

## SAM - BUDGETING

### CONDEMNATIONS (EXERCISE OF EMINENT DOMAIN)

6866

(New 5/1998)

PWB holds the power of eminent domain under property acquisition law. Prior to commencing condemnation proceedings, PWB must first adopt a resolution of necessity authorizing condemnation in accordance with the Code of Civil Procedure (CCP) Sections [1245.220](#) and [1245.230](#). At least 15 days notice of the board hearing is given in writing to the property owner (CCP [1245.235](#)). Also, the board must have made a good faith offer to purchase the property or, if an offer has not been made, must determine that the property owner cannot be located (Government Code Section [7267.2](#)).

PWB may reach agreement with the owner of part or all of the property being condemned on the price to be paid, and may incorporate the agreement in a stipulation in the condemnation proceeding (Government Code Section [15857](#)). PWB may abandon a condemnation proceeding (CCP Section [1268.510](#)). Upon completion of condemnation proceedings, PWB has the right to immediate possession (CCP [1255.010](#)).

**Agenda packages for proposed condemnations:** When requesting that the board condemn a property, the client department (and/or DGS) must provide all the following:

1. All information requested in Section 6845, including the standard fiscal reporting requirements and the agenda package;
2. A statement of the property's proposed public use;
3. A description of the general location and extent of the property to be taken, with sufficient detail for reasonable identification;
4. An analysis of necessity showing that:
  - a. The public interest and necessity require the proposed project;
  - b. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury; and
  - c. The property is necessary for the public good;
5. Chronology of attempts to purchase the property and/or contact the owner; and
6. Certification that 15 days advance notice has been provided the owner.

PWB's resolution is conclusive evidence that the elements of necessity have been met.