for the administrative processes of acquiring, disposing, inventorying, leasing and managing real property, the legal title of which rest in the name of the county, or which the county manages in a trust capacity.

B. Open space, trail, park, agriculture and other natural resource real properties shall be acquired by the department of natural resources and parks, unless the executive directs the facilities management division to make such acquisitions.

C. Real property and interests in real property necessary for the metropolitan public transportation and metropolitan water pollution abatement functions shall be acquired and managed by the departments of transportation and natural resources and parks, respectively, as set forth in this chapter unless the executive directs the facilities management division to make such acquisitions and/or manage such properties.

D. County departments shall be responsible for maintaining all real property for which they are the custodian.

E.1. As part of the services the county provides to the King County Flood Control Zone District under an interlocal agreement, the county, acting through the facilities management division in coordination with the department of natural resources and parks, is authorized to sell or otherwise convey real property and real property interests held in the name of the county that were acquired on behalf of the district, without being subject to the other requirements of this chapter, but only if:

a. the district, by resolution, directs the county to convey to the district or named third parties those real properties or real property interests acquired by the county for the district and held in the county's name. Within the time stated in the resolution, or within sixty days of the county's receipt of a copy of the resolution, if a time is not stated in the resolution, the division should execute the conveyance document, in a form approved by the district, and transmit it to the district unless the resolution directs the conveyance document be transmitted to named third parties; or

b. (1) the district, by resolution, directs the county to sell those real properties or real property interests acquired by the county for the district and held in the county's name, with the proceeds of the sales remitted to the district. Unless otherwise directed by the district by resolution, all sales shall be made to the highest responsible bidder at public auction or by sealed bid. Within the time

**King County Water and Land Resources Division
Real Estate Acquisition and Property Management**

stated in the resolution, or within sixty days of the county's receipt of a copy of the resolution, if a time is not stated in the resolution, the division should initiate the process to sell real properties or real property interests; and

(2) not more than thirty days after bids are received, the county shall provide the district with notice of all bids received and the county's determination of the highest responsible bidder. Before closing on any sale, the county shall obtain written confirmation from the district's executive director that the district concurs in the county's determination of the highest responsible bidder.

2. The county shall provide monthly progress reports on all district-authorized conveyances or sales, including but not limited to in the case of a conveyance, the expected date of executing the conveyance documents or, in the case of a sale, the closing date. In each monthly report, if the expected date of the executing conveyance documents is delayed or the expected closing date of a sale is delayed, the county shall report to the district the reasons for the delay and the new expected date to convey or sell.

3. No later than March 31 of each year, the county shall provide to the executive director of the King County Flood Control Zone District an inventory of all real property and real property interests acquired by the county on behalf of the district and held in the name of the county. (Ord. 18227 § 1, 2016; Ord. 14199 § 93, 2001; Ord. 12394 § 1, 1996; Ord. 12045 § 4, 1995).

4.56.152 Acquisition of real property. In acquiring real property or interests in real property, county departments and agencies shall comply with requirements as may be established from time to time by the council and with state and federal laws and regulations as they may apply. The provisions of chapter 8.26 RCW related to acquisition and relocation assistance shall apply to such acquisitions unless for a project or program the council determines otherwise by ordinance. (Ord. 12045 § 18, 1995).

In addition, the WLRD is governed by the Flood Control District ordinance FCD2016-22.2, which references RCW 86.15.080 for properties acquired under the Flood Control District's authority.

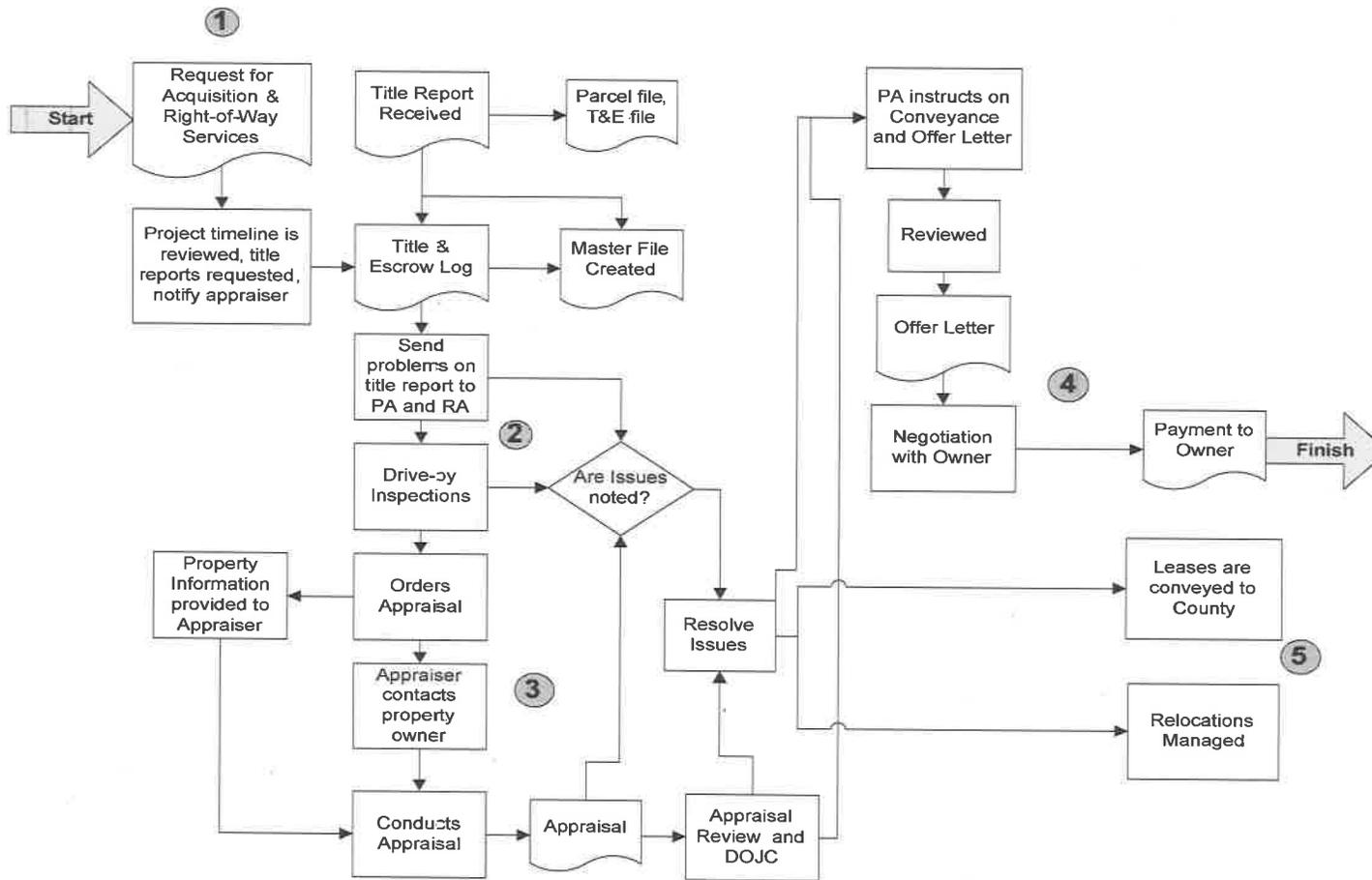
In addition to King County ordinances, the WLRD operates under policies and procedures issued by the Parks Division Office of Open Space (Parks OOS) dated 6/15/1993 and the WLRD Project Management Manual. Pertinent provisions are summarized below:

**King County Water and Land Resources Division
Real Estate Acquisition and Property Management**

Activity	Parks OOS	WLRD
Determine properties to be acquired based on a program plan	5.8 funding feasibility study	1.6.9.1 and 6.1.1 determine the need for the property and type of acquisition
Obtain legal descriptions, are surveys necessary?	Silent	Silent
Title report	8.3 and 8.4 title officer receives and reviews.	6.2.2 and 3 order and review title report.
Obtain governing body approval	Silent	Silent
Are environmental assessments ordered?	Silent	6.6.2 due diligence environmental report.
Notice to owner of interest in property	Maybe in 8.7	6.1.2 Landowner outreach
Obtain right of entry signed by owner	8.7 to request permission to enter	1.6.9.4&5 communication strategy/ landowner outreach plan
Onsite owner contact	8.7 to request permission to enter	1.6.9.4&5 communication strategy/ landowner outreach plan
Appraisal	8.8 appraisal conducted	6.3.4 coordinate with appraiser
Appraisal Review	8.9 review of appraisal	6.3.5 review appraisal
Determination of Just Compensation	6.4 negotiations cannot begin until just compensation is established.	6.3.5 review appraisal
Offer letter	6.6 explain offer	6.4.2 and .3 prepare purchase documents and extend offer
Owner negotiations	6.7 and 6.8 negotiate	6.4.4 Negotiate
Allow for owner appraisal/counter offer	Silent	6.4.4
Administrative settlement	6.9.1	6.4.4.1
Condemnation	6.9.2, 6.10, 6.11	Silent
Settlement	7.3 Program analyst checks closing documents	6.6.1 escrow functions and 6.6.4 close transactions
Relocation	Silent	6.5 Relocation

Appendix B: WLRD Workflow

WLRD Property Acquisition Workflow



**King County Water and Land Resources Division
Real Estate Acquisition and Property Management**

① The Open Space Acquisitions (OSA) Unit is a function within the Rural and Regional Services Section of WLRD. OSA serves in a consulting role to Rivers Section staff working as service providers to the KC Flood Control District (FCD), the Parks Division, internally for RRS land transactions (Regional Partnerships Unit), the Division Director's Office (Agriculture and Forest Incentives Unit) and on special assignments with the Department of Natural Resources and Parks (DNRP) Director's Office. All of these entities are referred to as "clients" in this flowchart. The process begins with a submission of a document, the "Request for Acquisition & Right-of-Way Services to inform OSA of pending real estate acquisitions necessary for programs. King County has other functions that acquire properties for their program purposes. These other functions are not reflected in this workflow chart. King County Code Section 4.56 governs real property activities as follows:

"4.56.060 Real property Responsibilities.

A. Except as otherwise provided in this chapter, the facilities management division, acting under the supervision of the county administrative officer, shall be the sole organization responsible for the administrative processes of acquiring, disposing, inventorying, leasing and managing real property, the legal title of which rest in the name of the county, or which the county manages in a trust capacity.

B. Open space, trail, park, agriculture and other natural resource real properties shall be acquired by the department of natural resources and parks, unless the executive directs the facilities management division to make such acquisitions" Clients determine the property(ies) to be acquired to meet their program plans, identifies funding source(s), confirms landowner interest and then submits a Request for OSA Services form to the OSA Supervisor to initiate the acquisition process. OSA Supervisor assigns the request to a RPA, who then orders preliminary title.

Longer term strategies for acquisitions are based on a variety of programs and initiatives. For example, under the Land Conservation Initiative currently unfolding in the County, the remaining parcels in 6 categories of land use preservation (including habitat, agriculture and forestry) have been developed identifying thousands of priority parcels for conservation easement acquisition (primarily) or fee title acquisition. The Flood Control District has developed Capital Investment Strategies that inform priority projects, at risk areas, and related acquisition priorities. Through salmon conservation plans and knowledge of county ecological resources, county ecologists have identified areas of long-term investment for preservation and restoration that are reflected in annual requests to the Conservations Futures Taxation program and state grant programs.

② The Title and Escrow Officer completes a review of the title report and provides it to the Real Property Agent (RPA).

③ The appraiser contacts the landowner to request permission to enter the property and invites the landowner, review appraiser and RPA to attend the inspection.

④ The process of the offering and negotiations with the landowner can take varying paths, which are too complicated to present in this workflow chart. As such, the policies and procedures for these activities are provided in this note. RPA shares fair market value and any potential issues (e.g., suspected encroachment, potential relocation obligations, etc.) with client with a recommendation regarding an offer. Client confirms funding and instructs whether to abandon effort or proceed with an offer. If instructed to proceed:

RPA prepares and routes acquisition offer package internally for budget and management review and approval.

**King County Water and Land Resources Division
Real Estate Acquisition and Property Management**

RPA mails offer letter, purchase and sale agreement and a copy of the title report to the landowner or landowner representative (provided their representation has been first confirmed with appropriate documentation). The offer letter identifies the property and property right(s) the County wishes to acquire, the amount the County has established as just compensation as well as a statement explaining that the offer is based upon an appraisal by a state certified appraiser, an expiration date for the County's offer, and, when appropriate, the amount of compensation for damages, stated separately to the remaining real property. RPA is available to landowner/landowner representative to answer any questions about the County's offer, and act as notary for landowner's signature, if necessary.

RPA maintains a record (diary) of contacts with landowner/designee regarding the property to be acquired (required for federal funding; best practice for other funding sources).

RPA reviews and responds to any and all additional factors which come to light that could affect just compensation and discusses with Acquisition Supervisor and Review Appraiser when new evidence exists. RPA has title and escrow officer prepare an addendum to the purchase and sale agreement commensurate with new evidence as appropriate and as approved by Review Appraiser and re-routes the revised offer package with an Administrative Settlement Memorandum setting forth the justification for the proposed counteroffer, internally for budget and management review and approval.

RPA updates Acquisition Supervisor weekly to reflect status of negotiations. RPA continues negotiations until either:

An Agreement is Reached (Mutual Acceptance)

RPA receives the fully executed and notarized purchase and sale agreement, including any addendums.

RPA ensures that diary is complete, signed, and dated and reviews file for completeness and compliance with state and County acquisition policies and procedures. RPA requests Title & Escrow Officer to establish escrow.

RPA reviews file to ensure that good and clear title will be conveyed to the County. If errors are discovered, the file returns to appropriate person for corrective action. RPA writes escrow instructions to escrow company.

RPA facilitates due diligence and satisfaction of the contingencies laid out in the purchase and sale agreement. This always includes completion of a Level I environmental inspection, usually by the Title & Escrow Officer (occasionally outsourced to a consultant).

After all contract contingencies have been met, Title & Escrow Officer releases contingencies.

Title & Escrow Officer reviews closing documents from escrow company, notifies RPA of any problems or delays, prepares wire transfer request and gives it to RPA for review. RPA reviews and transmits to Business Finance Officer for processing.

Acquisition Supervisor reviews closing documents, initials routing sheet, and forwards to Division Director for final review and signature. Title & Escrow Officer transmits closing documents to escrow company, and receives confirmation of recordation, prepares closing memo to custodial agency (e.g., Parks & Recreation Division, River & Floodplain Management Section, etc.) for RPA and Business & Finance Officer review, and then transmits via email. Acquisition Supervisor reviews title policy and final escrow settlement statement, files original deed, and transmits file to administrative staff person.

Administrative staff ensures all required documentation is in file, scans and uploads the key documents (deed, title report and review, appraisal, appraisal review, environmental inspection) to the OSA SharePoint site, which can be accessed by other King County staff.

A Settlement Cannot Be Reached

RPA informs Acquisition Supervisor and client that all attempts at negotiating a settlement have been unsuccessful and explains why. The acquisition effort is abandoned.

5 Relocations are generally outsourced to relocation consultants, which manage the relocations. Policies do not specifically address lease management. This issue is addressed in this report. With reinvestment in staffing at RES, it is anticipated that future lease management will be conducted through RES.

Appendix C: Risk Assessment Analysis

In order to assess the WLRD Real Property function and identify areas where current control procedures may not sufficiently address the risks that objectives may not be achieved, the following risk assessment analysis was conducted.

The risk assessment matrix is included after these notes

Notes to Risk Assessment:

NOTE X:

A courtesy visit with each owner of real property needed for a project to exchange information and develop rapport should be conducted. The WLRD employee making the contact needs to be knowledgeable regarding title issues, the acquisition process, schedule, compensation matters, and relocation. Typical discussions involve the status of the title, occupancy of the property, and special uses of the property, and discussion of proposed project impacts.

These meetings are typically held one-on-one at the subject property. The property owner is not under obligation to participate, but most are interested in the information that can be provided. One or two WLRD personnel should be the limit for a visit unless there are unusual issues. The meetings will usually be set up by appointment, although informal meetings can also be useful. The property owner should be informed of the purpose of the meeting, and the likely topics to be discussed.

Timing: The meetings should be conducted prior to going to the Board of Directors to request acquisition authority under threat of condemnation, and before the appraisal of the property but after public announcement of the project. Each meeting should take about an hour on-site. If the parcel also involves relocation, another hour needs to be added for those discussions.

Topics: After the parties introduce themselves, the property owner is shown the plans, verbally informed of the depicted impacts, and informed that the plans are still preliminary thus subject to change. A plat of the property with the proposed project depicted is often a "leave-behind" although it needs to be marked as preliminary. The property owner should be encouraged to comment on the effect of the project especially for any commercial parcels. This is also a good time to address any usual title issues involving ownership and encumbrances (leases). Any errors in the title report should be noted and provided to the title company for resolution.

If there are questions as to realty and personality (commercial and industrial improved properties), the agency staffer can arrange a subsequent visit to formally determine realty/personality, and ownerships. This may occur concurrent with the appraisal inspection. If there is a likelihood of relocation, this meeting can also serve to obtain displacement information (the relocation questionnaire). A discussion of the relocation program can occur, and the General Information Notice can be provided. The property owner should also be given a contact name and phone number for any follow-up questions or information.

**King County Water and Land Resources Division
Real Estate Acquisition and Property Management**

The comments of the owner, especially regarding unforeseen impacts of the agency plans, can be relayed to WDRL OSA and project engineering to assist in scheduling their activities to address property-specific risks.

Note Y:

As a part of due diligence in capital improvement project design and construction, WLRD uses a Project Management Manual to inform essential elements of the design process. The Manual includes development of a Risk Register to identify and recommend mitigations to reduce project risks. When acquisitions are not completed prior to initiation of the design process, the Risk Register includes acquisition risks and suggests remedies. As a result of the work of this report, OSA has added the following to their "Request for Acquisition & Right-of-Way Services" form: "Risks and/or Special Considerations: Describe any potential risks that may exist on this property, i.e. mining, contamination, etc. Please advise if you would prefer to review this information personally with the Agent." Following this report, WLR should meet with project managers to discuss lessons learned from recent acquisition processes and to ensure that there is consistency across the Division.

KC WLRD Risk Assessment Analysis V3

NOTE: Items highlighted in Green indicate areas where control procedures could be enhanced.			
Type Key: O=Operational, C= Compliance, F=Financial			
Objectives	Type	Identification of Risks	Risk Management Policies and Procedures
1. Real Property and right of way (ROW) rights are obtained in compliance with the Uniform Relocation Act (URA), state laws, and King County Ordinances.	C	OSA's Real Property staff are unaware of legal requirements.	OSA hires staff with knowledge and experience in URA and other legal compliance and consults with the County's Prosecuting Attorney's Office as needed.
			OSA's function uses checklists to assure compliance with legal requirements.
		Planning, community relations, other Parks and WLRD functions and operations are unaware of legal requirements and risk of noncompliance.	OSA's function should train all functions that impact WLRD compliance with legal requirements compliance issues.
			OSA works with various functions' management to properly obtain property.
		Time pressures on project management and ROW engineering may cause some compliance requirements to be overlooked.	OSA works with various functions' management to properly obtain property.
2. Real Property and right of way (ROW) rights are obtained to allow projects to proceed on time.	O	The project is not sufficiently described to allow OSA staff to conduct their work.	Title report is obtained early in the acquisition process. If there are any questions regarding details of the assignment, a meeting is held with the respective client to go into further project detail.
		OSA lacks sufficient staffing to both manage consultants and perform its own workload. Procedures to match up workload to required OSA staffing is not performed in advance of workload spikes.	OSA staffing is sufficient to address workload spikes. OSA has the ability to contract out if necessary but has never found it necessary.
		Lack of survey resources may require OSA to use other mapping techniques, which may change when the legal survey occurs, requiring OSA to re-do the appraisal.	OSA does not require survey as the legal description is sufficient for their purposes.
		Frequent design changes delays OSA activities, requiring rework of OSA activities.	For Design-Build type of contracts, OSA should not change design. For GCCM contracts, the frequency of design changes should be minimized. If along the way, the client changes the design or makes alterations i.e. decides they can complete the task with an easement instead of a fee purchase, yes, a new appraisal would be required.
		OSA project management, construction management and ROW engineering do not communicate needs in a timely manner.	OSA works closely with Project Management on an informal basis.
		There is no integrated ROW system that allows all related functions to access the same system with the same data only entered once, so that all functions can work off of the same information.	OSA should consider an integrated ROW software solution to eliminate multiple systems and multiple data inputs to provide efficiency to OSA's data needs. Such a system should track the property managers or ROW engineers assessment of the property needs, property data, parcel number, the owner contact dates and information provided, the required appraisals, appraisal reviews, DOJC negotiations and relocation efforts. Such a system would also provide consistency of forms used to document compliance and activities. Much of this type of information is confidential until the sale of the property closes.

KC WLRD Risk Assessment Analysis V3

Type Key: O=Operational, C= Compliance, F=Financial			
Objectives	Type	Identification of Risks	Risk Management Policies and Procedures
		OSA project management or ROW engineering may set priorities for property and ROW rights acquisitions, separately from OSA management, that doesn't allow OSA acquisitions in the most efficient or cost effective manner.	OSA should establish a process whereby project management and OSA management agree on an acquisitions schedule that OSA utilizes to provide OSA resources and addresses specific property risks. Acquisitions are subject to willing sellers. This type of information is not always predictable as there are numerous responses and situational issues with property owners.
		OSA staff do not have legal descriptions, drawings of the proposed acquisitions, NEPA/SEPA reports and titles, prior to performing work. This may result in needless repetition of appraisal work, delaying the timing of acquisitions.	Current OSA policy requires all such items to be obtained prior to initiation of property valuation work. Environmental assessments are not required, project managers may decline an environmental assessment. An environmental assessment is completed on all acquisitions after escrow is opened and during the contingency period. Closing is subject to the environmental assessment.
		Scheduling of OSA efforts do not include a risk assessment of individual properties and ROW. Those with most risk to the timelines would be organized to begin OSA activities in order of risk and/or complexity such as:	OSA works with all related functions to assess risks. The risk assessment should be more formalized.
		Other government agencies: property and easements	
		Commercial property and easements	
		Commercial relocation and moving requirements	
		Residential relocation/last resort housing requirements	
		Residential moving requirements	
		Other risk assessment related risks:	
		Properties that are likely to be involved in condemnation proceedings are not identified early in the process.	Condemnation is very unusual, infrequent.
		Properties that are likely to be involved in condemnation proceedings are not addressed (worked) early in the process.	The majority of the funding used to acquire property does not allow for condemnation because they are voluntary (willing sellers) acquisitions. In the past 18 years, there have only been a very small handful of proposed condemnations involving Rivers projects.
		Community and government relations functions interact with owners or dislocated persons that set unrealistic expectations and risk may not be identified.	OSA Staff should accompany outreach staff in initial visits, or at least provide talking points. OSA staff may identify potential risks from this early interaction.
2.a. Settlements are expedited to obtain properties within time requirements.	O	Reluctant owners may slow down the settlement process.	Early identification using a risk management process should be considered.
		WLRD requires process to settle with owners that includes management without OSA expertise.	Legal and administrative requirements include a review of all settlements in excess of certain limits. OSA requires management approvals of all administrative settlements.
2.b. All properties are obtained in sufficient time to allow for proper construction contracting.	O,F	Real Property rights are not obtained in time to "let" a construction contract.	OSA works with all related functions to assess risks. Two issues: (1) good communication from the client regarding his/her desired construction deadline and specific needs; and (2) property owner's personal situation and willingness i.e. could run into title issues, financial issues, boundary line issues, etc. etc. Issues that are unpredictable.