

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: May 5, 2009 [X] Consent [] Regular
[] Ordinance [] Public Hearing
Department: Facilities Development & Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

- A) adopt a Resolution authorizing the conveyance of the County's interest in 0.07 acres of surplus property to the Town of Ocean Ridge, without charge and with a reservation of mineral and petroleum rights, but without rights of entry and exploration; and
- B) approve a County Deed in favor of the Town of Ocean Ridge.

Summary: The Town of Ocean Ridge has requested the conveyance of a 0.07 acre parcel of County-owned surplus property located on Douglas Drive for public beautification, landscaping, and maintenance purposes. There is no identified County use for this parcel and, pursuant to F.S. 125.38, the County is authorized to convey property to a municipality at no charge. PREM Ordinance 2002-067 requires that when the value of real property, as determined by the County Property Appraiser, is greater than \$25,000 that one appraisal must be obtained prior to the approval of the sale of the property by the Board. Although this parcel has an assessed value of \$30,000, Staff recommends that the Board approve the conveyance to the Town without being appraised for the following reasons: (i) the assessed value of the parcel is only \$5,000 above the threshold whereby an appraisal is required; (ii) the conveyance is to the Town at no charge; and (iii) the conveyance is subject to restrictions, conditions and a reverter in favor of the County. The conveyance to the Town is subject to the following: (i) the maintenance of unrestricted public access across the property to the beach; (ii) the property shall be planted only with native South Florida vegetation; and (iii) no improvements shall be constructed on the property other than the replacement of the existing pathway and bench. In the event the Town violates the restrictions set forth in the County Deed, title to the property shall automatically revert to the County. The County's Department of Environmental Resources Management has reviewed this conveyance and has no objections. Staff believes that this parcel will be more appropriately managed and maintained by the Town. The County will retain mineral and petroleum rights in accordance with F.S. 270.11, without rights of entry and exploration. (PREM) District 4 (HJF)

Background and Justification: On July 23, 2002, the Board accepted the donation of the Douglas Drive parcel and approved a non-exclusive Pedestrian Easement over the donated parcel to provide beach access to the donors (R2002-1232). This conveyance will allow the Town to use the parcel for public beautification, landscaping, and dune maintenance purposes. The Town approved the acceptance of the County Deed at its April 6, 2009 Town meeting.

Attachments:

- 1. Location Map
- 2. Resolution
- 3. County Deed
- 4. Letters from the Town (11-6-08 and 4-7-09)
- 5. Florida Statutes Sections 270.11 and 125.38

Recommended By: [Signature] Department Director Date: 4/17/09
Approved By: [Signature] County Administrator Date: 4/27/09

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2009	2010	2011	2012	2013
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u><u>-0-</u></u>	<u><u>-0-</u></u>	<u><u>-0-</u></u>	<u><u>-0-</u></u>	<u><u>-0-</u></u>
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget: Yes _____ No _____

Budget Account No: Fund _____ Dept _____ Unit _____ Object _____
 Program _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

No fiscal impact.
 Conveyance of this property will eliminate the County's ongoing maintenance and liability.

C. Departmental Fiscal Review: _____

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

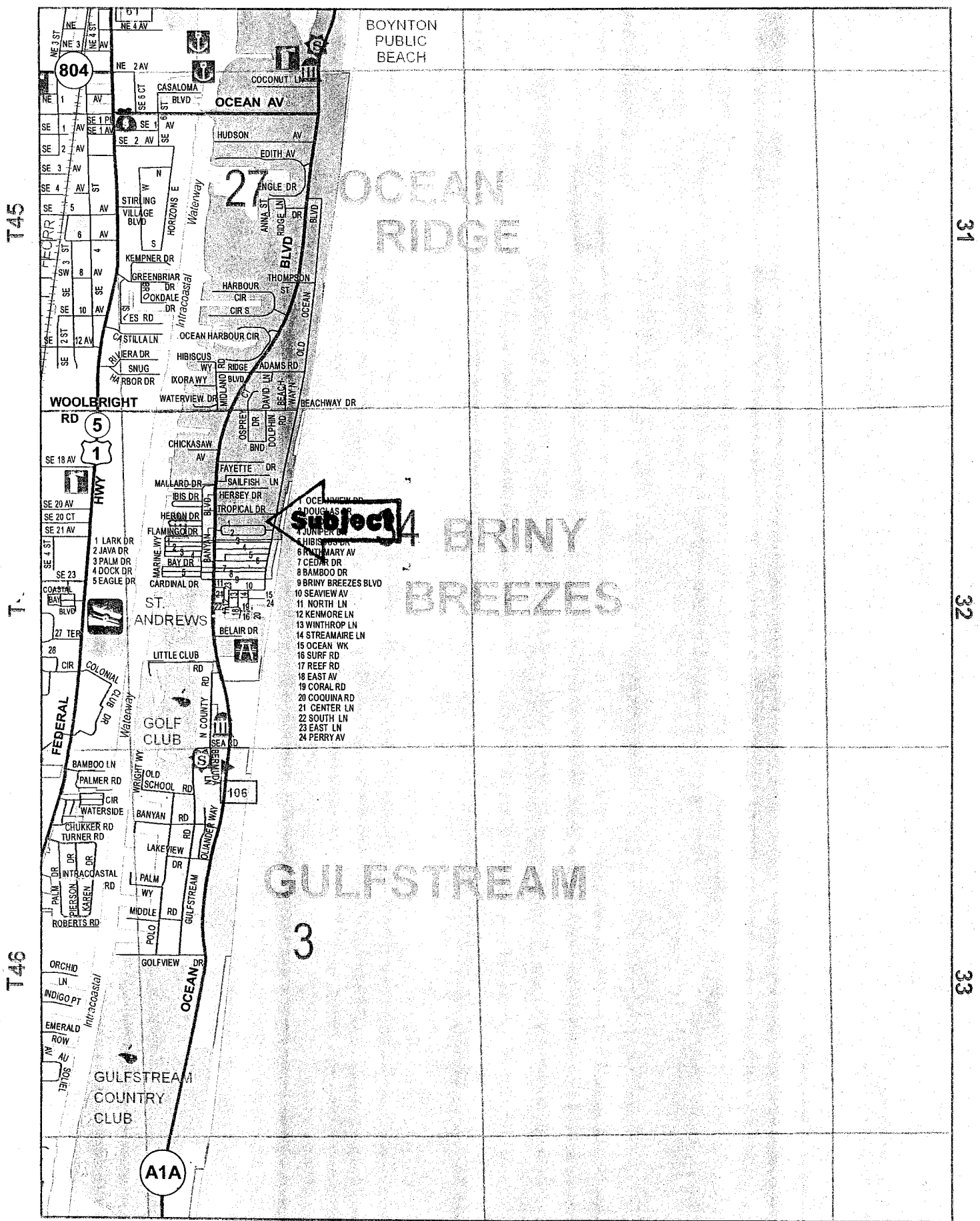
<p><u>John D. ... 4-22-09</u> OFMB (MD) 4/22/09 CN 4/20/09</p>	<p><u>... 4/23/09</u> Contract Development and Control</p>
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B. Legal Sufficiency:
... 4/27/09
 Assistant County Attorney

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.



LOCATION MAP

ATTACHMENT # 1

Handwritten signature or initials.

RESOLUTION NO. 200 ____

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE CONVEYANCE OF CERTAIN REAL PROPERTY TO THE TOWN OF OCEAN RIDGE, PURSUANT TO FLORIDA STATUTE SECTION 125.38, WITHOUT CHARGE AND WITH MINERAL AND PETROLEUM RIGHTS RESERVATION WITHOUT RIGHTS OF ENTRY AND EXPLORATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Ocean Ridge, a municipal corporation of the State of Florida ("Town"), has made application to the Board of County Commissioners of Palm Beach County requesting that Palm Beach County convey 0.07 acres of surplus real property to Town for use by Town for public beautification, landscaping, and maintenance purposes.

WHEREAS, the Board of County Commissioners of Palm Beach County hereby finds that the aforementioned use constitutes a use for the community interest and welfare, such real property is required for such use and such real property is not needed for County purposes.

WHEREAS, pursuant to Florida Statute Section 270.11, Town has requested that such property be conveyed without reservation of and to release the rights of entry and exploration relating to mineral and petroleum rights; and,

WHEREAS, the Board of County Commissioners of Palm Beach County hereby agrees to convey such property reserving phosphate, mineral, metals and petroleum rights but releasing any and all rights of entry and exploration relating to such rights.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

Section 1. Recitals

The foregoing recitals are true and correct and incorporated herein by reference.

Section 2. Authorization to Convey Real Property

The Board of County Commissioners of Palm Beach County shall convey to Town without charge and by County Deed attached hereto and incorporated herein by reference, the real property legally described in such County Deed, subject to restrictions and conditions that: (i) require the maintenance of unrestricted public access across the property, (ii) prohibit the planting on the property of any vegetation other than vegetation native to South Florida, and (iii) prohibit construction of any additional improvements on the property.

Section 3. Conflict with Federal or State Law or County Charter

Any statutory or Charter provisions in conflict with this Resolution shall prevail.

Section 4. Effective Date

The provisions of this Resolution shall be effective immediately upon adoption hereof.

The foregoing resolution was offered by Commissioner _____ who moved its adoption. The Motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

COMMISSIONER JOHN F. KOONS, CHAIRMAN
COMMISSIONER BURT AARONSON, VICE CHAIRMAN
COMMISSIONER KAREN T. MARCUS
COMMISSIONER SHELLEY VANA
COMMISSIONER STEVEN L. ABRAMS
COMMISSIONER JESS R. SANTAMARIA
COMMISSIONER ADDIE L. GREENE

The Chairman thereupon declared the resolution duly passed and adopted this
____ day of _____, 200__.

PALM BEACH COUNTY, a political
subdivision of the State of Florida
BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK
CLERK & COMPTROLLER

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS
AND CONDITIONS

By: _____
Assistant County Attorney

By: Rett Anthony Wolf
Department Director

PREPARED BY AND RETURN TO:
Ted A. Simmons
PALM BEACH COUNTY
PROPERTY & REAL ESTATE MANAGEMENT DIVISION
2633 Vista Parkway
West Palm Beach, FL 33411-5605

PCN: 46-43-45-34-05-001-0712
Closing Date: _____
Purchase Price: \$0.00

COUNTY DEED

This COUNTY DEED, made _____, by **PALM BEACH COUNTY**, a political subdivision of the State of Florida, whose legal mailing address is 301 North Olive Avenue, West Palm Beach, Florida, 33401-4791, "County", and **TOWN OF OCEAN RIDGE**, a municipal corporation of the State of Florida, whose legal mailing address is 6450 North Ocean Boulevard, Ocean Ridge, Florida 33435, "Town".

WITNESSETH:

That County, for and in consideration of the sum of Ten and 00/100 Dollars (\$10.00) to it in hand paid by Town, the receipt whereof is hereby acknowledged, has granted, bargained and sold to Town, its successors and assigns forever, the following described land lying and being in Palm Beach County, Florida:

See **Exhibit "A"** attached hereto and made a part hereof (the "**Property**")

subject to the following reservation, restrictions, and conditions:

1. There is reserved unto County, its successors and assigns, an undivided three-fourths ($\frac{3}{4}$) interest in, and title in and to an undivided three-fourths ($\frac{3}{4}$) interest in, all the phosphate, minerals, and metals that are or may be in, on, or under the said land and an undivided one-half ($\frac{1}{2}$) interest in all petroleum that is or may be in, on, or under said land. The aforementioned reservation of phosphate, mineral, metals and petroleum rights shall not include, and County hereby expressly releases, any and all rights of entry and rights of exploration relating to such phosphate, mineral, metals and petroleum rights.
2. Town shall maintain the existing unrestricted public access across the Property to the beach.
3. The planting of any vegetation on the Property other than vegetation native to South Florida is prohibited.
4. Town shall not construct, nor allow the construction of, any additional improvements on the Property. The existing pathway and bench may be replaced with similar replacements, if necessary.

5. In the event that Town violates the conditions or restrictions stated herein, title to the Property shall automatically revert to County. Notwithstanding such automatic reverter, Town shall execute and deliver to County a statutory warranty deed upon County's request.

IN WITNESS WHEREOF, County has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chairman or Vice Chairman of said Board, the day and year aforesaid.

ATTEST:

SHARON R. BOCK
CLERK & COMPTROLLER

PALM BEACH COUNTY, a political
subdivision of the State of Florida

By: _____
Deputy Clerk

By: _____
John F. Koons, Chairman

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

(OFFICIAL SEAL)

By: _____
Assistant County Attorney

Exhibit "A"

The South ½ of the following described parcel of land:

A parcel of land in Fractional Section 34, Township 45 South, Range 43 East, Palm Beach County, Florida, more particularly described as follows:

Commencing at the intersection of the South line of Lot 20 in Block A of PALM BEACH SHORE ACRES, (OCEAN BOULEVARD ESTATES), according-to-plat-of-Blocks A, B and Z of said PALM BEACH SHORE ACRES, recorded in Plat Book 7, Page 15, of the public Records of Palm Beach County, Florida, and the East right-of-way line of OCEAN BOULEVARD, as now located; thence run Northerly along the East right-of-way line of Ocean Boulevard, as now located, a distance of 240 feet for the Point of Beginning of this description; thence continue Northerly along the East right-of-way of OCEAN BOULEVARD, as now located, to the intersection of the East right-of-way line of OCEAN BOULEVARD, as now located, with the North line of Lot 18 in Block A of said PALM BEACH SHORE ACRES; thence run Easterly along the Northerly boundary line of said Lot 18, to the Atlantic Ocean; thence run Southerly along the Atlantic Ocean to the Point of Intersection of a line parallel to the South boundary line of said Lot 18 drawn from Point of Beginning; thence run Westerly parallel to the South boundary line of said Lot 18 to the Point of Beginning.

TOWN OF OCEAN RIDGE

6450 NORTH OCEAN BOULEVARD
OCEAN RIDGE, FLORIDA 33435

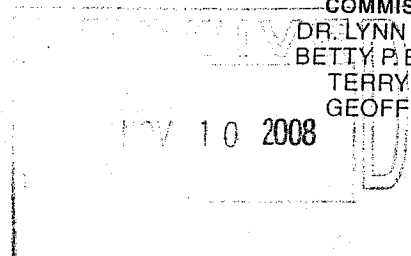
TELEPHONE: (561) 732-2635
FAX: (561) 737-8359

KENNETH M. KALEEL
MAYOR, CHAIRMAN OF COMMISSION

KENNETH N. SCHENCK, JR.
TOWN MANAGER



COMMISSIONERS
DR. LYNN L. ALLISON
BETTY P.B. BINGHAM
TERRY BROWN
GEOFF A. PUGH



November 6, 2008

Mr. Ross Hering
Director of Property and Real Estate management
Palm Beach County
2633 Vista Parkway
West Palm Beach, Fl. 33411

Re; Transfer of County Property

Dear Mr. Hering,

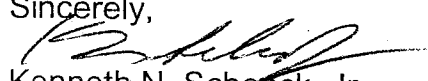
Palm Beach County presently owns three parcels of land in the Town of Ocean Ridge that are of no real use to the County. The Town Commission is requesting that these properties be turned over to the Town. Enclosed is a Property Appraisers map delineating these properties.

The first is an area of the dune on the beach that has a beach access. The Town's Garden Club would like to beautify this area as a dune demonstration. They prefer to do it as Town property and not County property. The dune needs a lot of work as there haven't been any improvements made. I've discussed this request with Dan Bates.

The other properties are narrow strips on A1A at Harbour Drive. There has been a request to landscape the area but it would have to be Town property in order for that to occur.

I would appreciate it if you would let me know what we need to do to make this transfer. Please call me if you have any questions. Thank you for your assistance.

Sincerely,


Kenneth N. Schenck, Jr.
Town Manager

THE MISSION OF THE TOWN OF OCEAN RIDGE IS TO CREATE AND MAINTAIN A BEAUTIFULLY LANDSCAPED,
DIVERSE SEASIDE COMMUNITY BUILT AROUND THE FAMILY AND CIVIC PRIDE, STATE OF THE ART
PUBLIC SERVICES AND INFRASTRUCTURE THAT ENHANCES THE NATURAL BEAUTY OF OUR TOWN.

ATTACHMENT #4

TOWN OF OCEAN RIDGE

6450 NORTH OCEAN BOULEVARD
OCEAN RIDGE, FLORIDA 33435

TELEPHONE: (561) 732-2635
FAX: (561) 737-8369

KENNETH M. KALEEL
MAYOR, CHAIRMAN OF COMMISSION

KENNETH N. SCHENCK, JR.
TOWN MANAGER



COMMISSIONERS
DR. LYNN L. ALLISON
BETTY P. B. BINGHAM
TERRY BROWN
GEOFF A. PUGH

April 7, 2009

Mr. Ross Hering
Director of Property and Real Estate Management
Palm Beach County
2633 Vista Parkway
West Palm Beach, Fl. 33411

Re: Transfer of County Dune Property: PCN 46-43-45-34-05-001-0712

Dear Mr. Hering

The Town Commission voted to accept the subject property with the conditions outlined in the deed. Please process the necessary documents.

If there is anything we need to do please let me know. The Town, along with the Garden Club, is anxious to begin improving the property as a model dune area. Thank you very much for your assistance with this property transfer.

Sincerely,

Kenneth N. Schenck, Jr.
Town Manager

THE MISSION OF THE TOWN OF OCEAN RIDGE IS TO CREATE AND MAINTAIN A BEAUTIFULLY LANDSCAPED,
DIVERSE SEASIDE COMMUNITY BUILT AROUND THE FAMILY AND CIVIC PRIDE, STATE OF THE ART
PUBLIC SERVICES AND INFRASTRUCTURE THAT ENHANCES THE NATURAL BEAUTY OF OUR TOWN.

FLORIDA STATUTE 270.11

Title XVIII

PUBLIC LANDS AND PROPERTY

Chapter 270

Public Lands

270.11 Contracts for sale of public lands to reserve certain mineral rights; prohibition on exercise of right of entry in certain cases.--

- (1) Except as otherwise provided by law, in all contracts and deeds for the sale of land executed by the Board of Trustees of the Internal Improvement Trust Fund or by any local government, water management district, or other agency of the state, there shall be reserved for such local government, water management district, other agency of the state, or the board of trustees and its successors an undivided three-fourths interest in, and title in and to an undivided three-fourths interest in, all the phosphate, minerals, and metals that are or may be in, on, or under the said land and an undivided one-half interest in all the petroleum that is or may be in, on, or under said land with the privilege to mine and develop the same. *
- (2)(a) The Board of Trustees of the Internal Improvement Trust Fund may, in its discretion, sell or release any reserved interest or any portion thereof in or as to any particular parcel of land, and the State Board of Education may sell or release any such interest or any portion thereof which was reserved for said board pursuant to this section prior to September 1, 1967. Such sale or release shall be made on application of the owner of the title to the particular parcel of land with statement of reason justifying such sale or release.
- (b) The right of entry in respect to any interest in phosphate, minerals, and metals or any interest in petroleum heretofore or hereafter reserved in favor of the Board of Trustees of the Internal Improvement Trust Fund or the State Board of Education is hereby released as to any parcel of property that is, or ever has been, a contiguous tract of less than 20 acres in the aggregate under the same ownership.
- (3) A local government, water management district, or agency of the state may, at its discretion, sell or release such reserved interest in any parcel of land, except that such sale or release shall be made upon petition of the purchaser for such interest and upon submission by the local government, water management district, or agency of the state which owns the parcel of a statement of reasons justifying such sale or release.
- (4) Any state agency, except a water management district, which receives royalties for parcels shall remit any such moneys into the General Revenue Fund, unless otherwise provided by law.
- History.**--ss. 1, 2, ch. 6159, 1911; RGS 1226; CGL 1771; s. 1095, ch. 19355, 1939; CGL 1940 Supp. 892(414); s. 1, ch. 26849, 1951; s. 1, ch. 59-220; s. 2, ch. 61-119; ss. 27, 35, ch. 69-106; s. 76, ch. 71-355; s. 1, ch. 86-205; s. 1, ch. 86-257.

FLORIDA STATUTES 125.38

The 2002 Florida Statutes

Title XI
COUNTY ORGANIZATION AND INTERGOVERNMENTAL
RELATIONS

Chapter 125
COUNTY
GOVERNMENT

[View Entire Chapter](#)

125.38 Sale of county property to United States, or state.--If the United States, or any department or agency thereof, the state or any political subdivision or agency thereof, or any municipality of this state, or corporation or other organization not for profit which may be organized for the purposes of promoting community interest and welfare, should desire any real personal property that may be owned by any county of this state or by its board of county commissioners, for public or community interest and welfare, then the United States, or any department or agency thereof, state or such political subdivision, agency, municipality, corporation or organization may apply to the board of county commissioners for a conveyance or lease of such property. Such board, if satisfied that such property is required for such use and is not needed for county purposes, may thereupon convey or lease the same at private sale to the applicant for such price, whether nominal or otherwise, as such board may fix, regardless of the actual value of such property. The fact of such application being made, the purpose for which such property is to be used, and the price or rent therefor shall be set out in a resolution duly adopted by such board. In case of a lease, the term of such lease shall be recited in such resolution. No advertisement shall be required.

History.--s. 4, ch. 23829, 1947.