

## ***IV. Land Acquisition***

Per ARS §41-1091 B: This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes Section 41-1033 for a review of the statement.

***Per ARS §15-2041 F: The school facilities board shall distribute the monies needed for land for new schools so that land may be purchased at a price that is less than or equal to fair market value and in advance of the construction of the new school.***

### **A. Application Process for Funding of Land (Adopted March 4, 1999)**

To acquire land, either through a purchase or donation, the board follows a three-step process.

#### **Step I. Justification of Need for Land**

When a school district has been approved for new construction by the Board, it may request land for the new construction, if necessary. District ownership of land does not necessarily prevent the district from receiving funds for new land. The district must demonstrate that the district-owned property is not suitable for the needed new school.

#### **Step II. Request to Acquire a Specific Site**

The District initiates the land acquisition process by locating a parcel of land they wish to acquire and submitting that request to staff. Requests for donations and purchases are shown in *Exhibits III. A and B.*

**A. Justification of selected site** The district must provide a map of the district showing current schools and the projected student population, grade levels served and attendance boundaries in various locations in the district, which supports the location of the new school at the requested site. The district must also provide a listing of vacant parcels currently owned by the district (including the size of each parcel and its location), describe the site selection process, explain why this site was chosen over alternative sites, and summarize any joint use provisions or other intergovernmental agreements related to the site. The district must also provide a legal description of the desired site, the size of the site and an estimate of the cost of the site. The district may also provide information on more than one site.

**B. Size of site (Modified November 1, 2007)** The range of acreage table approved by the Board is provided to allow districts some leeway in site selection. It is not expected that allowances will be made for additional acreage for limited use activities that are only remotely related to the teaching and learning enterprise. Limited use activities would include, but not be limited to, athletic fields that are only used for interscholastic competition rather than daily activities, and non-school related community functions. The site size will be based on the eventual size of the school, if expansion is planned. The district may request a larger or smaller site if conditions require. Sites smaller than the minimum requirement will be considered to allow for the use of

sites within existing developments. The district may purchase additional acres with local funds. Districts should give careful consideration to joint-use sites such as those which adjoin community parks and playgrounds. The ranges indicated are not intended to dictate a minimum acreage if planned use can be designed to include cooperative development.

C. Information cost estimate (Modified November 1, 2007) The Board may approve the SFB staff to select an entity to verify, gather and submit information required under Step III for a school district, in which case the entity will be paid directly by the Board. After reviewing the recommendation, the Board will approve or disapprove the site.

**Step III. Additional Information Required (Modified November 1, 2007)**

After the completion of Step II, if the school district receives preliminary approval by the Board to accept the site, the Board will approve monies to allow the district and staff to verify, gather and submit the following information about the site. Preliminary approval by the Board will also result in monies being allocated to cover closing costs. The district will provide documentation of the actual expenditures from the monies provided per the Terms and Conditions. See *Exhibits III. C, D and E.*

1. An appraisal of the land that documents that the proposed cost is at or below the fair market value.
  - Two appraisals are ordered for all land purchases, one is ordered for donations. Appraisals can typically be completed in 4-6 weeks.
2. Legal description
3. Phase one environmental assessment, plus the following factors (if not included):
  - Hazardous materials
  - Archaeology: to be submitted to the State Historic Preservation Office for review and approval (typically completed in 30 days)
  - Endangered flora and fauna
  - Noise
  - Soil conditions
  - Adjacent land owners and/or uses

Environmental Assessments typically take 4-6 weeks to complete.  
Environmental Assessments older than 180 days will need to be updated by the assessor.
4. ALTA and Topographical Survey
5. Testing for pesticides and herbicides
6. Drainage statement
7. Site development cost
8. Photographic survey (if required by planning and zoning departments)
9. Feasibility site diagram - conceptual study by a design professional illustrating proposed development of the site (based on the eventual size of the school, if there are plans for expansion), indicating:
  - Property lines and measurements
  - Setbacks, right-of-ways, and easements
  - Vehicular access and parking
  - Pedestrian and bicycle access

- Building zone
- Drainage concept
- Utility routes or systems
- Activity fields and courts
- Limit-lines and calculation of useable area
- Existing features to be demolished or preserved
- Future expansion capability

Step III expenses are capped at \$30,000. Final distribution of monies to purchase the site may be made if Step III reveals no serious problem with the site. If the actual cost of the site does not exceed the Board approved amount, the Executive Director may make the final determination of site funding without further action by the Board. The district will provide documentation of the actual expenditures from the monies provided and the actual closing costs within 60 days of the final distribution. Expenditures exceeding this amount require approval by the Board. If the site is rejected as a result of information gathered in Step III, the district repeats Steps II and III with a new site.

### **Establishing Fair Market Value (Standard Practice November 1, 2007)**

For a land purchase, two appraisals are preformed. The seller is offered the lower of the two valuations. If accepted, staff presents Step III to the Board for approval. If the lower valuation is not accepted, staff shall order a Review Appraisal to be performed by a third appraiser. The seller is then offered the valuation chosen by the Review Appraiser. If accepted, staff presents Step III to the Board for approval.

### **Additional Items**

The proposed process was developed based upon the purchase of undeveloped private land. The Executive Director is granted authority to deviate from the process to meet other circumstances as they arise, such as purchasing state-owned land, condemnation, etc. and bring such recommendations to the Board.

### **Site Size Requirements (Useable Acres)**

Although there are many variables in the purchase of land, the acreage required for an elementary (K-6) school is generally less than that required for a middle (K-8/7-8), or a high school (9-12). The following is a breakdown by grade level and number of students of the suggested acreage requirements:

|                           | Elementary School                                       |              | Elementary, Middle and Junior High School               |              | High School |              |
|---------------------------|---|--------------|---|--------------|-------------|--------------|
| Grade Levels              | Preschool w/ Disabilities, Kindergarten, and Grades 1-6 |              | Preschool w/ Disabilities, Kindergarten, and Grades 1-8 |              | Grades 9-12 |              |
| Approved Useable Maximums | Students  | Size (Acres) | Students  | Size (Acres) | Students    | Size (Acres) |
|                           | 249 or less   | up to 8      | 249 or less   | up to 18     | 249 or less | up to 30     |
|                           | 250 - 449   | -5 - 9       | 250-399   | 6 - 22       | 250-599     | 15 - 35      |
|                           | 450 - 649   | -6 - 10      | 400-599   | 8 - 24       | 600-999     | 20 - 40      |
|                           | 650 - 849   | -8 - 12      | 600-799   | 10 - 26      | 1000-1399   | 25 - 45      |
|                           | 850 - 1049  | 10 - 14      | 800-999   | 12 - 28      | 1400-1799   | 30 - 50      |
|                           | 1050 -1249  | 12 - 16      | 1000-1199   | 14 - 30      | 1800-2199   | 35 - 55      |
|                           | 1250 or more  | 14 - 18      | 1200-1399   | 16 - 32      | 2200-2599   | 40 - 60      |
|                           |   |              | 1400-1599   | 18 - 34      | 2600-2999   | 45 - 65      |
|                           |   | 1600 or more | 20 - 36   | 3000 or more | 50 - 70     |              |

**B. Land Funding Timeline (Adopted April 3, 2003)**

The following are timelines for the funding of land for new schools, based on the school student grade configuration. These guidelines should be used as a tool to underscore and lend consistency to the individual analyses conducted on land requests. Grade configurations of K-6; K-8/7-8; and 9-12 are utilized as these are consistent with both school configurations and land acreage sizes that the Board utilizes for procurement of land.

The following is a breakdown by grade level of the timelines in allowing Districts to proceed with the SFB land acquisition process:

- K-6 - staff recommends that land be provided for new schools that are proposed to open two years beyond current SFB funding.
- K-8 & 7-8 - staff recommends that land be provided for new schools that are proposed to open two years beyond current SFB funding.
- 9-12 - staff recommends that land be provided for new schools that are proposed to open three years beyond current SFB funding.

While the Board believes that this proposed timeline is acceptable for the majority of situations, especially in rural districts and for urban K-6, K-8, and 7-8 schools, land issues (especially high school) will still require a case-by-case review. For example, the proposed guidelines will not serve urban needs that do not have a number of available parcels to accommodate 40-50 plus acre high school sites.

**C. Land Donations**

Under the Students FIRST law, the Board provides to each district receiving an approved donation, a 20% unrestricted capital contribution for the appraised value of the donated parcel, up to the maximum Board authorized acreage for the type and size school involved. This donation factor is awarded to the school district upon commencement of construction. Additionally, a state tax credit may be available to the entity donating the land.

The donated real property must be at an appropriate school site approved by the Board and must be usable for academic purposes. Donated real property may be in the form of land, facilities or both. For a facility donation, the 20% contribution is based on the lesser of the cost per square foot or the cost per square foot prescribed in ARS §15-2041.

**Establishing Fair Market Value of a Donated Property (Standard Practice November 1, 2007)** Fair market value for a donated property is established by a single appraisal. Final approval of Step III of the land acquisition process shall occur within the appraisers given lifetime of the appraisal. If the appraisal has “expired”, the property shall be re-appraised.

#### **Elementary Sites within a Development**

The Board requires that, at a minimum, a significant portion of an elementary school site be donated, for a school that is to be located within a developer’s project. As a matter of record, staff has infrequently recommended a full purchase of an elementary school site, and this has generally been for unusual circumstances or rural school locations, where development does not occur in large subdivisions.

### **D. Process for Acquiring State Land**

Districts may work with staff to acquire State Land. Districts must be approved for New Construction by the Board before the State Land Department will begin the acquisition process. Districts must first apply to the State Land Department; the SFB staff will then sign off on the application. The process takes about 18 months to complete, as State Land requires several conferences, an advertising period, and various testing of the property. If State Land is sought, the SFB requires Districts to pursue “Educational Beneficiary Land”. Due to the length of time it takes to lease State Land, districts may pursue State Land leases for any conceptually approved project regardless of the fiscal year for which need has been projected. See *Exhibits III. F and G*.

### **E. Leasing of Land**

Per ARS §15-2041(F), the Board may distribute monies for land to be leased for new schools if the duration of the lease exceeds the life expectancy of the school facility by at least fifty per cent. This is defined as 75 years.

### **F. Development within a Military Air Force Base’s Noise and Accident Potential Zones**

Per ARS §15-2041 (J), the Board’s consideration of any application filed after July 1, 2001, or after December 31 of the year in which the property becomes territory in the vicinity of a military airport or ancillary military facility as defined in ARS §28-8461, for monies to fund the construction of new school facilities proposed to be located in territory in the vicinity of a military airport or ancillary military facility shall include, if after notice is transmitted to the military airport pursuant to ARS §15-2002 and before the public hearing the military airport provides comments and analysis concerning compatibility of the proposed school facilities with the high noise or accident potential zone generated by military airport or ancillary military facility operations that may have an adverse effect on public health and safety, consideration and

analysis of the comments and analysis provided by the military airport before making a final determination.

### **G. Pesticide Covenants**

ARS §3-365 requires that pesticides with odoriferous characteristics not be applied within one-fourth mile of a school. The District needs to provide Pesticide Restrictive Covenants for all parties within a ¼ mile radius of the subject property. It is the responsibility of each district to see that the document is properly executed and recorded with the appropriate county recorder. See *Exhibit III. H.* for an affidavit should this statute not apply.

### **H. Improvements not covered by the SFB**

The Board generally does not fund any off-site improvements to a school site with New Construction monies. Districts may use Adjacent Ways monies to fund these items.

### **I. Use of Class A or B Bond Funding to Construct a School on SFB Acquired Land (Adopted March 9, 2000)**

#### **Construction of School Facility Using Class A Bonds**

The Board may purchase land or lease State land for a school facility needed within the next ten years. A school district may construct a school facility on the land using Class A Bonds. The square footage of the new facility is included in the gross square footage of the school district for purposes of determining need for additional square footage and building renewal distributions.

#### **Construction of School Facility Using Class B Bonds**

The Board may purchase land or lease State land for a school facility needed within the next ten years. A school district may construct a school facility on the land using Class B Bonds. The square footage of the new facility is not included in the gross square footage of the school district for purposes of determining need for additional square footage and building renewal distributions. The school district must also understand and agree that since the district is building a school facility with Class B Bonds on a site funded by the Board for a needed school, that when the district does qualify for a new school funded by the Board that the Board will not lease or purchase an additional site for that school.

### **J. Non-Reimburseables (Standard Practice April 3, 2003, Modified November 1, 2007)** It is the Board's policy not to approve or pay for district legal expenses including condemnation proceedings if the county attorneys office is available for use.

The Board has a long-standing precedent not to reimburse districts for any costs incurred, without the Board's prior approval and/or authorization.

### **K. Disposition of Land**

Pursuant to ARS §15-342 (10) (c), for the sale of property acquired by the school district prior to July 9, 1998, the school district may enter into an agreement with the Board to sell the improved or unimproved property and transfer proceeds equal to the cost of the acquisition of a more suitable school site. If there are any remaining proceeds after the transfer of monies to the

## *Land Acquisition*

Board, a school district shall only use those remaining proceeds for future land purchases approved by the Board, or for capital improvements not funded by the Board for any existing or future facility.

Per ARS §15-2041 (F), the proceeds derived through the sale of any land purchased or partially purchased with monies provided by the Board shall be returned to the State fund from which it was appropriated and to any other participating entity on a proportional basis.

### **L. Title Insurance (Adopted November 1, 2007)**

In most cases, the seller should provide the cost of title insurance. If necessary, the Board will only provide funding for standard title insurance.