Appendix H OPEN SPACE LAND ACQUISITION GUIDELINES

PURPOSE

Acquisition of private property by the public sector occurs when a specific public purpose and/or benefit has been defined and ownership or rights to the property need to be obtained. Most acquisitions occur because of a need to provide public services for a growing population. Other acquisitions occur when it's necessary to upgrade or improve the community's infrastructure and levels of service.

There are numerous examples of such acquisitions by government. The following examples are a part of the daily activities of local government.

- the provision of public access to a certain area or facility
- the preservation and/or conservation of natural resources
- fee title acquisition for park development
- fee title acquisition for infrastructure or County facility construction
- utility or road rights-of-way
- the protection of a scenic vista or viewpoint
- to protect the public from environmentally-induced hazards (e.g., flood plains and avalanche-prone areas.)
- the protection of a important historical or cultural site
- the separation of communities
- the establishment of a permanent land use buffer
- the conservation of agricultural lands

These guidelines, the *Interim Open Space Land Acquisition Guidelines*, will focus on the acquisition of property for a variety of open space purposes and values, the so-called "green infrastructure" of the County.

Each acquisition is unique and requires a new evaluation and confronts different issues each time one is considered. Consequently, these guidelines are intended to provide general direction. The sequencing may or may not need to be followed exactly as described. The steps in the process need to be carefully evaluated as to their need. Steps not listed below may need to be added or steps may be deleted depending on the unique characteristics of the particular situation. The key is to utilize these guidelines as a reference guide for information that will be applicable to most but not all acquisition efforts. (These guidelines <u>do not</u> apply to condemnation of private property for public purposes.)

Lastly, these guidelines have been prepared to insure that County staff has the necessary information to protect the County's interests. They will also insure that minimum standards are in place, that adequate disclosure occurs, and that there will be a consistent application of rules over time.

DEFINITIONS

Many terms are associated with a land acquisition program. The following definitions apply uniformly to most circumstances.

Acquisition - For purposes of these guidelines, a public land acquisition can be defined as a *dedication* (voluntary or mandatory), a *donation*, a *fee title acquisition* or the *purchase of an easement* (e.g., utility, access or conservation easements).

CEQA - The California Environmental Quality Act (Pub. Resources Code, div. 13, §21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs., tit. 14, §15000 et seq.). CEQA requires public agencies in California to analyze significant adverse environmental impacts of projects and requires that the impacts be mitigated to the extent feasible. CEQA also provides a procedure by which this is to occur.

Conservation Easement - A voluntary agreement that allows a landowner to limit the type or amount of development on their property while retaining private ownership of the land. The easement insures that a particular open space feature or characteristic is to be conserved in perpetuity or for a specified duration of time.

Dedication - Lands offered to the public through the discretionary approval of a parcel map, final map, minor/conditional use permit, rezoning, and development agreement or other discretionary review. Many dedications are made as a requirement or a condition of approval (e.g., park land dedications for public use). Other dedications may be voluntary based upon the interest or need of the landowner.

Encumbrance - Restrictions and impediments that affect how a parcel may be used. Encumbrances may also affect the ability to finance using the value of the property to carry the debt. Typical encumbrances include easements; liens and debt carried on the land (e.g., deeds of trust).

Fee Title - One form of ownership to property that is absolute and complete. Property may also be held in fee simple, which is limited.

Lead Department - The County department pursuing an open space acquisition to implement a program or objective of that department.

Land Acquisition Committee (LAC) - A committee comprised of the Department of Public Works, County Counsel, the Planning Department, the Facility Services Department and the County Executive's Office. The LAC is to convene at the request of the Lead Department to assist and provide recommendations to the Lead Department on an acquisition on an as needed basis.

Placer Legacy – An Open Space Conservation Plan prepared by Placer County. Addresses the preservation of variety of open space areas including: agricultural lands, areas for outdoor recreation, scenic and historic areas, community edges, natural communities to insure biodiversity and the protection of sensitive species and areas to protect the safety of the public.

Title Insurance - An insurance policy that protects the insured from losses as the result of claims on one's ownership of land. Problems that can occur that can be covered by the policy are fraud, improper court proceedings, missing heirs, the incompetence of previous seller(s), recording mistakes, and unfiled liens.

DEPARTMENTAL RESPONSIBILITIES

Numerous County Departments may be involved in land acquisition activities. For open space acquisitions, most activities will result from the implementation of programs administered by the Planning Department and the Facility Services Department. The Department of Public Works will likely provide a supportive role in that they provide services that may be necessary for the operation and maintenance of open space lands.

LAND ACQUISITION COMMITTEE

In order to consistently apply these guidelines and to obtain the necessary advice and counsel of relevant departments, a Land Acquisition Committee (LAC) should be formed. The LAC would be convened on an as-needed basis as determined by the Lead Department (see below). The LAC should be comprised of the departments listed below. Each department is listed with their general area of responsibility:

- 1. **County Counsel** To advise the County on legal matters pertaining to the acquisition procedure and liability.
- 2. **Facility Services Department** –Facility Services Department staff shall be responsible for assisting in the land acquisition negotiation phase. The Facility Services Department may also be identified as a Lead Department for County parks development and acquisitions necessary to develop and service these park facilities.
- 3. **Planning Department** Planning Department staff are to be consulted on matters pertaining to land use and CEQA. For acquisitions that are implementing the Placer Legacy project, the Planning Department is to be the Lead Department.
- 4. **County Executive's Office** The CEO is to be consulted for general direction, assistance and budget matters.
- 5. **Department of Public Works** The Department of Public Works (DPW) staff are to be consulted on matters related to land surveys, road and utility easements (existing or required), site drainage and/or flooding, and geotechnical constraints to use or physical development of the property. These guidelines do not relate to projects requiring condemnation.

LEAD COUNTY DEPARTMENTS

In order to consider acquiring private land for public purposes, a number of County Departments may need to be involved. In particular, the department seeking the acquisition should be identified as the lead department and shall be responsible for convening and coordinating the activities of the LAC and to insure that the procedures identified in these guidelines are considered. The following departments may be involved in land acquisitions as described:

- 1. **Facility Services Department** Most acquisitions of open space by the Facility Services Department will be by the Parks Division for new County parks and trails. However, there may be occasions where wastewater treatment or conveyance facilities, solid waste facilities or even new County facilities for services could be associated with open space land management. When such occasions arise, the Facility Services Department will be identified because of the Department's existing management responsibilities for these services.
- 2. **Planning Department** Open space acquisitions consistent with the Placer County General Plan and the Placer Legacy Open Space Conservation Project.
- 3. **Department of Public Works** Utility and road easements, road rights-of-way associated with the development of open space areas.

FEE TITLE LAND ACQUISITION PROCEDURES

Fee title land acquisitions are considered to be a dedication (voluntary or mandatory), a donation, or purchase. They are different from the purchase of an easement (e.g., utility, access or conservation easements). The fee title to property is obtained when it is desirable or mandatory for the land to be held by the public sector. The County may own the land in perpetuity or it may be transferred to the private sector for management (e.g., land trusts). Typical examples of fee title acquisition include: purchase of park land, purchase of sensitive species habitat to insure a high level of protection, acquisition of flood plains, and receipt of donated lands.

This section of these guidelines will provide direction on the acquisition of the fee title to private property. Where appropriate, the responsible party for a particular task is identified. The guidelines examine the process of acquiring land in the following sequence: preliminary decision-making, disclosure and negotiation, Board of Supervisors action and final steps.

I. PRELIMINARY DECISION-MAKING

A. PURPOSE OF ACQUISITION

The first activity for any acquisition is to determine how the land will be used, managed or maintained if it is to be acquired and held by the public sector or simply to be encumbered for a particular purpose. The use of the property should implement a program managed by the Lead Department. The Lead Department should carefully evaluate the property in order to decide whether or not the property can be used as proposed given site constraints and/or encumbrances. If time or full public disclosure is not a consideration, the staff should notify the Board of Supervisors of an intent to proceed with negotiations for a particular use of the property and seek preliminary approval from the Board to proceed with the acquisition. In no case should

negotiations for an acquisition proceed without a well-defined use of the land for public purposes.

There may be occasions were an expeditious response from the County will be necessary to initiate negotiations with a landowner because of a particular need or interest of the landowner or because of time constraints associated with funding options (e.g., grant applications). The Lead Department will need to use discretion to decide whether or not to proceed with early Board authorization to initiate negotiations when an expeditious response is required. Similarly, a property owner may request privacy/anonymity during informal consultations. Consequently, it would be inappropriate to initiate consultation with the Board of Supervisors until after it is decided to proceed with public, formal negotiations to acquire the property.

B. DETERMINATION OF PUBLIC BENEFIT

As a part of the decision to proceed or not to proceed, the staff should determine whether or not the acquisition provides one or more distinct benefits to the public. If no discernible benefit can be identified, the staff should decide against proceeding with an acquisition.

If the staff can identifies clear and distinct public benefits they should be included in the staff report to the Board of Supervisors. The benefits should be described for the Board's consideration and included in any resolution to proceed with formal negotiations. Where possible, the determination of public benefit should be based upon existing policies, objectives and programs (e.g., infrastructure capital improvement programs, a parks or trails plan and Placer Legacy objectives).

If the Board is not notified at this stage, the staff should nevertheless have identified the public benefits prior to proceeding.

C. PRELIMINARY ANALYSIS OF COSTS OF ACQUISITION

A preliminary estimate of the cost of the acquisition is to be identified (e.g., fee title purchase price). Where possible, staff should identify the costs and funding sources associated with the acquisition including the following:

- The cost of processing the acquisition.
- The cost, if known of the fee title to the property.
- The costs, if any to close the negotiation (e.g., real estate commissions, and tax liabilities).

(See the procedural steps below for activities that could result in County expenses.) These costs should be forwarded to the Board of Supervisors as a part of any initial staff recommendations on the acquisition.

D. PRELIMINARY ANALYSIS OF COSTS OF OPERATIONS AND MAINTENANCE

Once the purpose of the acquisition has been identified, the cost to maintain, operate, secure, and protect the property should be determined. These costs should be identified as site development costs and ongoing operations and maintenance costs, if any. Exposure to liability should also be discussed as a part of any recommendations following consultation with County Counsel Risk Management.

E. ANALYSIS OF ACQUISITION, OPERATION, AND MAINTENANCE FUNDING SOURCES

The Lead Department should identify the funding sources for all costs associated with negotiating the acquisition and all costs associated with ongoing O/M expenses. If no funds are available, the Lead Department should identify potential funding sources for both acquisition and O/M costs over time. These recommendations should be forwarded to the Board of Supervisors as part of the staff's recommendations.

II. FORMALIZED NEGOTIATION

An acquisition of property requires the careful evaluation of a number of issues: the cost of the land, the physical condition of the property, surrounding land uses, expectations of buyer/seller, and the identification of constraints or encumbrances that may affect the ability of the property to be used for the purpose identified by the Lead Department's preliminary evaluation. The following steps provide guidance on how to evaluate property for the many different types of acquisition that could be associated with an open space conservation program.

The steps are placed in a logical sequential order that should be evaluated on a case-by-case basis. Steps may be moved or eliminated depending upon the circumstances of the acquisition. Table 1 depicts a summary of these steps, including the tasks, required action(s), the responsible department and expected timing.

- **A. Refinement of Intended Purpose/Project Description -** Prior to proceeding with formal negotiations, the staff should develop a complete project description based upon the anticipated use of the property by the County. The information should be sufficient to describe how the property is to be used, how use of the property will modify the existing condition and what environmental impacts are anticipated to result from its use and/or modification. The refined project description should be complete enough to be used for the initiation of an environmental review (if required) for the acquisition of the property.
- **B.** Initiation of Formal Negotiations and First Steps Following the receipt of the Board of Supervisors approval to proceed, the staff should contact the property owner to formalize negotiations to acquire the property. The process for acquisition should be clearly described. Contact persons should be identified. Lines of communication should be established. The expectations of all parties should be understood and clearly articulated. Where possible, the Lead Department and the property owner should identify

a preliminary estimate of the purchase price of the land if a dedication or donation is not being considered.

C. California Environmental Quality Act (CEQA) – Open space and wildlife habitat acquisitions generally qualify for a CEQA exemption (ref. 15313, 15316 or 15317 of the CEQA Guidelines).

CEQA documentation may be necessary to develop or modify the property after acquisition. Such activities may result in impacts on the environment that will need to be identified and mitigation measures developed. Additional information can be obtained from the Placer County Environmental Review Ordinance.

RESPONSIBILITY

The County will be responsible for determining CEQA compliance. The County will typically bear the cost of preparing the necessary CEQA documents. Where a dedication of land occurs, the cost of preparing the environmental documents will be the responsibility of the project proponent. For fee title acquisitions, it will be the responsibility of the Board of Supervisors to approve/certify the necessary environmental documents.

- **D.** Compliance with the Zoning Ordinance Although strict compliance with the County's zoning is not mandatory for county land use activities, compliance is the policy of the County in order to insure compatibility with surrounding land uses and to insure that community standards are consistently applied. Consequently, it is important to understand how the many regulations within the zoning ordinance govern the use of the property. The lead department should contact the planning department for further information. The key features of the Zoning Ordinance that apply to use of property by the county are described below.
 - 1. **Setbacks** Each zone district has unique setbacks. The setbacks should be evaluated for all structures that may be built.
 - 2. **Use of Land** The Zoning Ordinance describes which land uses are allowed. The Lead Department should determine whether or not the intended use is a permitted use in the Zone District.
 - 3. **Discretionary Approval Process** The Zoning Ordinance provides the procedure for discretionary approvals (e.g., variances, and minor/conditional use permits). Even though the County is "exempt" from the County's Zoning Ordinance, it is County policy to apply the standards and requirements of the ordinance to most land use activities typically requiring such discretionary approval.
 - d. Status of any non-conforming uses and/or activities.

RESPONSIBILITY

The County will be responsible for determining Zoning Ordinance compliance for existing structures and uses. The County should bear the cost of conducting the compliance evaluation.

E. Obtain Right of Entry – A right of entry from the property owner must be provided in order to conduct certain due diligence activities (e.g., Phase I and II ESA, zoning compliance, etc.)

RESPONSIBILITY

The County will provide the necessary documentation to be executed by the property owner.

- **F. Title Report** A current title report is to be obtained that addresses the title of the property in order to identify any restrictions on using the property for the purpose identified in the preliminary evaluation.
 - 1. Existing financing (e.g., first or second deeds of trust)
 - 2. Evaluate easements
 - 3. Conditions, Covenants & Restrictions
 - 4. Liens
 - 5. Rights of other parties on the property (e.g., mineral rights)

The Lead Department should evaluate the impact of the encumbrances upon the potential use of the property. The Lead Department should then determine whether or not the encumbrances need to be modified and/or cleared from the title in order for the property to be used for its intended purpose. If the encumbrance or similarly restriction cannot be removed or modified, the staff should evaluate the impact of the encumbrance upon the use of the property. If the encumbrance is restrictive to the point that the intended purpose cannot be met, the staff should determine whether or not negotiations should continue.

RESPONSIBILITY

Preparation cost for the purchase of the title report is to be negotiated between buyer and seller.

G. Property Valuation – An appraisal of the property may or may not be required. The property owner providing the property to the County may seek an appraisal in order to determine market value for tax purposes in the case of a land donation.

RESPONSIBILITY

The cost of determining the land value (e.g., property appraisal) should be negotiated between the County and property owner.

H. Land Owner Disclosure – The land owner must disclose any and all knowledge of activities on the property including construction activities, the condition of all facilities, structures and equipment and the potential for environmental contamination. Disclosure should also include information on water rights, easements, existing public rights to use of the property, property lines, fence line locations and any other features that need to be disclosed to fully describe how the property has been used and/or modified over time. This disclosure is in addition to the information identified in the title report.

RESPONSIBILITY

Any costs associated with providing property disclosures should be borne by the property owner.

I. Environmental Site Assessment – A Phase I Environmental Site Assessment (ESA) is a non-invasive physical examination of the property and a record search including public documents and aerial imagery in order to determine the likelihood for the presence of environmental contaminants. Unless a significant amount of information is known about the property, a Phase I ESA is recommended.

Optional Phase II Environmental Site Assessment – A Phase II ESA will be required if the Phase I ESA has identified potential environmental contaminants. A Phase II ESA is intended to be invasive in order to determine the presence or absence of environmental contaminants. If contaminants are present, the Phase II ESA will determine the location and extent of the contamination and recommend actions for remediation.

RESPONSIBILITY

The cost of the Phase I ESA is typically borne by the County as a part of the due diligence investigation. Use of public revenues will be determined on a case-by-case basis. The cost of the Phase II ESA is typically to be borne by the property owner in order to remediate, or fully disclose potential environmental contaminants.

J. Land Survey – A survey of the property should be considered after the following questions can be answered: 1) Has a survey previously been conducted? 2) Has a record of survey been recorded? 3) Does existing survey information adequately provide information on the physical location of the property? If inadequate information exists, it should be determined whether or not a land survey is to be required prior to acquisition. The County Surveyor's Office should be consulted if it is unclear as to the adequacy of available information.

RESPONSIBILITY

The property owner is responsible to provide, with certainty to the County, the physical limits of the property. The costs of providing the necessary survey data is typically borne by the property owner but may be subject to further negotiation depending on circumstances.

- **K. Fiscal Impact Analysis** The staff should conduct a fiscal impact analysis identifying all initial and ongoing costs associated with the acquisition of the property. The analysis should consider the following:
 - Identify the revenue source(s) for the purchase of the property.
 - Evaluate the cost of operations and maintenance over time based upon the refined project description.
 - Identify revenue sources for ongoing operations and maintenance costs.
 - Identify potential losses in property, sales or other tax revenues.
 - Identify the potential revenue benefits, if any, associated with public ownership and use of the property (e.g., County lease to a farmer or business entity resulting in income generation).

RESPONSIBILITY

The Lead Department is responsible for obtaining the fiscal impact analysis. Such an evaluation may require the services of a fiscal/economic consultant. The cost of hiring a consultant to prepare a fiscal impact analysis should be negotiated.

III. BOARD OF SUPERVISORS ACTION

Once all of the above steps have been completed and information on the property has been collected or obtained, the Lead Department should complete negotiations with the property owner and proceed to the Board of Supervisors with recommendations on the acquisition.

The following section identifies the final steps prior to transfer of title.

A. Board of Supervisors Action - The Lead Department is to prepare a staff report to the Board of Supervisors with a recommendation to proceed with the acquisition and obtain the property. If the property is being received as part of a dedication or donation, the staff report will need to include the Board's decision to receive the property. The Board's approval at this step will typically be the final action by the Board of Supervisors for all fee title acquisitions.

As explained in Section II, there are occasions where negotiations have occurred to this point without the Board's specific direction to proceed. This may occur due to a need to expeditiously process a purchase, or there are requests for anonymity/privacy from the property owner. In these instances, the staff report will need to be complete and thorough enough for the Board to adequately deliberate and take an action on the acquisition.

The Board of Supervisor's staff report should, at a minimum, include the following elements:

- Description of purpose.
- Project description of the property and the surrounding environment.
- Important features or characteristics of the property identified above in Section II.
- Proposed purchase price.
- Fiscal impact analysis conclusions/recommendations.
- Figure depicting the general location of the property and a figure depicting the accurate boundaries of the property (e.g., surveyed plat map).
- A recommendation delegating the authority to close escrow to the Department Head of the Lead Department.
- CEQA documents with a recommendation for action.
- Budget modifications if any to insure sufficient revenues are available to purchase the property and cover the costs during the balance of the fiscal year including construction costs and operations/maintenance costs.

The following steps are only necessary if the County is purchasing property through an escrow. If the property is being acquired through a donation or dedication the staff report required above will serve as the final action.

B. Contract to Purchase - The Lead Department should prepare the final contract to purchase the property. Such documents should be prepared with the assistance and review of County Counsel's Office and the Property Management Division of the Department of Facility Services. The contract to purchase is to be forwarded to the property owner for review and approval.

RESPONSIBILITY

Lead Department

- **C. Escrow** If the property is to be purchased, the County and the property owner shall mutually agree upon the use of a title company to open an escrow account. The Lead Department shall determine whether or not title insurance is to be obtained. In most cases, title insurance is recommended.
- **D. Transfer of Funds** The Lead Department shall consult with the Auditor's Office on the appropriate form to transfer funds from the County to the title company.

RESPONSIBILITY

Lead Department in consultation with the Property Management Division of the Facility Services Department.

- **E. Property Transfer Documentation** The necessary property transfer documents (e.g., grant deeds) need to be prepared, executed, acknowledged and delivered. The documents should be reviewed by County Counsel and the Facility Services Department prior to final execution.
- **F. Pro-ration of Property Taxes and Payment of Assessments** All property taxes owed up to the date of sale and any outstanding bond debt must be paid prior to recordation of the grant deed.

RESPONSIBILITY

The property owner is responsible for paying pro-rated property taxes and any outstanding bond debt. The property owner will be responsible for paying any pro-rated assessments for public services provided to the property. The County will pay for ongoing assessments after property transfer has been completed for those public services that are provided in perpetuity.

G. Close of Escrow/Transfer of Title - Once the terms of the contract to purchase have been satisfied, the requirements of the escrow have been met and the Auditor's Office is prepared to transfer the revenues used to purchase the property, the County and property owner shall conclude the purchase of the property and transfer title to the County.

RESPONSIBILITY

All costs of recording documents are borne by the County. The cost of deed preparation is negotiated between County and property owner.

H. Real Estate Commissions – The property owner(s) or County may use the services of a real estate agent or broker to assist with the land transaction. The County will provide County staff or contract professionals for all land transactions.

RESPONSIBILITY

The cost of any real estate broker or agent working on behalf of the property owner shall be borne by the property owner. The County shall bear the cost of providing its professional representation at all levels of the land transaction.

CONSERVATION EASEMENT LAND ACQUISITION PROCEDURES

A conservation easement is a voluntary agreement that allows a landowner to limit the type or amount of development on their property while retaining private ownership of the land. The easement insures that a particular open space feature or characteristic is to be conserved in perpetuity or for a specified duration of time. The use of conservation easements allow the County to satisfy a wide range of open space protection objectives without purchasing or owning

large tracts of lands. Properties will remain within the private sector, and they can still be managed for revenue generating purposes (e.g., agricultural operations and hunting). Most importantly, the landowner's interests can be specifically identified and accommodated.

A conservation easement may be donated or purchased. Property owners who donate lands can receive a federal income tax deduction for the gift of a conservation easement. The Internal Revenue Service allows a deduction if the easement is perpetual and donated for "exclusively for conservation purposes". The amount of the tax deduction is determined by the value of the conservation easement. Additional tax relief may be available from estate taxes and property taxes.

This section of these guidelines addresses the process of acquiring a conservation easement over private property. This section is written with the intent of providing an expeditious method of identifying the conservation purpose, the cost of the easement, the type of restrictions imposed upon the property and the duration of the encumbrance. Table 2 depicts a summary of these steps, including the task, required action(s), the responsible department and expected timing.

I. PRELIMINARY DECISION-MAKING

A. Identification of Property - In most instances, the Lead Department will identify the property that they seek to protect. For example, the Placer Legacy Program seeks to protect a wide range of open space resources in the County. The properties to be protected have been identified following a careful analysis of the open space resources present throughout Placer County. The acquisition of easements on these properties is one of the tools available to protect the identified resources.

It will be the responsibility of the Lead Department to identify the property and to establish the conservation purpose discussed below. In some cases, the County may be contacted by a landowner willing to sell or donate a conservation easement because of a desire to protect their property, to obtain revenues, tax relief, estate planning or some or all of the above.

B. Definition of the Conservation Purpose - The Lead Department should consider that a particular property has a group of property rights. These rights may differ from property to property. Some rights are perceived while others are well defined (e.g., uses permitted by the Zoning Ordinance). The purchase or donation of a conservation easement will restrict or remove some of these rights. The conservation purpose should represent the "best-case-scenario" for an acquisition.

In order to negotiate with a landowner, it must be determined which rights are to remain and which rights are to be restricted or eliminated. This is accomplished through the identification of a *conservation purpose*. The conservation purpose should describe which features of the property are to be protected and the method by which they are to be protected. The conservation purpose should typically implement an existing program or objective.

C. Initiate Landowner Negotiation - Once the Lead Department has prepared the conservation purpose, the Lead Department should contact the property owner to determine if there is a willing seller. There may be circumstances where the County is approached by a landowner that wishes to sell or donate a conservation easement. If this occurs, a conservation purpose should be identified as quickly as possible in order to be responsive to the interest of the landowner. If no conservation purpose can be identified, no acquisition should occur.

It will be necessary for the Lead Department and landowner to agree on the conservation purposes and the associated restrictions in order to determine the value of the easement.

Willing Seller Restrictions - Placer Legacy

For Placer Legacy, all acquisitions may proceed only after the property owner has been identified as a willing seller. For property owners who express that they are interested in selling a conservation easement, the negotiations are concluded.

- **D. Title Report** It may be necessary to obtain a current title report. This is intended to protect the interests of the County and the seller. A title report will insure that holders of any deeds of trust can be notified of the encumbrance and the effect of the encumbrance upon the market value of the property. For the County, the title report will identify any existing encumbrances or rights that could detrimentally impact the conservation purpose.
- **E. Determination of Easement Terms and Value** The Lead Department and property owner will need to negotiate the specific terms of the conservation easement. These terms, including the anticipated restrictions will define the easement's value. It will also need to be determined if the easement is to run in perpetuity or if there is a sunset clause/termination date. Typically, the cost of the easement will increase as the amount or severity of the restrictions increase. It will likely require the services of a professional land appraiser in order to determine the value of the easement acquisition.
- **F. Fiscal Impacts and Budget Implications** The Lead Department is to identify the source of revenues for the purchase. If there are any anticipated fiscal impacts due to a loss of revenue to the County they should be identified. Potential losses include reduced sales taxes if the property had revenue generating activities that are restricted and loss of property taxes if the value of the property is reduced to the point where the property taxes paid are accordingly changed to reflect the new value.

G. Prepare Draft Conservation Easement - Once the terms of the easement have been agreed upon and a revenue source has been identified, the Lead Department is to prepare the draft language for the conservation easement. The language should be reviewed by County Counsel's Office prior to forwarding to the landowner. Once landowner authorization has been received, the Lead Department should forward the easement with a request for purchase to the Board of Supervisors.

II. APPROVAL AND PURCHASE

- **A. Board of Supervisors Action** Once a purchase price has been negotiated a staff report is to be written to the Board of Supervisors. The Board's approval will grant the Lead Department the authority to purchase the easement and record the appropriate documents. At a minimum, the Board staff report should include the following elements:
 - Description of the property (including current land use activities) and its surroundings.
 - Describe the conservation purpose.
 - Cost of the easement.
 - Source of revenues for the purchase.
 - Copy of the draft easement describing easement terms and location.
 - A recommendation delegating the authority to conclude the purchase to the Department Head of the Lead Department.
 - Fiscal impacts associated with the acquisition.
- **B.** Purchase/Recordation If the Board authorizes the purchase of the Conservation Easement the Lead Department is to conclude negotiations, transfer revenues to the landowner and record the conservation easement at the County Recorder's Office. A conformed copy of the recorded easement is to be held for the Lead Department's files and one copy is to be immediately forwarded to the landowner. Once the original documents are returned to the Lead Department from the Recorders Office, a copy of the original is to be forwarded to the landowner.

Table 1. Fee Title Acquisition Proposed Schedule

Task	Responsibility	Action	Time (days)
Purpose of Acquisition			
Determination of Public			
Benefit			
Preliminary Analysis of Costs			
of Acquisition			
Preliminary Analysis of Costs			
of Operations and			
Maintenance			
Analysis of Acquisition and			
Operation and Maintenance			
Funding Sources			
Refinement of Intended			
Purpose			
Initiation of Formal			
Negotiations and First Steps			
California Environmental			
Quality Act			
Compliance with the Zoning			
Ordinance			
Right of Entry			
Title Report			
Property Valuation			
Land Owner Disclosure			
Environmental Site			
Assessment			
Land Survey			
Fiscal Impact Analysis			
Board of Supervisors Action			
Contract to Purchase			
Escrow			
Transfer of Funds			
Property Transfer			
Documentation			
Pro-ration of Property Taxes			
and Payment of Assessments			
Close of Escrow/Transfer of			
Title			
Real Estate Commissions			

Table 2. Conservation Easement Acquisition Proposed Schedule

Task	Responsibility	Action	Time (days)
Identification of Property			
Definition of the			
Conservation Purpose			
Initiate Landowner			
Negotiation			
Title Report			
Determination of Easement			
Value			
Fiscal Impacts and Budget			
Implications			
Prepare Draft Conservation			
Easement			
Board of Supervisors			
Action			
Purchase			