
LCRA TRANSMISSION SERVICES CORPORATION BOARD POLICY

T401 – LAND RESOURCES

Oct. 17, 2018

T401.10 PURPOSE

This policy establishes guidelines for the acquisition, disposition, use and management of all LCRA Transmission Services Corporation land rights.

T401.20 DEFINITIONS

Land Rights – Interests in real property including, but not limited to, easements, leases, and fee simple ownership and aerial, subsurface, land and water surface rights.

LCRA TSC – LCRA Transmission Services Corporation.

LCRA TSC Board – The Board of Directors of LCRA TSC.

T401.30 POLICY

LCRA TSC will acquire, develop, use, manage, operate and dispose of its land resources to fulfill its essential corporate purposes and responsibilities prescribed by state law and LCRA TSC policies.

LCRA TSC may dispose of land that has been declared by the LCRA TSC Board to be “nonessential” (not necessary or convenient or of beneficial use to the business of LCRA TSC).

T401.40 PROCEDURES

T401.401 Land Acquisition. LCRA TSC will acquire sufficient land rights to complete approved projects and programs. In selecting land, LCRA TSC will consider, as appropriate, the effects on environmental integrity, community values, parks and recreation areas, historical and aesthetic values, and the cost of the project or program.

Mineral rights may be acquired for the protection of the improvements to be constructed or to prevent interference with the surface use.

In acquiring land rights, LCRA TSC will attempt to minimize adverse effects upon property owners and will use due diligence to adequately compensate property owners.

Property owners contacted by representatives of LCRA TSC will be treated courteously and dealt with in a forthright manner. Contacts and negotiations will be initiated in a timely fashion to allow the property owner to consult with legal, tax and other advisors as may be necessary.

- A. LCRA TSC Board Authorization: LCRA TSC Board approval of the business plan, capital plan, capital improvement project or Transmission System Improvements Working Papers will constitute authorization for the acquisition of land rights as necessary and will authorize the chief executive officer (CEO) of LCRA TSC or his or her designee to acquire land rights necessary to complete the approved projects or programs, subject to the following conditions:
1. Land rights for an approved project or program that may be purchased or leased for \$600,000 or less per parcel, where the purchase or lease price is within the amount budgeted for the project or program, may be finalized by the CEO or his or her designee without further LCRA TSC Board action. Acquisitions of land rights that have a purchase price or lease price exceeding \$600,000 per parcel require the LCRA TSC Board's specific approval. LCRA TSC may acquire land rights in excess of the rights required for projects or programs in those instances when the property owner and LCRA TSC both agree to such conditions, or when it is in LCRA TSC's best economic interest to do so.
 2. Board authorization is not required for the acquisition of land rights when the land rights are acquired at no cost to LCRA TSC.
- B. Method of Acquisition: Staff will determine whether acquisition of particular land rights is in the best interest of LCRA TSC, its customers and the public. In determining the method of land acquisition, LCRA TSC will consider (a) the purpose, type and life of the facilities to be located on the land; (b) how the surface of the land will be used; (c) the significance of mineral rights to the integrity of the facility; and (d) the present or future use of the land by the property owner.

Consideration paid by LCRA TSC to secure a purchase or lease option may not exceed \$60,000 per parcel, tract or interest nor may the term of the option exceed two years, unless specifically approved by the LCRA TSC Board. Such payment must be applied toward the purchase or lease price if the purchase or lease is consummated.

An environmental due diligence assessment will be prepared on all land considered for acquisition. For the acquisition of leases and property in fee simple, an assessment for the potential presence of environmental contamination will be performed in accordance with U.S. Environmental Protection Agency (EPA) "all appropriate inquiries" regulations (40 C.F.R. Part 312) and related Society for Testing and Materials International (ASTM)

standards, unless a variance is granted by LCRA's general counsel. For the acquisition of easements, the assessment may follow less stringent standards and practices provided the standards and practices followed are consistent with industry practice and are documented, except that in the case of easement acquisitions where prior or future land use may present risks that, in the opinion of the environmental professional, warrant a full assessment, the more stringent "all appropriate inquiries" regulations will be followed.

Information obtained during the due diligence and on-site assessments will be evaluated prior to final acquisition.

- C. Appraisals: LCRA TSC will base all negotiations on a reasonable opinion of market value on all land right acquisitions. Staff will have the discretion to either prepare an opinion based on available market data or employ an independent appraiser, based on the size and complexity of the acquisition; however staff will be required to employ an independent appraiser if (i) the area of the land rights being acquired is larger than 100 acres; (ii) staff has reason to believe the value of such land rights exceeds \$600,000; or (iii) employing an independent appraiser is necessary to avoid the appearance of a conflict of interest.

Any independent appraiser engaged by or on behalf of LCRA TSC must hold a valid license or certification from the state of Texas.

- D. Eminent Domain Proceedings: LCRA TSC may use its power of eminent domain to acquire land rights if (i) a landowner has been unable to agree with LCRA TSC on the fair market value of the land rights being acquired by LCRA TSC and further negotiations for settlement have become futile; (ii) the title cannot be conveyed without a court judgment; or (iii) there is a conflict of interest of the owner(s). LCRA TSC may initiate eminent domain proceedings only after an official written offer to purchase the land rights has been sent to the landowner. In any event, LCRA TSC Board authorization is required prior to initiation of eminent domain proceedings for the acquisition of land rights.

T401.402 Land Use, Development, Conservation and Management.

- A. Agreements: LCRA TSC may enter into permits, leases, easements or other legally binding land use agreements with public, private or nonprofit entities.
1. Land use agreements will conform to the following criteria:
 - a. Monetary consideration for the following uses will be full fair market rental value: agriculture/grazing, commercial and private uses.
 - b. LCRA TSC's leases will be managed to conserve, protect and maintain LCRA TSC's land resources.

- c. Land use agreements may be granted for non-monetary consideration to governmental entities or nonprofit organizations, when the use of the property furthers LCRA TSC's ability to meet its statutory responsibilities or is deemed to be in LCRA TSC's best interest.
 - d. Land use agreements require the user to undertake full financial responsibility for proper maintenance and use of the land and/or facility, as may be appropriate under the circumstances. Such financial responsibility may include liability insurance coverage protecting LCRA TSC.
 - e. Land use agreements will include provisions allowing periodic adjustments of monetary consideration.
 - f. The term of any land use agreement will be commensurate with the use of the land, the purposes of the agreement, the amount of capital to be invested by LCRA TSC and/or the user, the anticipated capital payback period, and the projected revenue to LCRA TSC.
 - g. Land use agreements will contain, as appropriate and necessary, provisions for environmental protection and compliance with applicable laws and regulations and LCRA TSC policies.
2. The following types of land use agreements may be executed by the CEO or his or her designee without LCRA TSC Board approval; all other land use agreements must be specifically approved by LCRA TSC Board:
- a. Leases, temporary use permits, licenses and construction permits with terms of 15 years or less.
 - b. Agreements for the co-location of electric or communication facilities on LCRA TSC land, easements or leases.
- B. Easements: LCRA TSC may grant easements across land it owns, may permit easements to occupy the same easement corridor it has acquired, and may release its easement rights or assign its easements or portions thereof when the best interests of LCRA TSC and the public are served.
- 1. Requests for easements across LCRA TSC land will conform to the following criteria and must be specifically approved by LCRA TSC Board:
 - a. Monetary consideration for easements that serve a private or commercial use will be the full fair market value as determined pursuant to this policy.
 - b. Consideration for easements that serve a public or nonprofit use may be non-monetary at the discretion of LCRA TSC Board.

- c. Easements will contain, as appropriate and necessary, provisions for environmental protection and compliance with existing laws, regulations and LCRA TSC policies.
 - 2. Requests to occupy a portion of an LCRA TSC easement across lands that are not owned by LCRA TSC may be approved by the CEO or his or her designee if they meet the following criteria:
 - a. The requesting entity first must obtain the written statement of LCRA TSC's non-objection to the proposed easement/use. Such statement of non-objection only will be granted if the proposed joint use of the easement corridor will not interfere with LCRA TSC's superior easement rights, safety and efficient operations within the easement area.
 - b. The requesting entity must obtain the easement rights, subordinate to LCRA TSC's superior easement rights, from the landowner(s).
 - 3. LCRA TSC's easements on private lands that are not necessary to the operation of LCRA TSC may be released by the CEO or his or her designee, subject to the following:
 - a. Staff has determined that LCRA TSC has no further or anticipated need for easement rights in the area to be released.
 - b. Any processing costs, including the cost of a survey, if required, will be at the expense of the property owner or party requesting the release.
 - c. Easement rights that are considered unnecessary due to an abandonment of a line or facility by LCRA TSC may be released to the current landowner(s).
- C. Encroachments: Public or private use of (including aerial use above or over) LCRA TSC land, except where expressly authorized by LCRA TSC, will be considered an encroachment. Those encroaching on or over LCRA TSC lands will be required to either purchase the land from LCRA TSC on terms approved by the Board, remove the encroachment, or secure rights to use the land by entering into an acceptable land use agreement with LCRA TSC. The CEO or his or her designee may institute appropriate legal action to remove any non-conforming encroachments.

T401.403 Land Disposition.

- A. Nonessential Lands: Lands identified as nonessential may be sold, traded or exchanged if declared by the LCRA TSC Board to be not necessary, convenient or of beneficial use to the business of LCRA TSC. Such declaration and the

terms of any such sale or exchange will require the affirmative vote of three-fourths vote of the membership of the LCRA TSC Board.

Appraisals: LCRA TSC will base all negotiations on a reasonable opinion of market value on all land right dispositions. Staff will have the discretion to either prepare an opinion based on available market data or employ an independent appraiser, based on the size and complexity of the transaction; however staff will be required to employ an independent appraiser if (i) the area of the land rights being sold, leased or exchanged is larger than 100 acres; (ii) staff has reason to believe that the value of such land rights exceeds \$600,000; or (iii) employing an independent appraiser is necessary to avoid the appearance of a conflict of interest.

An environmental due diligence assessment will be prepared on all land considered for disposition. For the disposition of leases, easements and property in fee simple, the assessment may follow standards and practices less stringent than "all appropriate inquiries" described above, provided the standards and practices used are consistent with industry practice and are documented. However, for disposition of leases, easements and property in fee simple, when prior or future land use may present risks that, in the opinion of the environmental professional, warrant a full assessment, the more stringent "all appropriate inquiries" regulations will be followed. Information obtained during the due diligence and on-site assessments will be evaluated prior to final disposition.

- B. Disposition or Encumbrance Requiring LCRA Board Approval: LCRA TSC shall not dispose of or encumber all or a substantial portion of its assets without the approval of the Lower Colorado River Authority Board of Directors.

EFFECTIVE: Feb. 20, 2002. Amended Oct. 14, 2008; Aug. 26, 2009; June 16, 2010; Feb. 15, 2017; and Oct. 17, 2018.