

POLICY #24

ACQUISITION OF RIGHT OF WAY OR OTHER EASEMENT BY PURCHASE BEFORE FORMAL CONDEMNATION PROCEEDINGS

DATE APPROVED: 4-23-01
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POLICY: To establish a procedure authorizing the acquisition of property needed for valid public purpose(s) designated by the County Engineer to be necessary before incurring the time and expense of pursuing formal condemnation proceedings.

PROCEDURE:

- A. It is noted by the Commission that the “Alabama Eminent Domain Code” provides that prior to the filing of a formal condemnation petition with the court, a county must establish an amount which it believes to be just compensation and offer to acquire the property for the amount so established.
- B. In an effort to make the acquisition of property needed for a valid public use (“Property”) more efficient, it is the desire of the Houston County Commission (“the Commission”) before incurring the cost of pursuing the formal condemnation process and court proceedings, to authorize and empower the County Engineer, on behalf of the Commission to negotiate and purchase “Property” subject to the following preconditions and limitations:
1. That the County Engineer certify in writing to the County Administrator and the Chairman of the County Commission that the County needs to acquire “Property” for a stated public purpose and need.
 2. That the County Engineer cause the Revenue Commissioner’s office appraising staff or other licensed appraiser, to give to the County Engineer in writing an estimation of the appraised value of the “Property.”
 3. Thereupon, the County Engineer is hereby empowered and authorized on behalf of the Commission to negotiate with the property owner on behalf of the Commission and to bind the Commission for the acquisition cost of the Property (whether the cost is to be paid in money or in-kind services or materials) provided the purchase price and value of

the consideration does not, in the judgment of the County Engineer, exceed the written estimation of the appraised value of the Property obtained pursuant to Paragraph B-3, of this Policy. The text of the deed by which the County and Commission obtains title to the property shall recite the actual consideration and if the consideration is other than a set amount of money, the text of the deed shall also recite the reasonable value of the nonmonetary consideration as reasonably estimated, in good faith, by the County Engineer.

4. Upon satisfying himself that the preconditions of this policy have been complied with, the County Administrator is hereby authorized on behalf of the Commission to issue a check or draft

in an amount sufficient to pay the acquisition cost of the Property. If the consideration given for the acquisition of the Property is nonmonetary, then upon complying with the conditions and limitations of this Policy, the County Engineer is hereby authorized on behalf of the Commission to provide to the Property owner in-kind services and/or materials, provided the reasonable and good faith value of the in-kind services and/or materials shall not exceed the estimation of the appraised value of the property obtained pursuant to Paragraph B-3 of this Policy.

5. Upon obtaining a deed to the Property transferring the Property to Houston County or the Houston County Commission, the County Engineer shall cause said deed to be recorded in the Office of the Judge of Probate of Houston County, Alabama.

6. This Policy is to be deemed an authorizing policy and not a mandatory policy. Nothing in this Policy shall prohibit the Commission from, at any time, electing to bypass this procedure and proceed directly to the formal condemnation process and proceedings or to take any other action otherwise authorized or permitted by law.

7. All policies or practices heretofore adopted or implemented by the Commission or its representatives which conflict with this Policy are hereby repealed to the extent of the conflict.