

**RULE NO. 21
MIDDLE RIO GRANDE CONSERVANCY DISTRICT
RULES AND PROCEDURES
GOVERNING DISPOSITION OF DISTRICT REAL PROPERTY
(LAND SALES POLICY)**

I. STATEMENT OF POLICY

It is the policy of the Middle Rio Grande Conservancy District (District) that all sales and disposition of real property ("Property") be conducted in a fair and equitable manner, and that these rules govern the disposition of all Property. For the purpose of these Rules, "disposition" includes the sale and/or exchange of any property rights by the District.

A. Preliminary Procedures:

- A. A party interested in acquiring Property from the District ("Applicant") shall submit a Letter of Intention of Purchase to the District. Applicants are strongly encouraged to contact the MRGCD Mapping and GIS Department to confirm the status and ownership of the Property prior to submitting an application for purchase.
- B. The Chief Engineer or his designee shall inspect the Property and determine: (1) whether the Property is subject to sale pursuant to Section II below; (2) who are adjacent landowners; (3) whether the Property is used for public purposes or necessary for access to private property.
- C. All immediately adjacent landowners, including governmental entities, and any person for whom the Property provides access to their private land or who has an interest in the Property shall be notified of the proposed sale of Property and the District shall post notice of the proposed sale on the District's website.
- D. The Chief Engineer shall notify the Applicant whether anyone eligible to purchase the Property under this land sales policy is interested in purchasing the Property.

B. Intent:

- A. It is the policy of the District to get Property back on the assessment rolls of the District and that purchasers who are assessable and those successors-in-interest of persons from whom the Property was acquired, either directly or by tax deed, should be given preference in the purchase of Property.

II. RULES AND PROCEDURES GOVERNING PROPERTY SALES

LANDS SUBJECT TO SALE – All Property, including Property acquired through tax deed, foreclosure, prescription, purchase or otherwise, shown on the records of the District to be District Property, may be sold in conformity with these Rules, providing the Property is excess and not required for District or Bureau of Reclamation (Reclamation) Project works. In the sale or exchange of Property, Pre-1907 and all

other water rights and easements appurtenant to such Property shall be reserved to the District. Furthermore, in the sale or exchange of Property, the District shall follow all applicable New Mexico Statutes and Rules of the Department of Finance and Administration pertaining to the disposition of Property.

III. APPLICATIONS FOR PURCHASE OF DISTRICT PROPERTY

Applications to purchase District Property shall be made upon a form prescribed by the District, signed by the Applicant or his duly authorized agent and submitted to the Chief Engineer, and shall include a map of subject Property.

All applications shall be accompanied by a processing fee of \$250.00. Processing fees are not refundable. In addition to the processing fee the Purchaser shall pay the total costs of advertising, appraisal and survey. The District requires costs of appraisal to be paid in advance. Any cost deposits of unsuccessful bidders, less costs incurred, will be refunded. In the event an application is withdrawn or rejected, the Applicant shall pay the itemized costs incurred to that time.

Nothing in the Rules shall be construed as limiting the District, on its own initiative, from offering for sale or exchange lands if circumstances so require.

IV. APPROVAL OF SALE

Following receipt of an application to purchase, and upon a preliminary determination that the sale might be beneficial to the District, the Chief Engineer, or his designee, shall conduct the inspection described in Section I.A.1. above. If the Property is excess, and not required, the Chief Engineer shall then seek approval of the Board of Directors of the Middle Rio Grande Conservancy District ("Board") for the sale.

The Chief Engineer shall make a recommendation to the Board regarding the disposition of the Property, including (1) to whom the Property should be sold, and if to be sold to more than one purchaser, how it should be apportioned; and (2) whether reservations, licenses, easements or other rights appurtenant to the Property should be reserved and to whom;

No Property may be sold without the knowledge and approval of the Board. Further, no Property with a total value in excess of \$5,000.00 may be disposed of without the approval of the Local Government Division of the Department of Finance and Administration of the State of New Mexico and no Property with a total value of \$25,000 or more may be disposed of without approval of the New Mexico Board of Finance in accordance with Section 13-6-1 NMSA 1978 and New Mexico Administrative Code Section 1.5.23.

In approving the disposition of the Property, the Board may impose such conditions as it deems appropriate under the facts and circumstances. Sales of land by public auction must be approved by the Board.

V. APPRAISAL OF LAND

After approval of the Board of the sale of the Property, the Chief Engineer shall order an appraisal or estimate of value of the Property. Appraisers shall be selected from a list of New Mexico Certified and/or Licensed appraisers. The list of appraisers shall be comprised of qualified professional Appraisers who must submit a resume of qualification to the District. Appraisers for Property shall be selected in accordance with the District's procurement policy. Once an appraiser is selected, the Applicants approved by the Board to acquire the Property will be notified of the selection and cost of appraisal and will be asked to pay the cost of the appraisal in advance. The appraisal process will not proceed until the Applicant(s) provide(s) the payment to the District. Payment for the appraisal does not bind the Applicant(s) to purchase the Property. The value of Property having an estimated value less than \$5,000.00 may be determined by an independent licensed real estate broker's or appraiser's opinion of value. Property having an estimated value of \$5,000.00 or more shall be determined by appraisal. If the Chief Engineer reasonably believes that the appraised value is not adequate, the Chief Engineer may request a second appraisal. The higher of the two (2) appraisals shall be accepted as the true value of the subject Property. No Property shall be sold for less than the accepted appraised value. "Appraised Value" means the highest and best use of the Property and shall be determined by a comprehensive appraisal using methods permitted by law and appropriate to the property, including but not limited to, the contributory value method, replacement value, comparable sales or an income approach.

The District will furnish all necessary information to the selected Appraiser and advise of any special circumstances concerning the subject Property in order to arrive at a fair and proper appraisal of the Property being disposed of.

Upon completion of the appraisal the Chief Engineer shall notify the Applicant of the Appraised Value. If over the Applicant disagrees with the Appraised Value of the property, the Applicant, at his/her expense, shall have the right to have that appraisal reviewed by an Arbitrating Committee made up of three (3) qualified Appraisers, including the original Appraiser and two (2) others, (i.e. one Appraiser selected by the Applicant and the third Appraiser selected by the original Appraiser and the Applicant's Appraiser). The Chief Engineer shall notify the Applicant of the final determination of Appraised Value.

VI. NOTICE OF APPRAISED VALUE

After notification of the final determination of the Appraised Value the Applicant(s) shall notify the Chief Engineer within thirty (30) days, in writing if the Applicant(s) wish to proceed with the proposed purchase of the Property.

VII. NOTIFICATION TO BUREAU OF RECLAMATION; CONSERVANCY COURT

Following receipt of the Applicant('s)(s') notice to proceed with the purchase of the Property, approval of the Board and the receipt of the Applicant('s)(s') deposits, where applicable, the District shall notify Reclamation of the sale of the Property. .

The District shall notify and/or petition the Conservancy Court for Abandonment, if such notification and petition is required.

VIII. ADJACENT LANDOWNERS

It is the policy of the District that adjacent landowners have the opportunity to acquire Property to be disposed. Following approval by the Board for the disposition of Property, the Chief Engineer or his designee shall notify, by certified letter, each adjacent property owner of the intent to sell the described Property and whether there is an interested buyer for such Property. The notification shall state that the adjacent property owner shall have the opportunity submit an offer to acquire such Property at not less than appraised value, plus all costs, as provided in these Rules.

Where Property is adjacent to more than one landowner, and more than one adjacent owner desires to purchase the Property the District may divide the Property in an equitable manner as determined by the District in its sole discretion and sell it to the adjacent property owners. If one adjacent landowner elects not to purchase the Property, the remaining adjacent landowners shall be given the right to purchase such Property.

To be eligible to bid, the adjacent property owner shall notify the Chief Engineer within thirty (30) days of receipt of their notification, of their interest in the Property. Such notification shall be accompanied by the processing fee and such deposits as the District may require.

IX. MULTIPLE APPLICANTS

In the event more than one Applicant is interested in the property and they are unable to agree on the joint purchase of the Property, the Property shall be sold to the highest bidder pursuant to written, sealed bids. The minimum bid accepted by the District for the Property shall be no less than the appraised value, plus all advertising and processing fees. The highest bidder, above the minimum bid, will be awarded the sale of the Property.

X. DISPOSITION OF PROPERTY; QUITCLAIM DEEDS; GOVERNMENTAL APPROVALS

All Property sold shall be conveyed through Quitclaim Deed only, upon full payment of all amounts due. Deeds will be issued in accordance with policies set forth in this policy. Purchaser (successful bidder) of District Property may request the use of a title company at time of closing; which shall be solely at the Purchaser's expense.

The District shall have the right to reserve any easements, rights-of-way or other rights to use the Property for the benefit of the District or other appropriate entities.

The Applicant(s) shall be solely responsible for obtaining and paying for any approvals required of governmental authorities for the transfer of the Property, including any re-platting or re-zoning of the Property and for determining the existence of any restrictions, reservations or easements not held by the District or Reclamation.

XI. EXCHANGES OF PROPERTY PERMITTED

Upon approval of the Board of Directors, the District may exchange Property belonging to the District for land of equal or greater value belonging to a non-governmental entity provided that:

- A. The land sought to be acquired is needed for the Project works of the District; and
- B. The land sought to be traded is determined to be excess; and
- C. The land sought to be disposed of has a value in excess of \$1,000.00

Nothing in these Rules shall be construed as limiting the authority of the District to trade or exchange Property for other Property or services with other municipalities, counties, agencies or political subdivisions of the State or the Federal government.