

502 EASEMENTS

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