

	WATER AND SEWER SERVICE POLICIES	<i>EFFECTIVE DATE:</i> 3/14/2002
	<i>POLICY TITLE:</i> OFF-SITE EASEMENT ACQUISITION POLICY	<i>STARTING SECTION:</i> 41405
		<i>OWNER: Director of Engineering & Planning</i>

Article 4. EASEMENTS.

Sections.

41405. Off-site Easement Acquisition Policy.

§ 41405. Off-Site Easement Acquisition Policy.

- (a) It is the Service Authority's policy that off-site easement acquisition shall be the responsibility of the Applicant for Service ("Applicant"). All contact by the Applicant with property owners shall be conducted in good faith, with an emphasis upon fairness to the private property owner (the "Easement Grantor") who is being asked to grant the easement. The Applicant shall report to and advise Service Authority staff if difficulties are encountered in the easement acquisition process, so that the Service Authority may monitor the process to assure fairness to all involved. If voluntary easement acquisition is unsuccessful, the Service Authority Board of Directors ("Board"), upon the staff's recommendation, may determine to employ its powers of eminent domain to acquire the necessary easements.
- (b) The Applicant is responsible to propose a sanitary sewer or water main design of proper alignment and which is technically adequate and acceptable to the Service Authority. The proposed sewer or water main must be a part of a subdivision plan or site plan submitted to the appropriate Prince William County reviewing agencies.
- (c) The Applicant is responsible to eliminate any unresolved design or plan issues which could affect or change the sanitary sewer or water design and/or off-site easement requirements.
- (d) The Applicant is responsible to participate in a bona fide effort to acquire the easement and will provide the Easement Grantor with:
 - 1) Engineering plans of the proposed utility improvements related to their property,
 - 2) Appropriate easement plat, and
 - 3) Easement agreement form approved by the Service Authority.
- (e) The Applicant will obtain a title report, to identify all parties having an ownership interest in the property, and a comprehensive appraisal report prepared by a professional real estate appraiser, approved by the Service Authority, to establish current values of the affected property.
- (f) The appraisal must address the current value of permanent and temporary easement areas, damaged trees/forest and damages or enhancements to the residual property.
- (g) The offer of compensation to the Easement Grantor for the requested easement rights will be based on no less than the appraisal report.
- (h) The probable timing of construction of the utilities, impact on the property, restoration of the disturbed site, and availability of the utilities to serve the property must be explained.
- (i) The Easement Grantor must be given a reasonable time period to evaluate the Applicant's offer and to receive answers to any questions or concerns, which may raise.

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- (j) The Applicant must document efforts and unsuccessful attempts to negotiate with the affected Easement Grantor to acquire the necessary easement rights. This process must include:
- 1) a legitimate determination of the value of the easement rights being sought;
 - 2) multiple contacts with the Easement Grantor to discuss the need for the easement and to explain the impact on their properties;
 - 3) a good faith effort to address and accommodate the concerns of the Easement Grantor;
 - 4) a bona fide written offer to purchase the easement rights for a price not less than the appraised value of the easement rights.
- (k) The Applicant must satisfy Service Authority staff that no other reasonable alternative to the proposed alignment exists and must provide documentation that confirms the Applicant's opinion that further negotiation efforts by the Applicant, no matter how equitable the proposed settlement offer, would likely continue to be unsuccessful.
- (l) At any time, prior to requesting the Board to authorize condemnation procedures, the Service Authority staff may involve themselves directly in negotiations with the Easement Grantor and staff may determine to engage the services of an independent, objective, real estate negotiator and acquisition specialist (to be paid for by the Applicant) to assure that all reasonable efforts to acquire the easement voluntarily have been made.
- (m) If the guidelines in this section have been met, then the Applicant must supply documentation, as listed in this section, along with a written request for the Service Authority's assistance. If the Service Authority's staff is satisfied that all conditions have been met and that further negotiations by the Applicant would likely be unsuccessful, the staff will advise the Easement Grantor that unless the matter is resolved within a reasonable time period and stated deadline, the staff will be requesting that the Board consider authorizing utilization of its powers of eminent domain to acquire the easement.
- (n) If the matter is not resolved by the deadline, the request will be scheduled for presentation to the Board for consideration during a regularly scheduled meeting. The Easement Grantor or its legal representative, and the Applicant, shall be provided notice of the time and place at which the Board will consider the matter. The Board, at its discretion, may direct staff to negotiate – or continue negotiations – with the Easement Grantor to acquire the easement and/or to utilize the Service Authority's powers of eminent domain as provided by Va. Code Ann. § 15.2-5114, if necessary. The Board may decline to authorize further involvement in the easement acquisition process. Negotiations between Applicant and Easement Grantor are **STRONGLY** encouraged and the exercise of filing a Certificate of Take by the Service Authority will only be made for a public purpose and where the easement is to become part of the Service Authority's public system after construction and acceptance.
- (o) All such Applicant requests will be considered on a case-by-case basis, judged on the circumstances, merits of the case, and the rights of the individual property owners to be compensated fairly for any use of their property.
- (p) If off-site easement acquisition assistance is authorized, the Applicant will pay all direct and indirect costs and expenses associated with the acquisitions within thirty (30) days of invoice by the Service Authority. Filing a Certificate of Taking (Quick Take) involves legal costs and posting of a deposit representing the estimated value of the easement rights. Filing and trying a condemnation suit involves, but is not limited to, court and

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legal costs, services of a real estate appraiser, responsibility for the compensation awarded by the court, and Service Authority administrative costs.

ADOPTED: NOVEMBER 9, 1995

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APPROVED BY GENERAL MANAGER