

Central Valley Flood Protection Board Meeting

March 25, 2016

INFORMATIONAL BRIEFING

**RIGHT-OF-WAY AND REAL ESTATE SUPPORT TO BOARD**

**Real Estate Support Accomplishments and Future Work Plan**

*(Thomas M. O'Neil (DWR), Daniel K Mardock (DWR))*

**BRIEFING SUMMARY**

**Introduction**

In 2015, the Central Valley Flood Protection Board (CVFPB) entered into an agreement with the Department of Water Resources (DWR) Division of Engineering (DOE) to allocate a DWR DOE Senior Right of Way Agent position (Agent) to the CVFPB. Pursuant to the agreement, the Agent is dedicated to solely support the management of Sacramento and San Joaquin Drainage District (SSJDD) properties, as directed by the CVFPB, conditioned upon funding allocation by the CVFPB and as defined by the CVFPB Work Plan between DOE and the CVFPB (Work Plan). (Work Plan, Exhibit A.)

The goal of the Work Plan is to provide timely and cost effective real property services for current, past, and future CVFPB property management responsibilities. Below is a summary, outlined by the various areas in the Work Plan, of the Agent's accomplishments as well as a status of future work.

- **Accomplishments**

Agent serves as the technical lead for real estate transactions that result from CVFPB approved Permits. Agent coordinates with CVFPB staff to ensure real estate requirements of the Permit are met in accordance with the technical engineering design approved by the Permit and coordinates the geodetic review of legal description of all conveyance documents. For all acquisitions, Agent coordinates with DWR Division of Environmental Services (DES) to perform a review and approval of the applicant's Environmental documentation, which is a required report to be completed before a property is accepted by the department to assure properties to be transferred to the CVFPB are free and clear of hazardous material or cultural resource concerns. Also, where applicable, an appraisal to determine Fair Market Value is required. The agent coordinates obtaining an appraisal from the applicant, then coordinates the review of such appraisal through DOE appraisal staff. Some real estate transactions may require staff reports for submission at CVFPB meetings. Otherwise, the transaction is transmitted through DOE for approval under the delegations and authorities of DWR.

- Real Property Conveyances completed to date include:
  - **Real Property Conveyances (Permanent Rights)**
    - Permit No. 18491, Natomas Central Mutual Water Company (NCMWC).
    - Permit No. 18018-2, River Islands Development, LLC/Califia, LLC/RD2062.
    - Permit No. 17590 for The Rivers Development, Lot 6 (formerly West Levee Lighthouse Marina).
    - Permit No. 18305 for Capitol Station 65, LLC/Township 9 Subdivision.
  - **Real Property Conveyances (Temporary Rights)**
    - Three Rivers Levee Improvement Authority (TRLIA), Western Pacific Interceptor Canal (WPIC): Temporary Permit to Enter issued to TRLIA on August 1, 2015, to install a cutoff wall at the southern end of the WPIC west levee to remediate under-seepage conditions which exceed Urban Levee Design Criteria.
  - **Regulatory Agency Reporting**
    - State Water Resources Control Board (SWRCB): Where the Board owns non-operating right of way, such as its leased properties, where a water diversion point exists, the Board is required to submit a Statement of Water Diversion and Use form to the SWRCB. Agent receives, responds, and completes these report as requested by the SWRCB.
  - **Right of Way and Real Estate Support Activities**
    - The Agent receives work requests from the CVFPB's Planning and Operations Branches to verify existing right of way owned by SSJDD. The Agent verifies rights by researching DOE land records and delivers results to the various requestors.
    - The more complex work requests usually require technical review by DWR's Geodetic Branch and occasionally a map or exhibit is created by the Geodetic Branch as part of the deliverable. In this case, the Agent coordinates CVFPB funding for the Geodetic Branch and follows-up with CVFPB staff and the Geodetic Branch throughout the process.
    - Some of these work requests are complicated and can take weeks to complete based on the workload -- months if the deliverable requires ordering and reviewing title reports. Less complicated requests are usually completed within a week. Agent receives

anywhere from one to three of these requests each week on average.

- **SSJDD Parcel Owner Mail**
  - Agent over sees a significant volume of mail weekly from various municipalities and agencies in the form of notices to SSJDD as a parcel owner in various locations including but not limited to notices regarding:
    - Maintenance Activities (e.g. vegetation abatement notices)
    - Assessments
    - Environmental Impact Reports and Notices of Hearings
    - Possessory Interest Requests
    - Requests for Access for Environmental Studies
  - Agent verifies SSJDD possessory interest as to each notice and either responds to notice and/or forwards mail with possessory interest verification to appropriate CVFPB staff.
  
- **Public Inquiries**
  - Agent is responsible for responding to Public Record Requests pertaining to CVFPB right of way.
  
- **Notary Public Services**
  - Agent has a Notary Public Commission with the State of California and is occasionally called upon to perform various notary functions for the CVFPB and CVFPB Staff.
  
- **Future Work Plan**
  - **Real Property Conveyances**
    - Work with applicants to acquire flood control easements for SSJDD pursuant to the special provisions in following Permits:
      - Permit Nos. 17858 & 17897 for Mossdale Marina, Lathrop, CA.
      - Permit Nos. 18257 & 18538 for Atlas Tract, Stockton, CA.
      - Permit No. 14389-1 for The Rivers Development, West Sacramento, CA.

- **SSJDD Leases**
  - A comprehensive analysis of leased SSJDD properties will be conducted and a best property management option for each CVFPB holding will be recommended to the CVFPB. The estimated timeline to complete this analysis is 18-24 months.
  - Research will include the intended programmatic need for the original purchase of the property, the potential revenue to be received from the lease compared to O&M expenses per parcel, and a recommendation to hold or divest of the property.
  - As a part of the analysis, site inspections of the approximately 45 leased properties will be conducted, and other properties' lease potential will be evaluated with future recommendations to the CVFPB.
  - As a starting point, the SSJDD lease files need to be organized, purged of any unnecessary documents, and electronically stored (scanned and catalogued).

- **SSJDD Property Records Information System**

*Daniel K. Mardock, Chief, Geodetic Branch, California Department of Water Resources*

DWR's Division of Technology Services (DTS) acquired software rights to Accela Civic Platform software. The Accela Civic Platform is designed to enable and improve core processes for governmental entities. Working with DTS, DWR's Real Estate Branch and Geodetic Branch are working to "build" a property records information system using Accela. The three main objectives for our Accela "build" are:

1. A database inventory of existing SSJDD property rights and SSJDD property rights that have been granted;
2. A database to help monitor, track, and create efficiencies in our workflows; and,
3. The ability to pull and run reports quickly and easily.

CVFPB will be a client and able to view applicable property right information and project information (e.g. SSJDD rights). The permissions element will be set up so that CVFPB will be able to see at, a high level, the workflows on their projects and will receive auto notification when project milestones have been completed.

**AGREEMENT BETWEEN THE CENTRAL VALLEY FLOOD  
PROTECTION BOARD AND THE DIVISION OF ENGINEERING  
OF THE DEPARTMENT OF WATER RESOURCES TO  
ALLOCATE A DIVISION OF ENGINEERING SENIOR RIGHT  
OF WAY AGENT POSITION TO THE CENTRAL VALLEY  
FLOOD PROTECTION BOARD**

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WHEREAS, pursuant to California Water Code Sections 8503 and 8504, the Sacramento and San Joaquin Drainage District ("District") is a State entity created for the purpose of acquiring, owning, holding, using and enjoying real property; and

WHEREAS the Central Valley Flood Protection Board ("Board") is an independent State agency charged with the management and control of the District, pursuant to California Water Code Section 8502; and

WHEREAS the Department of Water Resources ("DWR") is a state department within the Resources Agency of the State of California with broad powers to manage water resources and the ability to contract with any agency of the State to carry out its powers and purposes (W.C. § 133); and

WHEREAS, in 2008, the Board and DWR executed a Memorandum of Agreement ("MOA"), which in part, assigned responsibility for real estate support services on behalf of the District to DWR. Support services consisted of such items as maintaining real estate records, appraising property, preparing maps, negotiating acquisition of property and preparing necessary documents, acquiring necessary lands, easements and rights of ways and arranging for any necessary relocations on behalf of the Board for projects approved by the Board, executing right of entry permits, arranging for project-related utility relocation, preparing resolutions of necessity when eminent domain is warranted, requesting, where necessary, cancellation of taxes on land acquired by the Board and managing existing real estate holdings, including management of leases, as well as maintaining a list of properties held by the District with all existing uses and leases noted; and

WHEREAS, California Water Code Sections 250 and 11580, for State Water Project (SWP) purposes, and Section 8550, for Board purposes, constitute the basic State statutes that authorize the DWR to acquire land and other property necessary in support of SWP and CVFPB programs. The acquisition, appraisal, negotiation, condemnation, utility relocation, property management, and encroachment permitting tasks of the Right of Way Agent classification series are necessary to support DWR's sanctioned SWP and CVFPB goals and objectives, as further established in the Board Property Management Work Plan (attached); and

WHEREAS, the real estate support services assigned to DWR under the MOA are being executed by the Division of Engineering ("DOE") within DWR, a division which receives no State general funds, and thus, must charge for services rendered each individual or agency utilizing such services; and

WHEREAS, the Board and DOE have agreed that the management of the District's real estate records and properties is of the utmost importance to the people of the State of California, and have agreed to work collaboratively to fulfill the mandates of the California Water Code and the MOA; and

WHEREAS, to comply with California Water Code and the MOA, while continuing to provide the proper level of dedicated real estate support services required to effectively support the Board's property management needs, DOE is redirecting a Senior Right of Way Agent classified position to the Board with a formal agreement that this defined position will be dedicated to solely support the Board; and

WHEREAS, to codify the formal agreement that commits DOE to provide a dedicated Senior Right of Way Agent to the Board identified in this document (collectively referred to as the "Parties"), this Agreement outlines the formal commitments that will govern the reallocated position.

NOW THEREFORE, the Parties agree as follows:

1. DOE will create within its Real Estate Branch a Senior Right of Way Agent position dedicated to solely support the management of District properties, as directed by the Board, conditioned upon funding allocation by the Board and conditioned to Paragraph No. 2 below.
2. Specific real estate functions to support the management of District properties shall be defined under the mutually agreed upon Board Property Management Work Plan between DOE and the Board (attached).
3. Program control functions will be managed as follows:
  - a. The Board will fund the position out of the Board's budget, including salary and benefits.
  - b. The Board and DOE will collaborate and partner in the budgeting process and each will make its best efforts to ensure the position is continuously funded by the Board.
  - c. The position will continue to be dedicated to the Board regardless of position vacancy, or change in DWR's leadership. Position Authority shall remain with the DOE, and the position will report to the Board as outlined in the Board Property Management Work Plan.
  - d. In the case of a vacancy, the Board will make a business determination on need to backfill the position. If decision is to backfill the position, DOE, with the Board's participation, will conduct interviews and select the appropriate candidate to ensure the appropriate skill-sets required to effectively support the Board needs are selected.
  - e. DOE's management, with input from the Board management, will be responsible for position's administrative tasks such as SAP time approval.
4. Performance Management functions of this position will be managed by DOE as follows.
  - a. The Senior Right of Way Agent will administratively report to the Chief of the Property Management and Encroachment Permit Section in REB, DOE, whose Branch/Section represents the type of work performed by the position. Work priorities will be established by the Board.
  - b. The Board will have input into the annual reviews of the incumbent, and if the incumbent is subject to a probationary period, the Board shall have input into the probation reports, and each must give final approval before the incumbent is cleared from probationary status.
  - c. DOE is responsible for conducting the position's staff annual Appraisal and Development activities, with input from the Board. Employee development activities and core-competency training cost will be funded by DOE. Only training specific to the Board needs will be funded by the Board.
5. The Senior Right of Way Agent must follow all DWR, DOE, and REB Right of Way policies, process, and procedures as established by the DOE Chief, and all mandates set by the Department of General Services as DWR's control agency. Board cannot instruct incumbent to do otherwise.
6. The worksite for the position will be located at DOE in order to ensure the incumbent has access to all records and resources needed to adequately perform the job duties. The JOC will be the alternate worksite. The incumbent will be required to report to the JOC on an as-needed basis, as required by the Board. On days where the incumbent has reported to the worksite, and must then travel to the JOC, the Board will be responsible for the incumbent's incremental travel expenses


from the work site to the JOC. On days where the employee reports directly to the JOC, the Board will pay for any mileage driven that is greater than the employee's normal home to worksite distance.

7. The position's staff should attend the DOE, REB, and Property Management and Encroachment Permit Section All-Staff meetings.

**Agreement Signatures**

Department of Water Resources

Central Valley Flood Protection Board

  
Jeanne M. Kuttel, Chief  
Division of Engineering

3-13-15  
Date

  
Leslie Gallagher  
Acting Executive Officer

3-20-15  
Date

**The California Natural Resources Agency**

**Central Valley Flood Protection Board  
Property Management Work Plan**

**Between the**

**Division of Engineering  
of the  
Department of Water Resources**

**and**

**Central Valley Flood Protection Board**

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**MARCH 12, 2015**



**APPROVAL RECOMMENDED BY:**

**Department of Water Resources**

  
\_\_\_\_\_  
Jeanne M. Kuttel, Chief  
Division of Engineering

3-13-15  
\_\_\_\_\_  
Date

**APPROVED BY:**

**Central Valley Flood Protection Board**

  
\_\_\_\_\_  
Leslie Gallagher, Acting Executive Officer

3.20.15  
\_\_\_\_\_  
Date

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## 1. PURPOSE

The purpose of the Central Valley Flood Protection Board (Board) Property Management Work Plan (Work Plan) is to establish a consistent and efficient workflow process in providing real property services in support of the Board's mission. The Real Estate Branch (REB) of the Department of Water Resources (DWR), Division of Engineering (DOE), will be directly responsible for providing property management services to the Board as outlined in the *Memorandum of Agreement between the Board and the California DWR (MOU)*, dated December 19<sup>th</sup> 2008, and in the *Agreement between the Board and the DOE of the DWR to Allocate a DOE Senior Right of Way Agent Position to the Board (Agreement)*, dated Mar 20, 2015.

## 2. GOALS AND OBJECTIVES

The goal of this Work Plan is to provide timely and cost effective real property services for current, past, and future Board property management responsibilities, including, but not limited to the following functions:

- A. Encroachment and other Project Permits
- B. Real Property Conveyances
- C. Leases
- D. Assessments
- E. Reports
  - i. Program Control (Budgeting and Expenditure) Reports
  - ii. CFVPB Reports
  - iii. Regulatory Agency Reports
- F. Public Inquiries

The objectives of this Work Plan are to:

- Define REB's real property services to be provided
- Clearly define DWR and Board roles and responsibilities to support the provision of real property services by DWR to the Board
- Define workflow and approval process

## 3. AUTHORITY AND DELEGATION

This Work Plan is being implemented under the authorities, delegations, and/or commitments described within the following:

- *MOU*
- DWR Delegation Order No. 61
- CA Water Code 11575
- Department of General Services Exemption Notices 34.6 and 2.14

#### **4. PARTICIPANTS**

Through mutual agreement to fulfill the obligations of this Work Plan, and in support of DWR's administrative and programmatic commitments to the Board as described by the *MOU and AGREEMENT*, DOE has dedicated a full-time Senior Right of Way (ROW) Agent (Specialist) position under REB's Property Management and Encroachment Permit Section, and the Board has committed to fully fund this full-time position. Additional REB staff resourcing needed to fulfill the obligations of this Work Plan shall be coordinated on an as needed basis which, upon concurrence by the Board, will be funded directly by the Board.

The key participants are listed below and further outlined in the organization charts attached as Exhibit A and Exhibit B:

##### DWR DOE

- DOE, Chief
- REB, Chief
- REB, Supervising ROW Agent, Property Management and Encroachment Permit Section
- REB, Senior ROW Agent

##### BOARD

- Board
- Board Executive Officer
- Board Staff

#### **5. REPORTING AUTHORITY**

The Senior ROW Agent position described under this Work Plan reports administratively to the Supervising ROW Agent under the REB, Property Management and Encroachment Permit Section. Specific work priorities will be directed by the Board.

Under general direction of the Supervising ROW Agent, this position serves as a staff specialist and performs highly specialized and complex property management activities for the land and right of way owned by the Board. The assigned work is extremely complex due to the uniqueness of balancing Board program needs and objectives and managing Board lands in the best manner consistent with statewide quality standards and DWR right of way policies and procedures. This position requires working in a highly visible and politically sensitive environment, working effectively and cooperatively with others, communicating effectively, and exercising sound judgment to fulfill and implement the requirements and expectations of this Work Plan.

The Senior ROW Agent will be co-located in the Board staff office and DWR DOE REB office and will be required to travel between such offices to perform duties required of this position.

## **6. Project Management - Work Plan**

The Senior ROW Agent is responsible to provide real estate assistance and coordination of project management (resourcing and scheduling) and program control functions (budgeting) including project workload forecasting, and preparation, planning, budgeting, and cost estimating for labor and related land costs associated with the following Board property management functions:

### **A. Board Encroachment and Levee Improvement Project Permits:**

Based on the need of the permit and at the request of Board staff, the Senior ROW Agent will review and coordinate the verification of existing right of way owned by the Sacramento and San Joaquin Drainage District (SSJDD). Verification of such right of way may require the expertise and technical review by the Geodetic Branch, a service that the Senior ROW will coordinate after approval and funding by the Board has been secured. Where Board staff determines that real property rights need to be conveyed by the permit Applicant to SSJDD, or from SSJDD to the permit Applicant, Board staff will notify the Senior ROW Agent of the approved permit for future workload tracking purposes.

### **B. Real Property Conveyances**

The Senior ROW Agent will: 1. Serve as technical lead for the real estate transaction resulting from Board approved permits and 2. Coordinate with Board staff when the permit Applicant has approached DWR to satisfy the real estate terms and conditions of the approved permit. The Senior ROW Agent will coordinate with the designated Board staff to ensure the engineering and real estate requirements of the conveyance are met in accordance with the approved permit and to jointly prepare the Board Staff Report for submission at the next available Board meeting. Separate Board funding will be required to carry out the geodetic review of all conveyance documents, appraisal review of all fair market value appraisals, and when required, environmental review for reports required by Water Resource Engineering Memorandum (WREM) 59.

### **C. Early Implementation and Urban Flood Risk Reduction Programs**

The Senior ROW Agent will assist in the develop and implementation of workflow processes for the conveyance of real property into the Board's inventory of lands resulting from DWR's Early Implementation and Urban Flood Risk Reduction Programs funded under the State-Federal Flood Control System Modification Program of the California Disaster Preparedness and Flood Prevention Bond Act of

2006 and the California Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006.

#### D. Leases

The Senior ROW Agent is responsible for performing highly specialized and complex property management negotiations for use by others of Board land, including preparation and processing of bid packages, leases, work agreements, and other documents in conformance with DWR and professional and technical requirements and standards related to property management process, including land use changes. The Senior ROW Agent will apply professional judgment in prioritizing Property Management workload and when determining appropriate lease terms and conditions as mandated by the Department of General Services (DGS). The Senior ROW will apply professional communication with lessees and Board staff, and coordinate with DGS when necessary for assistance or control agency responsibilities.

The Senior ROW Agent is also responsible to develop and maintain a computerized inventory of the Board's leased right of way and to perform on-site inspections of such Board leased and non-leased lands for compliance with current lease terms and conditions. In addition, the Senior ROW Agent shall analyze and recommend the best property management option of each Board holding and report such finding to the Board. The detail of the research should include the intended programmatic need for the original purchase of the property, the potential revenue to be received from the lease in comparison to the operational and maintenance expenses incurred by the Board, and a recommendation whether to hold or divest of the property. The Senior ROW Agent will be responsible for the disposal of lands designated as excess to the Board's needs through proper procedures outlined in REB's policy and procedures.

#### E. Assessments

The Senior ROW will ensure stewardship responsibilities are upheld, including the timely payment of annual property assessments resulting from the fee ownerships by the Board. Funding for such payments shall be secured through the Board.

#### F. Reports

At a minimum, the Senior ROW Agent will be responsible for the following reports:

- i. Program Control (Budgeting and Expenditure) Reports:
  - Assist in the formulation of Board Property Management budget and monitoring expenses in SAP of all Board real estate related costs.
- ii. Board Reports

- Review, approve, and submit real estate and right of way cost estimates as needed for project deliverables to the Board.
- Produce quarterly property management reports listing current land leases of SSJDD-owned parcels. The report shall include at minimum, names of lessees, term of lease, received and projected revenue, status of lessees' payment history including delinquent accounts and proposed remedies.

iii. Regulatory Agency Reports

- Ensure appropriate regulatory requirements are completed, such as preparing State Water Resources Control Board and California Regional Water Control Board reports.

G. Public Inquiries

The Senior ROW Agent is responsible for responding to and addressing DWR and Board management, other divisions, the private sector, or other public agency inquiries regarding matters pertaining to Board right of way, which includes researching DWR records, maps and files and interpreting deeds, agreements, licenses, right of way limits and other conveyances, addressing all matters pertaining to Public Request Acts related to real property owned by the Board.

**7. EXECUTION OF WORK – WORKFLOW and APPROVAL PROCESS**

The Senior ROW Agent will be responsible for the preparation of Board presentations, coordinating with Board personnel and DWR legal counsel to gain approval of real estate transactions, and when necessary, periodically deliver presentations to Board and public in a Boardroom setting. Where Board approval is required for a real estate transaction, the Senior ROW Agent will secure the necessary signatures on the respective real estate document(s) from Board members, then route the completed transaction via REB's Memorandum of Settlement process for final documentation and filing purposes, as depicted in Exhibit C.

**8. COURSE OF RESOLUTION**

If the requirements and expectations in Section 5 are not satisfied by either key participants and or a procedural issues arises, the Senior ROW Agent and Board staff, and if appropriate, the Supervising ROW Agent and Board Management staff will meet to resolve the issue. A solution or expected date of resolution shall be agreed upon within three business days. If unable to resolve the issue, it shall be escalated to REB's Chief and Board's Chief Engineer, and ultimately the DWR DOE Chief and Board's Executive Officer for resolution.

## **9. IMPLEMENTATION and REVIEW**

This Work Plan shall be considered effective upon approval by DOE Chief and Board Executive Officer. All directly impacted employees have acknowledged the terms and conditions of this Work Plan prior to signing this document. The business owner of this Work Plan is REB.

This Work Plan shall be reviewed once a year by representatives assigned by DOE and the Board, or more frequently if requested by either party.



## EXHIBIT A - Real Estate Branch Organizational Chart

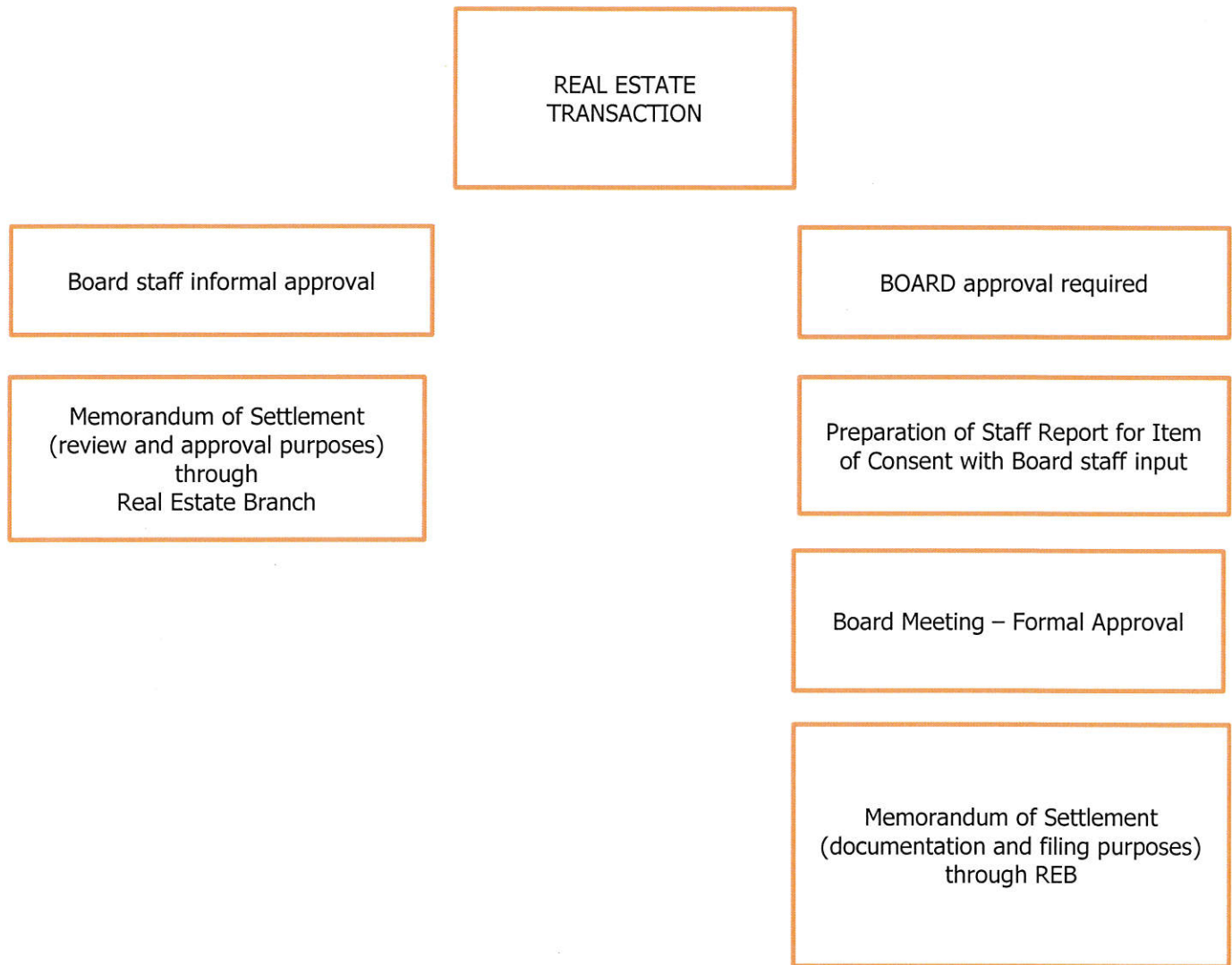
[Replace with Insert]

## EXHIBIT B – Central Valley Flood Protection Board Organizational Chart

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# EXHIBIT C – EXECUTION OF WORK - WORKFLOW and APPROVAL CHART

CENTRAL VALLEY FLOOD PROTECTION BOARD (Board)  
REAL ESTATE TRANSACTION APPROVAL PROCESS  
January xx, 2015



## EXHIBIT D - RESOURCES

### MOU:

<http://www.Board.ca.gov/meetings/2008/12-19-2008Item10-MemoofAgreementDWRBOARD.pdf>

<http://www.Board.ca.gov/meetings/2008/07-18-2008Item13-%20MemorandumofAgreementBetweenDWRandBOARDRevisedJuly10-2008.pdf>

### Delegation Order No. 61:

<https://current.water.ca.gov/pnp/pnppub/do/Delegation%20Orders2/do-061.pdf>

### CA Water Code 11575:

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=wat&group=11001-12000&file=11575-11578>