

GCSD POLICY

POLICY TITLE: ACCEPTANCE OF DEEDS

POLICY NUMBER: 501

ADOPTED: October 11, 2010

AMENDED:

RESOLUTION:

501.1 Purpose

The District Board of Directors may agree by resolution to accept a deed conveying fee simple title to real property or some interest in real property to the District. The Board of Directors of District may also authorize by resolution the execution of a Grant Deed by which the District conveys all or a portion of its interest in real property to a third party, by sale or exchange of said real property.

501.2 Procedure

- A. For any acceptance of a Grant Deed of real property from a third party to the District, action to approve acceptance of the conveyance in such property by Grant Deed must be authorized by action of the Board of Directors at a public meeting properly agendized pursuant to the provisions of the Brown Act. The Board shall act to accept a Grant Deed by resolution approved by a majority of the Board. Attached to the resolution shall be a Certificate of the Secretary of the Board certifying the fact that said resolution was duly adopted by the Board of Directors of the District at a meeting called and held pursuant to the Brown Act on a specified date by the specified vote, and certifying to the fact that said resolution is valid and in full force and effect and has not been revised by the Board of the District since the date of its adoption. This resolution and the attached Certificate of Secretary shall be recorded with the Grant Deed in the Office of the County Recorder in Tuolumne County.

GCSD POLICY

POLICY TITLE: EASEMENTS

POLICY NUMBER: 502

ADOPTED: October 11, 2010

AMENDED:

502.1 Purpose

The District may determine that it is necessary for it to acquire rights of access across private property owned by third parties in order to access its water and sewer infrastructure, to operate and maintain all such water and sewer infrastructure, and to repair, replace, construct, and improve those portions of its water and sewer infrastructure that lie upon or within private property. The acquisition of such rights by the District in the real property owned by a third party is typically achieved through the negotiation and execution of an Easement Agreement—Public Utility Easement (*See Appendix 500-A*).

The District may alternatively determine that it is necessary to acquire rights to access and use portions of private property in order to fully execute its powers to provide fire suppression services, recreation and park facilities and services, and community center facilities and services. Acquisition of such rights of use and access by the District of real property owned by a third party for such purposes is typically accomplished by Board action approving the execution of an Easement Agreement between the District and the third party property owner. The District's form of Easement Agreement is at Appendix 500-B. Negotiations to enter into an Easement Agreement (Public Utility Easement) or an Easement Agreement for park and recreational, fire suppression, or community facilities services, may be initiated by either the District or a private property owner.

Under certain circumstances it may be necessary for the District to grant easement rights to a third party such as an electrical utility, communications utility or natural gas utility. Granting of such rights of use and access over District real property to a third party is accomplished by Board action approving the execution of the District's standard form of Easement Agreement between the District and the third party which requires access over District property (*See Easement Agreement Appendix 500-C*).

502.2 Procedure for Easement or Easement Abandonment Requested by Property Owner

- A. The requesting property owner must submit a written request to the District which includes a legal description of the proposed easement or easement abandonment by metes and bounds as well as a legal description of the Tuolumne County Assessor's Parcel Number upon which the proposed easement is located, prepared by an engineer duly licensed to prepare such a legal description or a licensed surveyor.
- B. The legal descriptions of both the easement and the parcel of property upon which the easement is located will be checked for accuracy by District staff.

- C. The owner of the property must submit said legal description of the proposed easement and the parcel upon which the easement is to be located or abandoned, together with the plat map demonstrating the location of the easement upon the parcel to a title company of the requester's choice and must order a current preliminary title report regarding the parcel of real property upon which the easement is to be located. The requesting party shall arrange for the title company to forward a copy of the preliminary title report to the District for review.

The District Engineer shall review the preliminary title report and shall advise the requester of any liens or other encumbrances on the parcel reflected in the preliminary title report. All such liens and encumbrances must either be subordinated to the priority of the proposed easement to be granted to the District, or be determined by the District not to conflict with its easement rights.

- D. Easements granted to the District by a third party property owner for public utility purposes must be memorialized on the District's standard Easement Agreement—Public Utility Easement (Appendix 500-A) and executed by the person or persons holding fee simple title to the parcel of real property upon which the easement is located. The Easement Agreement conveying the easement from the property owner to the District together with all subordination agreements must be executed before a notary public and shall contain an acknowledgement of the notary public. In cases in which corporations are executing the Easement Agreement as the property owner, the corporate seal must be affixed to the Easement Agreement.
- E. Easements requested by third parties over District property for utility and other purposes must be approved by the Board of Directors and memorialized on the District's standard Easement Agreement (Appendix 500-C) and executed by the General Manager as the authorized representative of the District.
- F. Upon adoption of this policy, the Board of Directors authorizes the General Manager to execute on behalf of the District Easement Agreement—Public Utility Easement by such private property owners offering the District easement rights across their private property for public utility purposes without prior approval of each such easement transaction by the Board of Directors. However, at the next regular Board meeting after any such Easement Agreement—Public Utility Easement executed by the General Manager on behalf of the District, such easement documents shall be submitted to the Board of Directors for ratification on that meeting's agenda consent calendar.

Upon adoption of this policy, the Board of Directors authorizes the General Manager to execute on behalf of the District Easement Agreements by which the District grants easement rights across District property to third parties for public utility and other purposes approved by the Board of Directors (Appendix 500-C).

- G. Following ratification by the Board of Directors, District staff shall submit all Easement Agreements—Public Utility Easement and other Easement Agreements, together with the legal description and plat map of the proposed easement, for recordation to the Tuolumne County Records Office. Such recordation of Easement Agreements—Public Utility Easement is dependent upon the property owner providing for the issuance of a policy of title insurance naming the District as insured insuring its easement rights in the property in a face amount to be determined by the District. The private property owner granting the easement site to the District will be responsible for all title fees and recording fees.

502.3 Procedure for Easement Requested by District

- A. The District must submit an offer in writing to the owner of the real property upon which the District desires to locate an easement, whether it is a public utility easement, or an easement for park and recreation, fire suppression or community facilities purposes. Attached to the offer shall be a legal description of the parcel upon which the proposed easement is located as well as a legal description of the easement by metes and bounds description prepared by a licensed engineer or licensed surveyor.
- B. The District will order a preliminary title report covering the parcel of real property upon which the easement is located as well as the proposed easement location and submit a copy to the private property owner at the District's sole cost and expense.
- C. The District will require any liens or encumbrances on the parcel of real property upon which the proposed easement is located which conflicts with the District's easement rights to be subordinated to the easement rights of the District.
- D. Easements requested by the District for public utility purposes and accepted and approved by the private property owner shall be memorialized in the District's standard form of Easement Agreement—Public Utility Easement (Appendix 500-A) executed by the person or persons holding fee simple title to the property upon which the easement will be located. All such documents must be notarized.

Easements requested by the District and accepted and approved by the private property owner for park and recreation, fire suppression or community facilities purposes shall be memorialized in the District's standard form of Easement Agreement (Appendix 500-B) executed by the person or persons holding fee simple title to the property upon which the easement will be located. All such documents must be notarized.

- E. The Board of Directors, by adoption of this policy, has authorized its General Manager to approve and execute such Easement Agreements—Public Utility Easement and other Easement Agreements on behalf of the District without receiving prior approval by action of the Board of Directors.
- F. Following ratification by the Board of Directors, District staff shall submit the Easement Agreement and all attachments together with any applicable deeds granting easement rights to the Tuolumne County Recorder's Office for recordation.

502.4 Effect of Easement Agreement

The District's forms of Easement Agreements (Appendix 500-A and 500-B), when recorded, create a permanent real property interest of the District in real property owned by another which permits the District to utilize specifically identified portions of that real property for its authorized public utility, park and recreation, fire, or community facility purposes, and provides rights of ingress and egress to the easement location for such purposes for an indefinite period of time. In certain circumstances, the District may be willing to pay compensation to a third party property owner for easement rights if a valid appraisal can be obtained by the District of the value of such easement rights. The District will not pay compensation for easement

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rights offered by property owners as the condition of connecting to the District's water or wastewater systems.

GCSD POLICY

POLICY TITLE: RIGHT-OF-WAY AND ENTRY AGREEMENTS

POLICY NUMBER: 503

ADOPTED: October 11, 2010

AMENDED:

503.1 Purpose

The District maintains and operates water and wastewater systems for the benefit of its customers. In connection therewith, the District owns various interests in real property, including fee simple title, leases, easements, and rights of way (hereinafter collectively "District Property"). The District utilizes Right-of-Way and Entry Agreements to memorialize District agreements to license use of District Property to third parties for temporary periods of time and for purposes specified in the agreement. Such contemplated uses of District Property may restrict District access to and use of such property. A Right-of-Way and Entry Agreement restricts a third party's use of District Property to specified purposes and times, and requires payment of compensation to District by applicant for the value of the applicant's temporary use of District Property. The license to use District Property granted in such a Right-of-Way and Entry Agreement shall be limited in duration to specified periods of time.

503.2 Procedure for Entry into Right-of-Way and Entry Agreement

- A. The person requesting the right to temporarily use District Property for specified purposes must submit a written request to the District requesting a Right-of-Way and Entry Agreement together with a legal description of the parcel of real property upon which the right-of-way or entry shall be located, including a legal description of the right-of-way by metes and bounds prepared by a licensed engineer or licensed surveyor.
- B. The District Engineer shall evaluate the request and determine whether the proposed temporary use of District Property will conflict with any other existing or planned uses of District Property during the proposed duration of the proposed right-of-entry. The District Engineer shall also determine whether the proposed nature and extent of use of District Property by the applicant and the duration of the proposed use merits the requirement that the applicant pay compensation to the District for the use of District Property. Compensation may be waived when the applicant's use of District Property pursuant to the Right-of-Way and Entry Agreement promotes a public interest served by the District, such as to allow the contractor to utilize a portion of District Property for storage of construction materials pending construction of a District public works project. If the proposed use of District Property will preclude the District from utilizing such property due to the nature and extent of the applicant's proposed activities on District Property, the District shall establish a rental value for such District Property to be paid by the applicant for the use of District Property and include that amount in the proposed Right-of-Way and Entry Agreement.

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- C. All licenses granted by the District pursuant to approval of a Right of Way and Entry Agreement must be memorialized by the District's standard Right-of-Way and Entry Agreement, attached hereto as Appendix 500-D—Right-of-Way and Entry Agreement, and executed by the District and the applicant.
- D. Any Right-of-Way and Entry Agreement must be approved by a majority of the Board of Directors at a regularly agendized public meeting of the Board of Directors. Following approval by the Board of Directors by minute action or by resolution, District staff will provide a copy of the fully executed Right-of-Way and Entry Agreement to the applicant and retain the original in the District office file. This authority may be delegated to the General Manager by the Board of Directors.

GCSD POLICY

POLICY TITLE: ENCROACHMENT PERMITS

POLICY NUMBER: 504

ADOPTED: October 11, 2010

AMENDED:

504.1 Purpose

A property owner within the District must apply for and receive an Encroachment Permit from the District in the following circumstances:

- A. Whenever a property owner desires to install or construct physical improvements, such as landscaping, fencing, retaining walls, culverts, bridges, pipelines, or other structures or improvements on or within real property owned by the District or easements and right-of-way dedicated to the District, or
- B. Whenever a District resident or customer desires to secure temporary access over District owned real property or District easements or rights-of-way in order to access other private property, or
- C. Whenever a third party desires to secure temporary access to District owned real property, easements or rights-of-way in order to perform inspection or testing services including but not limited to soils testing, geotechnical engineering studies including borings, survey work or field inspection work.

Encroachment Permits are typically used by the District in the above situations. Other temporary uses of District Property or District easements which preclude District usage of such property will be handled by the District as a request to enter into a Right-of-Way and Entry Agreement pursuant to Section 503 above. The District will issue Encroachment Permits for authorized uses of District Property which do not interfere with the District's usage of such property for the provision of services to the public.

504.2 Definition of "Encroachment"

"Encroachment" means (1) any structure or object of any kind or character located on District Property, easements and/or rights-of-way, including but not limited to building expansions, landscaping, fencing, retaining walls, culverts, bridges, pipelines, signage, or other structures and physical improvements; (2) use of District owned property, easements and/or rights-of-way for access to other properties; and (3) excavation including borings for geotechnical engineering purposes, and the deposit of materials from excavation within District Property; and (4) access to District owned property, easements and/or rights-of-way for survey, inspection or other engineering work. District Property includes District owned property, easements, rights-of-way, and the airspace above such property.

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504.3 Procedure

- A. The applicant for the encroachment permit must complete an application in a form provided by the District. As deemed appropriate by the District Engineer, plans for any structures, pipelines, or improvements to be constructed on or within District owned property or easements or rights-of-way must be attached to the application for review by District staff. Said application shall describe the name and address of the applicant, the nature and location of the proposed encroachment, the estimated duration of time of the proposed encroachment and a signed agreement by the applicant to comply with all of the provisions contained in the District Encroachment Ordinance (See Appendix 500-E)
- B. If physical improvements are to be constructed on or within District owned property, easements or rights-of-way, fully engineered plans and specifications for any such improvements must be attached to the application for review by District staff.
- C. If improvements are to be constructed on District Property, the applicant shall pay a deposit to the District as an advance against all administrative costs and expenses to be incurred by the District in reviewing the application and the plans and specifications for the improvements, at the time of filing the application.
- D. The District's form of Application for Encroachment Permit is attached hereto and marked Appendix 500-F. The District's form of Encroachment Permit is attached hereto and marked Appendix 500-G.
- E. Encroachments shall be approved and executed by the General Manager and do not require approval of the Board of Directors. Such Encroachment Permits only permit limited access to District owned real property or easements.

504.4 General Requirements

- A. No person or entity shall do or cause to be done any work on District Property without first having obtained an Encroachment Permit and paid the applicable fee.
- B. Any construction work performed in connection with the permitted encroachment shall be in accordance with the plans and specifications reviewed by District and the conditions specified in the Encroachment Permit.
- C. Such Encroachment Permits only permit limited access to District Property for such purposes and uses as will not interfere with the District's customary use of such property for the provision of public services.
- D. All such Encroachment Permits shall comply in all respects with the District's Encroachment Ordinance (see Appendix 500-E) which requires, among other things, that the applicant agree to defend and indemnify the District against any and all claims, liability, damages and expenses arising out of the construction, installation, or maintenance of the encroachment, including (1) any dangerous or defective conditions created as a result of such encroachment; (2) the conditions under which Encroachment Permits may be refused and/or revoked; and (3) the penalties for violating the Ordinance and encroaching upon District Property without a permit.

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- E. The District is not responsible for repairing or replacing any improvement made within a District easement due to activities undertaken by the District within the easement. Such repairs and replacements of property owner improvements shall be at the sole expense of the property owner.