

PROVISION FOR IMPLEMENTATION OF PRESIDENTIAL REGULATION NO. 36 YEAR 2005
 CONCERNING LAND PROCUREMENT FOR CONSTRUCTION OF PUBLIC INTEREST AS
 AMENDED BY PRESIDENTIAL REGULATION NO. 65 YEAR 2006 CONCERNING
 AMENDMENT TO PRESIDENTIAL REGULATION NO. 36 YEAR 2005 CONCERNING
 LAND PROCUREMENT FOR CONSTRUCTION FOR PUBLIC INTEREST

(Regulation of Head of National Land Affairs Agency of RI No.3 Year 2007, dated May 21, 2007)

WITH THE BLESSING OF THE ONE AND ONLY GOD,
 THE HEAD OF NATIONAL LAND AFFAIRS AGENCY OF
 REPUBLIC INDONESIA,

Considering:

That to implement the provision in Article 2 and Article 22 of Presidential Regulation No.36 Year 2005, concerning Land Procurement for Public Interest Construction as amended by Presidential Regulation No.65 Year 2006, it is necessary to stipulated regulation of the Head of National Land Affairs Agency on provision for implementing Presidential Regulation No.36 Year 2005, concerning Land Procurement for Public Interest Construction as amended by Presidential Regulation No.65 year 2006, concerning Amendment to Presidential Regulation No.36 Year 2005, concerning Land Procurement for implementation of Public Interest Construction;

In view of:

1. Law No.5 Year 1960, concerning Regulation of Agrarian Basic Principals (Statute Book of the Republic of Indonesia Year 1960 No.104, Supplement to Statute Book of the Republic of Indonesia No.2043);
2. Law No.51 Prp. Year 1960, concerning Prohibition from Using Land With Permit from the Authorized Person or his/her proxy (Statute Book of the Republic of Indonesia Year 1960 No.158, Supplement to Statute Book of the Republic of Indonesia No.2106);
3. Law No.20 Year 1961, concerning Revocation of Rights to Land and Items Existing on It (Statute Book of the Republic of Indonesia Year 1961 No.288, Supplement to Statute Book of the Republic of Indonesia No.2324);
4. Law No.17 Year 2003 (**BN No. 6915 pages 26A-28A and so forth**), concerning State's Finance (Statute Book of the Republic of Indonesia Year 2003 No.47, Supplement to Statute Book of the Republic of Indonesia No.4286);
5. Law No.1 Year 2004 (**BN No. 7042 pages 3A-19A and so forth**), concerning State Treasury (Statute Book of the Republic of Indonesia Year 2004 No.5, Supplement to Statute Book of the Republic of Indonesia No.4355);
6. Law No.32 Year 2004 (**BN No.7183 pages 1A-11A and so forth**) concerning Regional Administration (Statute Book of the Republic of Indonesia Year 2004 No.125, Supplement to Statute Book of the Republic of Indonesia No.4437) as amended by Law No.8 Year 2005, concerning Stipulation of Government Regulation in Lieu of Law No.3 Year 2005 (**BN No. 7218 pages 20A-21A**), concerning Amendment to Law No.32 Year 2004, concerning Regional Administration to become Law (Statute Book of the Republic of Indonesia Year 2005 No.108, Supplement to Statute Book of the Republic of Indonesia No.4548);

7. Law No.26 Year 2007 (**BN No. 7599 pages 10A-30A and so forth**), concerning Space Layout (Statute Book of the Republic of Indonesia Year 2007 No.68, Supplement to Statute Book of the Republic of Indonesia No.4725);
8. Government Regulation No.40 Year 1996 (**BN No. 5679 pages 18A-20A and so forth**) concerning Right to Make Business, Right to Construct and Right to Use Land (Statute Book of the Republic of Indonesia Year 1996 No.58, Supplement to Statute Book of the Republic of Indonesia No.3643);
9. Government Regulation No.24 Year 1997 (**BN No. 6139 pages 19A-24A and so forth**), concerning Land Registration (Statute Book of the Republic of Indonesia Year 1997 No.28, Supplement to Statute Book of the Republic of Indonesia No.2171);
10. Government Regulation No.16 Year 2004 (**BN No. 7111 pages 2A-12A**), concerning Land Layout and Use (Statute Book of the Republic of Indonesia Year 2004 No.45, Supplement to Statute Book of the Republic of Indonesia No.4385);
11. Presidential Regulation No.36 Year 2005 (**BN No. 7219 pages 2A-6A**), concerning Land Procurement for Public Interest Construction as amended by Presidential Regulation No.65 Year 2006 (BN No. 7376 pages 18A-20A), concerning Amendment to Presidential Regulation No.36 Year 2005, concerning Land Procurement for Public Interest Construction;
12. Presidential Regulation No.10 Year 2006, concerning National Land Agency;
13. Presidential Decree No.34 Year 2003 (**BN No. 6920 pages 1A-2A**), concerning National Policy on Land Affairs;

DECIDES:

To stipulate:

REGULATION OF THE HEAD OF NATIONAL LAND AFFAIRS AGENCY ON PROVISION TO IMPLEMENT PRESIDENTIAL REGULATION NO.36 YEAR 2005, CONCERNING LAND PROCUREMENT FOR PUBLIC INTEREST CONSTRUCTION AS AMENDED BY PRESIDENTIAL REGULATION NO.65 YEAR 2006, CONCERNING AMENDMENT TO PRESIDENTIAL REGULATION NO.36 YEAR 2005, CONCERNING LAND PROCUREMENT FOR PUBLIC INTEREST CONSTRUCTION.

CHAPTER I

GENERAL PROVISION

Article 1

What is meant in this regulation by:

1. Government agency shall be State Institution, Department, Non-Governmental Institution, Provincial Government or Regency/Municipality Government.
2. Owner shall be holder of right to land, and/or owner of building, and/or owner of plants, and/or owner of other items related to the land.
3. Land Price Appraising Institution shall be professional and independent institutions having expertise and capability in land price appraising.
4. Land Price Appraising Team shall be a team duly established under Decision of the Regent/mayor or Governor for Jakarta Capital City Special Region to appraise the land price, if there is no Land Price Appraising Institute in the regency/municipality concerned.

CHAPTER II

PLANNING

Article 2

- (1) To obtain land for the public interest construction, the government agency that needs the land shall prepare proposal on the construction plan one (1) year before, specifying the:
- a. purposes and objectives of the construction;
 - b. location and site of the construction;
 - c. area of land needed;
 - d. source of fund;
 - e. analysis of environmental feasibility for the construction plan, including impact of the construction and the efforts of prevention and control.
- (2) Preparation of proposal for construction plan referred to in paragraph (1), letters b and c, government agency that needs such land may ask for consideration of the National Land Agency of the Republic of Indonesia.

Article 3

No proposal for construction plan referred to in Article 2 shall be needed if the construction for public interest is used for urgent public safety and disaster treatment facilities.

CHAPTER III

DECISION OF LOCATION

Article 4

Based on the proposal for construction plan referred to in Article 2, the government agency that needs the land shall submit application for decision of the location to the Regent/Mayor or Governor for area in Jakarta Capital City of Special Region with copy to the Head of Land Affairs Office of the Regency/Municipality.

Article 5

- (1) At receipt of the application for decision of the location referred to in Article 4, the Regent/Mayor or Governor for area in Jakarta Capital City Special Region shall study the justification of the construction plan from the various aspects below:
- a. space layout;
 - b. land layout and use;
 - c. social economy;
 - d. environment; and
 - e. control, ownership, and use of land.
- (2) The study on justification of the construction plan referred to in paragraph (1) shall be based on recommendation of the relevant agency and Land Affairs Office in the Regency/Municipality.
- (3) Based on the recommendation referred to in paragraph (2), the Regent/Mayor or Governor for area in Jakarta Capital City Special Region shall issue decision on the location.
- (4) The decision of location referred to in paragraph (3) shall be submitted to the government agency that needs the land with copy to the Land Affairs Office in the Regency/Municipality and relevant agency.
- (5) Decision of location referred to in paragraph (3) shall also apply as permit for land acquisition for the government agency that needs the land.

Article 6

- (1) Decision of the location referred to in Article 5, paragraph (3) shall be made for a term of:
- a. one (1) year for land procurement that needs an area of land up to 25 (twenty-five) hectares;

b. two

- b. two (2) years for land procurement that needs an area of land from 25 (twenty-five) up to 50 (fifty) hectares;
 - c. three (3) years for land procurement that needs an area of land more than 50 (fifty) hectares.
- (2) If within the term of the stipulated location referred to in paragraph (1) land procurement is not settled yet, but has obtained at least 75% (seventy-five percent) or the construction plan, the Regent/Mayor or Governor for area of Jakarta Capital City Special Region may only issue one (1) time extension for the stipulated location for a term of one (1) year at the longest.

Article 7

In the event that the recommendation referred to in Article 5, paragraph (2) does not justify with the existing Site Plan of the Area or space planning of the area or municipality, but may not be carried out on the location referred to in Article 2, paragraph (1), the Regent/Mayor or Governor for area within Jakarta Capital City Special Region suggests other location for construction to the government agency that needs the land.

Article 8

As of receipt of the decision of the location, the government agency that needs the land within 14 (fourteen) days shall be obliged to announce the construction plan for public interest to the people, by orientation:

- a. directly; and
- b. indirectly, using printed media, electronic media, or other media.

Article 9

If the land location has been decided as the location for construction for public interest, the third party intending to obtain the land at the location shall be obliged to obtain written permit from the Regent/Mayor or Governor for area within Jakarta Capital City Special Region.

Article 10

No permit to obtain the land referred to in Article 9 shall be required if the land is obtained from inheritance, court judgment that has legal power and final or by instruction of the law.

Article 11

- (1) Application for decision of the site located in two (2) regencies/municipalities or more than one (1) province shall be submitted to the Governor.
- (2) Application for decision of the site located in two (2) provinces or more shall be submitted to the Head of National Land Affairs Agency of the Republic of Indonesia.

Article 12

The procedure for decision of the location referred to in Article 4 through Article 7 shall also apply to decision of the location that is under the authority of the Governor and adjusted to the environment at provincial level.

Article 13

Procedure for decision of the location referred to in Article 4 through Article 7 shall also apply to decision of the location that is under the authority of Head of National Land Affairs Agency of the Republic of Indonesia.

CHAPTER IV

PROCEDURE FOR LAND PROCUREMENT

Part One

For Land which Area is more than one (1) hectare

Paragraph 1

Establishment of Land Procurement Committee

Article 14

- (1) For procurement of land for public interest construction referred to in Article 5 of Presidential Regulation No.36 Year 2005 as amended by Presidential Regulation No.65 Year 2006, Land Procurement Committee of the Regency/Municipality shall be established under Decision of the Regent/Mayor or Governor for area within Jakarta Capital City Special Region.
- (2) Members of the Land Procurement Committee of the Regency/Municipality shall be the most nine (9) persons with structure as follows:
 - a. Secretary of Region acting as Chairman and as member;
 - b. Official from regional instrument of Echelon II acting as Vice Chairman and as member;
 - c. Head of Land Affairs Office of Regency/Municipality or official appointed as Secretary also acting as member; and
 - d. Head of Service Office/Office/Agency of Regency/Municipality relating to the land procurement or official appointed as member.
- (3) Land Procurement Committee of Regency/Municipality as referred to in paragraph (1) shall function to:
 - a. provide clarification or information to the people;
 - b. study and inventory the land, building, plants and other items related to the land, which rights will be released or handed over;

- c. study the legal status of the land which right will be released or handed over;
- d. announce the result of study and inventory as referred to in letters b and c;
- e. receive the evaluation result of the land value, and/or building, and/or plants and/or other items relating to the land from the Institution or Land Value Appraising Team and the official responsible for appraising the building and/or plants and/or other items relating to the land;
- f. hold deliberation with the owners which rights will be released or handed;
- g. decide the amount of loss compensation for the land which right will be released or handed over;
- h. witness the delivery of loss compensation to the owners;
- i. draw up Minutes of release or hand-over of right;
- j. administer and document all documents on land procurement and deliver to the government agency that needs the land from the Land Affairs Office of the Regency/Municipality; and
- k. submit any issue with consideration for settlement of land procurement to the Regent/Mayor or the Governor if the area is within Jakarta Capital City Special Region if no consensus is reached by deliberation to adopt resolution.

- (4) The Secretariat of the Land Procurement Committee of the Regency/Municipality shall domicile at the Land Affairs Office of the Regency/Municipality.

Article 15

- (1) If the land needed for construction for public interest is located in two (2) regencies/municipalities or more in one (1) province, a Land Procurement Committee of Province shall be established by Decision of the Governor.

(2) Members

(2) Members of the Land Procurement Committee of the Province referred to in paragraph (1) shall comprise nine (9) persons at the most with the composition shown below:

- a. Secretary of the Region shall act as Chairman and as member;
- b. Regional official of the Province appointed in the same level as Echelon II as Vice Chairman and as member;
- c. Head of National Land Affairs Agency of Provincial Region of official appointed as Secretary and as member; and
- d. Head of Service Office/Office/Agency in the Province relating to implementation of land procurement or official appointed as member.

(3) The Land Procurement Committee of the Province referred to in paragraph (1) shall have the duty to:

- a. provide guidance, guideline and directive for implementation of land procurement in the regency/municipality;
- b. coordinate in integration the procurement of land in the regency/municipality;
- c. give consideration to the Governor to make decision for settlement as to the nature and/or amount of loss compensation as requested by Regent/Mayor; and
- d. supervise and control the procurement of land in the regency/municipality.

(4) The Secretariat of the Land Procurement Committee of the Province shall domicile at the Office of National Land Affairs Agency of Provincial Region.

Article 16

(1) If the land needed for construction for public interest is located in two (2) provinces or more, a National Land Procurement Committee shall be established by Decision of the Minister of Home Affairs.

(2) Members of the National Land Procurement Committee referred to in paragraph (1) shall comprise nine (9) persons at the most with the composition as shown below.

- a. Secretary General of the Department of Home Affairs acting as Chairman and as member;
- b. Echelon I official of the Department of Public Works acting as Vice Chairman and as member;
- c. Echelon I official of the Department of National Land Affairs Agency of the Republic of Indonesia appointed as Secretary and as member;
- d. Director General/Assistant Minister/Deputy of agency that is related to the land procurement as member;
- e. Governor or official appointed in the same level as Echelon II as member; and
- f. Regent/Mayor of official appointed from Echelon II level as member.

(3) National Land Procurement Committee referred to in paragraph (1) shall have the duty to:

- a. provide guidance, guideline and directive for implementation of land procurement in the regency/municipality;
- b. coordinate in integration the procurement of land in the regency/municipality;
- c. decide and/or stipulate a Land Procurement Committee of Regency/Municipality to carry out the task for land procurement in the respective regency/municipality;

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(Regulation of Head of National Land Affairs Agency of RI No.3 Year 2007, dated May 21, 2007)

(Continued from Business News No. 7728 pages 14A-20A)

Paragraph 3

Identification and Inventory

Article 20

- (1) If the construction plan is accepted by the people as referred to in Article 19, paragraph (3), letter a, the Land Procurement Committee of the Regency/Municipality shall conduct identification and inventory on the control, use and ownership of the land and/or buildings and/or plants and/or other items relating to the land.
- (2) The identification and inventory referred to in paragraph (1), shall cover all activities on:
- a. *designated borders*;
 - b. measuring the plot of land and/or building;
 - c. mapping of the plot of land and/or building and circumference of the borders of the plot of land;
 - d. stipulation of borders of the plot of land and/or building;
 - e. data administration on the use and utilization of the land;
 - f. status administration on the land and/or building;
 - g. data on the control and ownership of land and/or building and/or plants;
 - h. *data on evidence of control and ownership of land and/or building and/or plants*; and
 - i. others deemed necessary.

Article 21

- (1) Failure to conduct identification inventory of the object effectively by the Land Procurement Committee of the Regent/Municipality, work units may be established to assist the duty of the Land Procurement Committee of the Regency/Municipality.

- (2) The work units referred to in paragraph (1) shall be established and stipulated by the Land Procurement Committee of the Regency/Municipality.
- (3) The result of identification and inventory conducted by the work units referred to in paragraph (1) shall constitute the responsibility of the Land Procurement Committee of the Regency/Municipality.

Article 22

If the identification and inventory referred to in Article 20, paragraph (2) are conducted by the work units referred to in Article 21, paragraph (1), selection of the work unit shall be based on justification of expertise of the work unit members and the duty to be conducted.

Article 23

- (1) The result of identification and inventory referred to in Article 20, paragraph (2), letters b and c shall be stipulated in a form of Map of the Plot of Land.
- (2) The result of identification and inventory referred to in Article 20, paragraph (2), letter e through letter h, shall be stipulated in a form of a List that contains:
- a. name of the Holder of Right to Land;
 - b. status of Land and its document;
 - c. area of the Land;
 - d. ownership and/or Land Control and/or building and/or plants and/or other items relating to the Land;
 - e. use and utilization of the Land;
 - f. imposition of Right to the Land; and
 - g. other information.

- (3) The Land Procurement Committee of the Regency/Municipality shall announce the Map of Plot of Land and List referred to in paragraphs (1) and (2) at the Village Office and Land Affairs Agency Office of the Regency/Municipality, in website for seven (7) days the mass media in at least two (2) times issues in order to give opportunity to all parties concerned to file for objection.
- (4) In the presence of objection, the Land Procurement Committee of the Regency/Municipality shall investigate and assess the objection, and if:
- the objection is accountable, the Land Procurement Committee of the Regency/Municipality shall make proper amendment/correction;
 - the objection is not accountable, then the Land Procurement Committee of the Regency/Municipality may proceed processing the land procurement.
- (5) If the objection referred to in paragraph (4) relates to dispute of ownership, and/or control/use of the land and/or building and/or plants and/or other items relating to the land, the Land Procurement Committee of the Regency/Municipality take all efforts for settlement by deliberation.
- (6) If no settlement is reached by deliberation referred to in paragraph (5), the Land Procurement Committee of the Regency/Municipality may suggest to all parties concerned to settle through the court and record the dispute or case in the Map of Land and List referred to in paragraphs (1) and (2).
- (7) After recording the dispute or case referred to in paragraph (6), the Land Procurement Committee of the Regency/Municipality shall proceed processing the land procurement.

Article 24

At expiry of the term of announcement referred to in Article 23, paragraph (3), the Map and List referred to in Article 23, paragraphs (1) and (2) shall be ratified by all members of the Land Procurement Committee of the Regency/Municipality and acknowledged by the Head of Land

Affairs Office of the Regency/Municipality, the Head of Village and Head of Sub-District, and/or officials related to the buildings and/or plants.

Paragraph 4

Appointment of Institution/Land Value

Assessment Team

Article 25

- The Land Procurement Committee of the Regency/Municipality shall appoint Land Value Appraising Institution as decided by the Regent/Mayor or Governor if the area is within Jakarta Capital City Special Region to appraise the land value.
- The Land Value Appraising Institution referred to in paragraph (1) shall be institution that has obtained license from the National Land Affairs Agency of the Republic of Indonesia.

Article 26

- If in the regency/municipality or the surrounding regency/municipality concerned no Land Value Appraising Institution exists as referred to in Article 25, the Regent/Mayor or Governor for area within Jakarta Capital City Special Region shall establish Land Value Assessment Team.
- Members of the Land Value Assessment Team referred to in paragraph (1) shall consist of:
 - elements of agency in charge of buildings and/or plants;
 - elements of central government agency in charge of National Land Affairs;
 - elements of agency in charge of Land and Building Tax Services;
 - experts or persons experienced as land value appraiser;
 - academics that are able to appraise the land value and/or buildings and/or plants and/or other items related to the land.

- (3) Members of the Land Value Assessment Team referred to in paragraph (2), if needed, may be added from the elements of People's Own-Initiative Institution.

Paragraph 5
Assessment
Article 27

The value of land affected by construction for public interest shall be assessed by the Land Value Assessment Institution or the Land Value Assessment Team.

Article 28

- (1) The value of land shall be assessed by the Land Value Assessment Team, if no Land Value Assessment Institution referred to in Article 26 is available.
- (2) The Land Value Assessment Team referred to in paragraph (1) shall assess the value of the land based on the Tax Object Sale Value (NJOP) or the real/actual value with due observance of the NJOP for the current year, and may also refer to variables below:
- site and location of land;
 - status of the land;
 - land allocation;
 - justification on the use of land with the existing area space layout plan or area space planning or city plan;
 - available facilities and infrastructure; and
 - other factors that affect the value of the land.

Article 29

The value of buildings and/or plants and/or other items related to the land shall be assessed by the Head of Service Office/Office/Agency in the Regency/Municipality in charge of building and/or plants and/or other items related to the land, in accordance with the standard value stipulated in the statutory regulation.

Article 30

The result of assessment referred to in Article 28 and Article 29 shall be handed over to the Land Procurement

Committee of the Regency/Municipality for use as the basis of deliberation between the government agency that needs the land and the owners.

Paragraph 6
Deliberation
Article 31

- (1) The Land Procurement Committee of the Regency/Municipality shall decide the place and date of deliberation by inviting the government agency that needs the land and the owners for deliberation on:
- the construction for public interest plan at the location; and
 - the nature and/or amount of loss compensation.
- (2) The invitation referred to paragraph (1) must have been received by the government agency that needs the land and the owners in three (3) days at the latest prior to the date of the deliberation.
- (3) The nature of deliberation and/or amount of loss compensation shall be based on:
- agreement of the parties;
 - result of the assessment referred to in Article 30; and
 - deadline for settlement of the construction project.

Article 32

- (1) In principle deliberation shall be held directly and jointly between the government agency that needs the land with the owners that have been registered in the ratified Map and List as referred to in Article 24.
- (2) Deliberation shall be chaired by the Chairman of the Land Procurement Committee of the Regency/Municipality.
- (3) If the Chairman of Land Procurement Committee of the Regency/Municipality referred to in paragraph (2) is absent, deliberation shall be chaired by the Vice Chairman.
- (4) If the land and/or building, and/or plants and/or other items related to the land needed for the construction:

- a. is the object of dispute at the court, then deliberation shall be held with the litigating parties;
- b. is joint right to ownership, deliberation shall be held with all holders of rights;
- c. is bequeathed property, deliberation shall be held with the parties as governed in the statutory regulation concerning bequeathed property.

Article 33

- (1) If the total number of owners makes it impossible to hold upfront deliberation, jointly and effectively, deliberation may be held in phases.
- (2) If during the upfront and joint deliberation referred to in Article 32, paragraph (1) or phases as referred to in paragraph (1) the owners are unable to attend, they may represent other persons by virtue of the Power of Attorney drawn up by notary or privately drawn up acknowledged by the Village Chief or official with equivalent level thereto and the Chief of Sub-District.
- (3) The attorney referred to in paragraph (2), on behalf of the grantor of power shall have the power to make decision to submit proposal, opinion, desire, and to accept or reject the nature and/or amount of loss compensation, as explicitly set forth in the Power of Attorney.
- (4) To protect the owners, the attorney referred to in paragraph (3) may be granted the power only from one (1) person.

Article 34

Deliberation on the plan for construction for public interest at the location referred to in Article 31, paragraph (1), letter a shall be deemed to have reached consensus if at least 75% (seventy-five percent) of:

- a. the area of land needed for construction has been obtained; or
- b. all the owners have agreed to the nature and/or amount of loss compensation.

Article 35

- (1) If in the deliberation for construction of public interest at the location the total number of owners is less than 75% (seventy-percent), the Land Procurement Committee of the Regency/Municipality shall propose to the government agency that needs the land to move to another location.
- (2) If the construction cannot be moved to another location as specified the criteria referred to in Article 39, the Land Procurement Committee of the Regency/Municipality shall proceed processing the land procurement.

Article 36

The land owners that have not agreed yet to the nature and/or amount of loss compensation and the total number is 25% (twenty-five percent) of the total number of owners/area of land, the Land Procurement Committee of the Regency/Municipality shall endeavor re-deliberation until agreement has been reached on the nature and/or amount of loss compensation.

Article 37

- (1) Deliberation to decide the nature and/or amount of loss compensation shall be held within a period of 120 (one hundred twenty) calendar days effective as of the date of the invitation for the first deliberation with respect to the location for construction that cannot be moved to another location which criteria is as set forth in Article 39.
- (2) If the location for construction cannot be moved by means of space layout, the construction plan that has obtained approval of the community as referred to in Article 19, paragraph (3), letter and agreement on the location for construction has reached 75% (seventy-five percent) as referred to in Article 34, and the period referred to in paragraph (1) has expired, the government agency that needs the land shall make loss compensation payment to the owners and Minutes of Payment of Loss Compensation or Minutes of Offer for Loss Compensation Payment thereof shall be drawn up.

- (3) If the owners still reject the payment of loss compensation or refused to accept the offer for payment of loss compensation, after 120 (one hundred twenty) days has elapsed the Land Procurement Committee of the Regency/Municipality shall draw up Minutes on Payment of Loss Compensation.
- (4) If the owners referred to in paragraph (3) still reject, then based on the Minutes referred to in paragraphs (2) and (3), the Land Procurement Committee of the Regency/Municipality shall instruct the government agency that needs the land to place in custody the loss compensation money at the district court which jurisdiction covers the location of the land for the construction.

Article 38

The Land Procurement Committee of the Regency/Municipality shall draw up Minutes of Result of Deliberation on the Location for Construction for Public Interest and Decide the Nature and/or Amount of Loss Compensation signed by all members of the Land Procurement Committee of the Regency/Municipality, the government agency that needs the land and the owners.

Paragraph 7

Unmovable Location of Construction

Article 39

The location is unmovable by means of space layout technical reason for construction for public interest to another place or location as referred to in Article 19, paragraph (4), letter b, Article 35, paragraph (2) and Article 37, paragraph (1), if:

- a. based on historical, climatologist, geographically, geologically and topographically aspect is not available in other location;
- b. moved to another location shall impose sacrifice, loss, and greater expenses or more substantial expenses;
- c. the construction plan is very much needed and the location constitutes the best location compared to other location or no other location is available; and/or

- d. not in such location may inflict disaster that threatens the security and safety of the people at large.

Paragraph 8

Decision of Land Procurement Committee of the Regency/Municipality

Article 40

- (1) Based on the Minutes referred to in Article 37, paragraphs (2) and (3) and Article 38, the Land Procurement Committee of the Regency/Municipality shall issue decision on the nature and/or amount of loss compensation and Nominative List of Loss Compensation Payment.
- (2) The Nominative List shall state the names of the owners, the rights released or assigned, the area of land/building, the total number of plants, the nature and/or amount of loss compensation received, the nature and amount of loss compensation placed in custody, signatures of the owners and Project Management of the government agency that needs the land, and the Land Procurement Committee of the Regency/Municipality as witnesses.
- (3) The Land Procurement Committee of the Regency/Municipality shall submit the decision referred to in paragraph (1) to the government agency that needs the land, with copy to the Regent/Mayor or Governor if the area is located within Jakarta Capital City Special Region and the Head of Land Affairs Office of the Regency/Municipality.
- (4) If the land required for construction belongs to the government agency, decision on the stipulation of the nature and/or amount of loss compensation shall be made based on the procedure as governed in the statutory regulation on State Treasury.

Article 41

- (1) Owners who object to the decision on the stipulated nature and/or amount of loss compensation issued by the Land Procurement Committee of the Regency/Municipality referred to in Article 40, paragraph (1), may

file objection to the Regent/Mayor or Governor or Minister of Home Affairs according to their respective authority supported by explanation on the causes and reasons of objection within 14 (fourteen) days.

- (2) The Regent/mayor according to their respective authority shall make decision on settlement of the objection by the owners referred to in paragraph (1) within 30 (thirty) days.
- (3) The Governor based on his authority shall make decision on the objection of the owners referred to in paragraph (1) in the land procurement for public interest within Jakarta Capital City Special Region or land procurement in two (2) or more regencies/municipalities in one (1) province within 30 (thirty) days at the latest.
- (4) The Minister of Home Affairs according to his authority shall make decision on settlement of the owners' objection referred to in paragraph (1) if the land procurement for construction for public interest in two (2) or more provinces within 30 (thirty) days at the latest.
- (5) The Regent/Mayor or Governor or Minister of Home Affairs according to their respective authority prior to making decision on settlement on the nature and/or amount of loss compensation may request for consideration or opinion/desire of:
 - a. the owners or their attorneys that file the objection;
 - b. the Land Procurement Committee of the Regency/Municipality; and/or
 - c. government agency that needs that land.
- (6) Decision of the Regent/Mayor or Governor or Minister of Home Affairs that approved or amended the nature and/or amount of loss compensation shall be submitted to the owners that file the objection, the government agency that needs the land, and the Land Procurement Committee of the Regency/Municipality.
- (7) Decision of the Regent/Mayor or Governor or Minister of Home Affairs referred to in paragraph (6) shall be valid as the basis for payment of loss compensation to the owners that file the objection.

Article 42

If the effort for settlement taken by the Regent/Mayor or Governor or Minister of Home Affairs is still unacceptable to the owners and the location for the construction cannot be moved, the Regent/Mayor or Governor or Minister of Home Affairs according to their respective authority shall submit proposal for settlement by revoking the rights to land based on Law No.20 Year 1961 concerning Revocation of Rights to Land and Items Existing on the Land.

Paragraph 9

Payment of Loss Compensation

Article 43

- (1) The rightful parties to receive loss compensation are:
 - a. the holders of rights to the land or the rightful parties in accordance with the statutory regulation;
 - b. supervisor of bequeathed property.
- (2) If the land bears the right to use or right to build building on the land bearing the right to ownership or the land bearing the right to manage, the rightful person to the loss compensation shall be the holder of right to ownership or holder of the right to manage.
- (3) The loss compensation for buildings and/or plants and/or other items relating to the land bearing the right to use or land bearing the right to use building granted on the land with right to ownership or land with the right to manage shall be granted to the owner of the building and/or plants and/or other items relating to the land.

Article 44

- (1) Based on decision on the nature and/or amount of loss compensation referred to in Article 40, paragraph (1) or Article 41, paragraphs (6) and (7), the Land Procurement Committee of Regency/Municipality shall instruct the government agency that needs the land to make payment of loss compensation to the rightful party to the loss compensation referred to in Article 43 within a period of:

- a. within 60 (sixty) days at the latest as of the date the decision is made if the nature of loss compensation is in the form of money; or
 - b. as agreed upon by the owners and the government agency that needs the land if the loss compensation is in the form other than money.
- (2) If the loss compensation is granted in the form of money as referred to in paragraph (1), letter a, the Land Procurement Committee of the Regency/Municipality shall invite the rightful parties to the loss compensation to receive the loss compensation in accordance with what has been agreed upon, at specified the time and at the place.
- (3) The invitation to receive the loss compensation money referred to in paragraph (2) must have been received by the rightful party within three (3) days at the latest prior to the date of payment of loss compensation.

Article 45

The loss compensation in the form other than money as referred to in Article 44, paragraph (1), letter b shall be granted in the form of:

- a. land and/or building as replacement or re-residential, as desired by the owners and agreed upon by the government agency that needs the land;
- b. The land and/or building and/or other facilities having the value of at least equivalent with the bequeathed property being released, for bequeathed property;
- c. Recognition in the form of construction for public facilities or other form that are useful for the welfare of the local community, for customary land; or
- d. In accordance with decision of the authorized officials for land belonging to the government agency or regional government.

Article 46

- (1) Loss compensation in the form of money, shall be paid directly by the government agency that needs the land to the parties concerned as referred to in Article 43, witnessed by the Land Procurement Committee of the Regency/Municipality.

- (2) If the party having the right to loss compensation authorizes other person, a Power of Attorney to receive such loss compensation shall be drawn up in notary deed witnessed by two (2) witnesses or for remote area the power of attorney shall be drawn up in writing and acknowledged by the Village Chief or the same level thereof and the Sub-District Chief.
- (3) To protect the interest of the rightful party to loss compensation, the authorized person may only receive power only for one (1) person having the right to loss compensation.

Article 47

- (1) After receiving the invitation referred to in Article 44, paragraph (2), if the party having the right to loss compensation is absent, the Land Procurement Committee of Regency/Municipality shall re-invite the party concerned to receive payment of loss compensation at stipulated time.
- (2) If the party having the right to loss compensation after having been appropriately invited for three (3) times but is still absent, it shall be deemed to have no objection to the loss compensation as agreed upon.
- (3) In the case of such absence of the rightful person referred to in paragraph (2) is due to sickness, natural disaster, or by force situation, then the government agency that needs the land together with the Land Procurement Committee of Regency/Municipality shall deliver the loss compensation directly to the place where the owners are staying.

Paragraph 10

Depositing Loss Compensation

Article 48

- (1) The Land Procurement Committee of Regency/Municipality shall instruct the government agency that needs the land for deposit the loss compensation money at the district court which jurisdiction covers the location of the land for construction if:

- a. existence of the rightful person to the loss compensation referred to in Article 43, paragraph (1) is unknown;
 - b. the land, building, plants and/or other items involving the land are objects of a case at the court whereby no court judgment having final power is made yet;
 - c. it is still in dispute by the owners and no settlement agreement from the parties is reached yet;
 - d. the land, building, plants and/or other items involving the land are placed under sequestration by the competent authority.
- (2) To deposit the loss compensation money referred to in paragraph (1) and Article 37, paragraph (4), the government agency that needs that land shall submit application for decision to the Chairman of District Court which jurisdiction covers the location of the land for construction.
- (3) Application for decision for deposit as referred to in paragraph (2), shall complete:
- a. the name of the rightful person to the loss compensation whom the loss compensation is deposited;
 - b. invitation to receive payment of loss compensation referred to in Article 44, paragraph (2); and
 - c. correspondences:
 - 1) Minutes of Delivery of Loss Compensation referred to in Article 37, paragraph (2) or paragraph (3);
 - 2) Minutes of the Result of Deliberation on the Location of Construction for Public Interest and Decision on the Nature and Amount of Loss Compensation referred to in Article 38.
 - 3) Decision of the Regent/Mayor or Governor or Minister of Home Affairs referred to in Article 41, paragraphs (2), (3), (4) and (7);
 - 4) Remarks and legal reason for depositing the loss compensation; and
 - 5) Other correspondences relating to the deposit of loss compensation.

Paragraph 11
Release of Right
Article 49

Simultaneously with payment and receipt of loss compensation in the form of money as referred to in Article 44, paragraph (1), letter a:

- a. the government agency that needs the land shall prepare form of receipt of payment of loss compensation;
- b. the rightful party to loss compensation shall prepare statement letter of release/acquittal of the right to land or delivery of the land and/or building and/or plants and/or other items that involve the land;
- c. the Land Procurement Committee of Regency/Municipality shall draw up Minutes of Payment of Loss Compensation and Release of Right to Land or Delivery of Land.

Article 50

- (1) If the loss compensation in the form other than money, then if the rightful parties to loss compensation have signed the agreement referred to in Article 44, paragraph (1), letter b and Article 45, shall be followed by signing of statement letter of release/acquittal of the right to land or delivery of the land and/or building and/or plants and/or other items relating to the land in the interest of the government agency that needs the land.
- (2) If the that is needed for construction for public interest is bequeathed property, then the right to the land in the interest of the new government agency that needs the land may be released/acquittal after obtaining written approval of the competent Officials or Institution in accordance with the provisions in the statutory regulation concerning bequeath.

Article 51

- (1) At preparing the statement letter of release/acquittal of the right to land or delivery of land, the rightful party to loss compensation shall be obliged to deliver the original document to the Land Procurement Committee of Regency/Municipality, in the form of:

- a. certificate of right to land and/or original document of ownership and control of the land;
 - b. other deeds of legal acts relating to the land concerned;
 - c. other deeds relating to the land concerned;
 - d. Statement Letter acknowledged by the local Village Chief or instrument of the same level stating that the land referred to in letter a is the true ownership of the party concerned.
- (2) If no original document referred to in paragraph (1) is not available or is lost, the rightful party to loss compensation shall be obliged to attach:
- a. Statement Letter from the local Police; and/or
 - b. Minutes of drawn up under Oath prepared before the head of Land Affairs Agency of Regency/Municipality for registered land; and/or
 - c. Statement Letter stating that the land belongs to the parties and is not being in dispute as acknowledged by the local Village Chief or other instrument of the same level.
- (3) The rightful parties to loss compensation shall be responsible for all losses and legal claims against the document authenticity as referred to in paragraphs (1) and (2).

Article 52

Based on Statement Letter of release/acquittal of the right to land or delivery of the land referred to in Article 49, Article 50 and/or Judgment of District Court as referred to in Article 48:

- a. the Head of Land Affairs Office of Regency/Municipality shall record the release and acquittal of right to the land being released or delivered in the land book, certificate, and general register of other registrations of land;
- b. if the land being delivered is not bearing certificate yet, the original documents of the land concerned shall be recorded by the Head of Land Affairs Office

of Regency/Municipality stating that the right to the land has been delivered to or released for recording in the Land Register;

- c. if the land being delivered is not bearing certificate yet, this shall be recorded in the administration books of the Village Chief office by stating: "the right to the land concerned has been delivered to the Government/Regional Government for Construction for Public Interest".

Paragraph 12

Costs

Article 53

- (1) All fees for land procurement shall be charged to the government agency that needs the land consisting of:
- a. land measuring and mapping;
 - b. payment of loss compensation to the owners;
 - c. National and/or Provincial and/or Regency/Municipality Land Procurement Committee;
 - d. Land Value Assessment Institution/Team;
 - e. Administration of the right to land up to the issue of certificate;
 - f. Deposit of loss compensation if needed;
 - g. Separation from the remaining portion of the owners' land;
 - h. In the context of management, coordination, consultation, evaluation, supervision and settlement of issues; and
 - i. Others as required in support of the duty of National, Provincial and/or Regency/Municipality Land Procurement Committee.
- (2) The amount of Land Procurement Committee fee referred to in paragraph (1), letter c, based on the provision stipulated by the Minister of Finance referred to in Article 7A of Presidential Regulation No.36 Year 2005 as amended by Presidential Regulation No.65 Year 2006.

Part Two
For Land with Area Less than
one (1) hectare (small scale)

Article 54

Land for construction for public interest which area is less than one (1) hectare, shall be procured directly by sale and purchase, trade, or other means agreed upon by the parties without assistance of Land Procurement Committee of Regency/Municipality or with assistance of Land Procurement Committee of Regency/Municipality.

Article 55

Direct procurement of land referred to in Article 54 shall be conducted according to the status of land to be released or delivered to the government agency that needs the land.

Article 56

- (1) If the land being released bears certificate, then release/acquittal of right to land shall be conducted by the holder of right to the land by issuing statement letter of release/acquittal of right to the land in the interest of the government agency that needs the land, and the government agency concerned shall grant loss compensation to the holder of right to the land.
- (2) The release/acquittal of right to land referred to in paragraph (1) shall be implemented by the parties before the Head of Land Affairs Agency of Regency/Municipality, or the Land Deed Officials, or the Sub-District Chief acting as the Land Deed Officials.
- (3) Grant of loss compensation by the government agency that needs the land to the holders of rights to land which right to land has been released/acquittal based on deliberation as referred to in Article 59.

Article 57

- (1) If the land being delivered to the government agency bears no certificate yet, then delivery of the land shall be executed by the land owners against statement of

delivery of ownership of land in the interest of the government agency that needs the land, and the government agency concerned shall grant loss compensation to the land owners.

- (2) Delivery of land referred to in paragraph (1) shall be executed by the parties before the Head of Land Affairs Agency of Regency/Municipality.
- (3) Grant of loss compensation by government agency that needs the land to the land owners that have delivered their land shall be conducted by deliberation as referred to in Article 59.

Article 58

- (1) If the holder of right to land or the rightful party based on the statutory regulation is different from the owner of the building and/or owner of the plants and/or owner of the other items involving the land, then the loss compensation by the government agency that needs the land shall be granted to the holder of right or the rightful party based on the statutory regulation, and/or the owner of the building and/or owner of the plants and/or owner of the plants and/or owner of the other items being released to the government agency concerned.
- (2) Decision of the nature and/or amount of loss compensation for the building and/or plants and/or other items involving the land shall be made by deliberation between the government agency that needs the land and the owner concerned and shall be guided by the provision in the statutory regulation that governs the price standard concerned.

Article 59

- (1) The nature and/or amount of loss compensation for direct land procurement shall be decided by deliberation between the government agency that needs the land and the owner.
- (2) The deliberation referred to in paragraph (1) may be guided by the NJOP or the real/actual value with due observance of the current year NJOP around the location.

Article 60

If the land procurement referred to in Article 54 uses assistance of the Land Procurement Committee of Regency/Municipality, the land shall be procured by means of the land procurement as governed in Chapter IV Part One of this Regulation.

CHAPTER V

LAND PROCUREMENT OTHER THAN FOR CONSTRUCTION FOR PUBLIC INTEREST

Article 61

- (1) Procurement of land other than for construction for public interest as referred to in Article 2, paragraph (2), in conjunction with Article 22 of Presidential Regulation No.36 Year 2005 as amended by Presidential Regulation No.65 Year 2006, such as procurement of land for construction in the interest of the government agency, owned by the government or regional government, shall be conducted directly by sale and purchase, trade, or other means as agreed upon by the parties.
- (2) If the procurement of land referred to in paragraph (1) is not using assistance of the Land Procurement Committee of Regency/Municipality, then the procedure thereof shall also apply the provision in Article 55 through Article 59.
- (3) If the procurement of land referred to in paragraph (1) uses assistance of the Land Procurement Committee of Regency/Municipality, then procurement of the land thereof shall use the procedure for procurement of land as governed in Chapter IV Part One of this Regulation.

Article 62

If in the procurement of land referred to in Article 61 no agreement is reached on the nature and/or amount of loss compensation, the government agency that needs the land shall look for other location.

CHAPTER VI

ADMINISTRATION OF RIGHT TO LAND

Article 63

- (1) In the context of procurement of land as governed in Chapter IV and Article 61, the Land Procurement Committee of Regency/Municipality shall exercise documentation of the land procurement for each plot of land, consisting of:
 - a. proposal on construction plan;
 - b. resolution on decision of the location;
 - c. map of the plot of land, List of Land Owners, and List of Buildings Ownership and/or plants and/or other items involving the land;
 - d. announcement of the map of plot of land, list of holders of right to the land or the rightful parties in accordance with the statutory regulation, and list of Buildings Owners and/or plants and/or other items involving the land;
 - e. decision on the nature and/or amount of loss compensation and List of Nominative Loss Compensation Payment;
 - f. Invitation letters for deliberation;
 - g. Minutes on the result of Deliberation on the Location of Construction;
 - h. Proof of payment and receipt of loss compensation;
 - i. Proof of deposit of loss compensation money at the District Court;
 - j. Statement of release/delivery of the right to land;
 - k. Minutes of Loss Compensation Payment;
 - l. Documents of ownership, control, use and utilization of land involving the land; and
 - m. Other related documents.
- (2) The Land Procurement Committee of Regency/Municipality shall prepare Minutes of Land Procurement Implementation by attaching the documents referred to in paragraph (1), and deliver to:
 - a. the government agency that needs the land, in the form of original document;
 - b. the.....

- b. the Land Affairs Office of Regency/Municipality, in the form of record of the original document legalized by the competent authority;
- c. the master agency that needs the land in the form of record of the original document legalized by the competent authority;
- d. the Regent/Mayor or Governor for land within the Jakarta Capital City Special Region in the form of record of original document legalized by the competent authority.

Article 64

The Government agency that needs the land shall be responsible for:

- a. security and shall maintain the document file on the land procurement; and
- b. control, safeguard, and maintain the land that has been obtained/paid its loss compensation.

Article 65

- (1) Minutes of Payment of Loss Compensation and Minutes of the Result of Deliberation on the Location of Construction and Decision on the Nature and/or Amount of Loss Compensation shall also apply as grant of control from the holder of right to land to the government agency that needs the land to release/deliver the right to land or deliver the land to be the land under the State direct control.
- (2) Application for the right to the State Land referred to in paragraph (1) later shall be submitted with the right to the land that may be granted to the government agency that needs the land.

Article 66

The application for right to land referred to in Article 65, paragraph (2), shall be submitted by the government agency that needs the land to the Head of Land Affairs Agency of Regency/Municipality to process the right to land in accordance with the provision in the statutory regulation.

CHAPTER VII

IMPLEMENTATION OF PHYSICAL CONSTRUCTION

Article 67

- (1) Physical construction on the location obtained by the government agency that needs the land, shall commence after release/delivery of the right to land and/or delivery of the building and/or delivery of the plants referred to in Article 49 and Article 50, or the loss compensation money referred to in Article 48 has been deposited.
- (2) If the loss compensation to the rightful parties to the loss compensation is deposited at the District Court, the Regent/Mayor or Governor for area located within the Jakarta Capital City Special Region shall issue decision to carry on the physical construction.

CHAPTER VIII

EVALUATION AND SUPERVISION

Article 68

- (1) The Head of Land Affairs Agency Office of Regency/Municipality shall provide technical guidance on the land procurement in its area.
- (2) The Head of Land Affairs Agency Office of Regency/Municipality shall submit report on the procurement of land in its area to the Head of National Provincial Land Affairs Agency Office each quarter in the current year.
- (3) The Head of National Provincial Land Affairs Agency Office shall prepare report on the procurement of land in its area to the Head of National Land Affairs Agency of the Republic of Indonesia each semester in the current year.

Article 69

The Head of National Provincial Land Affairs Agency Office shall guide, manage, provide technical guidance and evaluate the procurement of land in its area.

CHAPTER IX

TRANSITIONAL PROVISION

Article 70

If no provision on the fee for land procurement duly stipulated by the Minister of Finance is not available yet as referred to in Article 7A of Presidential Regulation No.36 Year 2005 as amended by Presidential Regulation No.65 Year 2006, charge of fee:

- a. the Land Procurement Committee shall be guided by the provision in the statutory regulation;
- b. the Land Value Assessment Institution shall be guided by the provision in the statutory regulation on assessment service;
- c. the Land Value Assessment Team shall be guided by the provision in the statutory regulation.

Article 71

- (1) Procurement of land for construction for public interest as referred to in Article 5 of Presidential Regulation No.36 Year 2005 implemented prior to Presidential Regulation No.65 Year 2006 comes to force shall remain be governed by the old regulation.
- (2) Procurement of land referred to in paragraph (1) that has not obtained agreement on the nature and/or amount of loss compensation may proceed in accordance with this regulation.

CHAPTER X

CLOSING PROVISION

Article 72

- (1) The duty and responsibility of the Land Procurement Committee of Regency/Municipality shall expire after delivery of the document to the government agency that needs the land referred to in Article 63, paragraph (2).

- (2) Any issue arising after expiry of the land procurement shall not hamper the physical construction referred to in Article 67.
- (3) The nature and follow-up action for settlement of the issue referred to in paragraph (2) shall be in accordance with the content of judgment of settlement.

Article 73

Settlement of control or use of land without permit from the rightful parties or their attorneys, shall be governed based on the provision in Law No.51 Prp. Year 1960 concerning Prohibition from Using the Land Without Permit from the Rightful Parties or their Attorneys.

Article 74

With this regulation comes into force, Regulation of the State Minister of Agrarian Affairs/Head of National Land Affairs Agency No.1 Year 1994, concerning Provision on the Implementation of Presidential Decree No.55 Year 1993, concerning Procurement of Land for Construction for Public Interest, is hereby declared null and void.

Article 75

This Regulation shall take effect on the date it is stipulated.

Stipulated in Jakarta

On May 21, 2007

HEAD OF NATIONAL LAND AFFAIRS AGENCY
OF THE REPUBLIC OF INDONESIA

Sgd.

JOYO WINOTO, Ph.D.

====(MA)====