

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date:	Date October 8, 2019	<input type="checkbox"/> Consent	<input checked="" type="checkbox"/> Regular
		<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing
Submitted By:	Facilities Development & Operations		
For:	Engineering and Public Works and Housing and Economic Sustainability		

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: on preliminary reading and advertise for public hearing on October 22, 2019 at 9:30 a.m. an Ordinance of the Board of County Commissioners of Palm Beach County, Florida, repealing and replacing Chapter 22, Article VI of the Palm Beach County Code (Ordinance No. 2009-052 The Palm Beach County Real Property Acquisition, Disposition and Leasing Ordinance); providing for a title; providing for definitions; providing for determination of value; providing for standards and procedures for the sale or lease of real property; providing for delegation of authority; providing for supermajority vote; providing for the property review committee; providing for repeal of laws in conflict; providing for severability; providing captions; providing for inclusion in the code of laws and ordinances; and providing an effective date.

Summary: The Palm Beach County Acquisition, Disposition and Leasing Ordinance ("PREM Ordinance") was amended in 2009 to implement recommendations of the Palm Beach County Grand Jury, including requiring a supermajority vote to approve all purchases, sales and exchanges and establishing a Property Review Committee ("PRC") to review real estate transactions which: i) are based upon appraisals utilizing hypothetical conditions, extraordinary assumptions, or assume a change in land use, comprehensive plan amendment or concurrency other than currently exists; ii) the price varies from the appraisal value by more than 10%; or iii) are an exchange of real properties in which the value of the property to be conveyed or received by the County exceeds \$250,000. Transactions for less than \$250,000 are exempt from PRC review. At the request of Engineering and the County Attorney's Office, the 10% valuation threshold is being increased to 15% for acquisitions of right-of-way generally, and acquisitions which involve eminent domain and/or inverse condemnation litigation will be exempt from PRC review. At the request of Housing and Economic Sustainability, this repealed and replaced PREM Ordinance allows for the sale of workforce housing units in accordance with the Workforce Housing Program to be sold directly to a qualified buyer without a competitive process, without appraisals, and without review by the PRC. The sale of workforce housing units acquired by the County is governed by the Workforce Housing Financial Assistance Strategy adopted by the Board and requires flexibility in the pricing and sales process utilized to transfer the units to qualified buyers. Resolution R2013-1421 established the PRC with five (5) members with a mix of qualifications and three (3) year terms. The PRC has not met to review a qualifying real estate transaction in 3 years, and currently does not have

Continued on page 3

Attachments:

- 1. Ordinance Amending Palm Beach County Code
- 2. Redlined Ordinance showing changes

Recommended By:


Department Director

9-30-19
Date

Approved By:

County Administrator

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

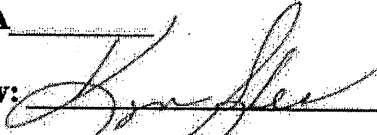
Fiscal Years	2020	2021	2022	2023	2024
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	=====	=====	=====	=====	=====
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____
Is Item Included in Current Budget:		Yes _____	No _____		
Does this item include the use of federal funds?	Yes _____	No <u> X </u>			
Budget Account No:	Fund _____	Dept _____	Unit _____	Object _____	
		Program _____			

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

No fiscal impact.

Fixed Assets Number N/A

C. Departmental Fiscal Review:



III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

OFMB


Contract Development and Control

B. Legal Sufficiency:

Assistant County Attorney

C. Other Department Review:

David Ricks, Director Engineering &
Public Works



Jonathan B. Brown, Director
Housing & Economic Sustainability

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

Summary Continued: enough members to achieve a quorum. Staff is submitting a companion agenda item to approve a Resolution reducing the number of committee members from 5 to 3 to assist in filling the Committee. This repealed and replaced PREM Ordinance also requires disclosure of appraised values in the summary section of the agenda item presented for Board approval. Except for the changes noted above, this repealed and replaced PREM Ordinance contains the same provision as the existing PREM Ordinance. **(Property & Real Estate Management) Countywide (HJF)**

Background and Policy Issues Continued: In response to recommendations of the Palm Beach County Grand Jury, the Property Review Committee was established in February of 2010 by Resolution No R2010-0292 which was repealed and replaced by Resolution R2013-1421.

The purpose of the PRC was to review, evaluate and advise the Board on transactions which met certain triggers and thresholds established in the PREM Ordinance. The PREM Ordinance requires PRC review of transactions: i) which utilize appraisals based upon hypothetical conditions or extraordinary assumptions; ii) where the price varies from appraisals by more than 10%; or iii) which are an exchange of property where the value of the property to be conveyed or received by the County exceeds \$250,000. Transactions for less than \$250,000 are exempt from PRC review.

This repealed and replaced PREM Ordinance provides that where appraisals are required, the summary section of the agenda item approving the transaction shall clearly disclose the appraised value(s).

Where the County has a need for property in a set location and failure to reach an agreement on price would result in the County being forced to condemn the property and pay attorneys fees and costs, it is often necessary to agree to pay more than appraised value. This is the case with most right-of-way acquisitions. Increasing the amount by which the purchase price can exceed the appraised value without PRC review of right-of-way transactions from 10% to 15% will facilitate timely completion of right-of-way transactions. The PRC meetings are public meetings. When right-of-way transactions involve eminent domain and/or inverse condemnation litigation, disclosure of negotiation strategy and issues with appraisal values can seriously impair the County's position in litigation. For these reasons, the repealed and replaced Ordinance exempts right-of-way acquisitions involved in eminent domain and/or inverse condemnation litigation from PRC review.

There have been no transactions submitted to the PRC in the last 3 years. Because of term limits, and difficulty in finding qualified individuals willing to serve, the PRC does not currently have a quorum. Staff is submitting a companion agenda item for approval of a Resolution reducing the number of committee members from 5 to 3. The qualifications of each representative are: (i) one representative from the Palm Beach County Property Appraiser's Office; (ii) one representative licensed as a real estate broker with an office in Palm Beach County and expertise in Palm Beach County commercial real estate; and (iii) one representative with expertise in land planning, eminent domain and/or real estate law who is a licensed attorney with offices in Palm Beach County.

The County's Workforce Housing Program was initially established to provide incentives for developers to develop workforce housing units and to sell those units directly to qualified buyers. Recently the County has purchased unsold developer constructed workforce housing units in an effort to prevent those units from being released from the workforce housing restrictions. Now the County is in the process of selling those units to buyers who meet the income qualifications of the Program. The pricing for those units may need to be reduced below appraised value in line with the income qualifications of the buyer. In addition, the program requires the ability to directly contract with a qualified buyer without a competitive procurement process. This repealed and replace PREM Ordinance exempts the sale of workforce housing units to a qualified buyer pursuant to the Workforce Housing Program from the requirement to obtain appraisals; the requirement to utilize a competitive bid or RFP process; and the requirement of PRC review.

ATTACHMENT 1
Ordinance Amending Palm Beach County Code
8 pages

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, REPEALING AND REPLACING CHAPTER 22, ARTICLE VI OF THE PALM BEACH COUNTY CODE (ORDINANCE NO. 2009-052 THE PALM BEACH COUNTY REAL PROPERTY ACQUISITION, DISPOSITION AND LEASING ORDINANCE); PROVIDING FOR A TITLE, PROVIDING FOR DEFINITIONS; PROVIDING FOR DETERMINATION OF VALUE; PROVIDING FOR STANDARDS AND PROCEDURES FOR SALE OR LEASE OF REAL PROPERTY; PROVIDING FOR DELEGATION OF AUTHORITY; PROVIDING FOR SUPERMAJORITY VOTE; PROVIDING FOR THE PROPERTY REVIEW COMMITTEE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING CAPTIONS; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 125, Florida Statutes, authorizes counties to adopt ordinances consistent with general and special law to provide for the health, safety and welfare of its citizens; and

WHEREAS, the Board of County Commissioners previously enacted the “Palm Beach County Real Property Acquisition, Disposition and Leasing Ordinance” which is codified at Chapter 22, Article VI of the Palm Beach County Code; and

WHEREAS, the Board of County Commissioners desires to repeal and replace such Ordinance to change definitions; capitalize terms; increase the thresholds for PRC review of right-of-way acquisitions and exempt right-of-way acquisitions involving eminent domain and/or inverse condemnation litigation from PRC review; and to exempt the sale of workforce housing units from certain requirements hereof.

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

40 **Article 1. REPEAL and REPLACEMENT** Chapter 22, Article VI of the Palm
41 Beach County Code, is hereby repealed in its entirety and replaced with the
42 following:

43 **Sec. 22-101. Title.**

44
45 This article shall be known and may be cited as the "Palm Beach County
46 Real Property Acquisition, Disposition and Leasing Ordinance."

47 **Section 22-102. Definitions.**

48 *Board* means the Board of County Commissioners of the County.

49 *County* means Palm Beach County, Florida.

50 *Department* means the County Facilities Development and Operations Department.

51 *Division* means the Property and Real Estate Management Division of the County
52 Facilities Development and Operations Department.

53 *Extraordinary Assumption* means an assumption, directly related to a specific
54 appraisal, which, if found to be false, could alter the appraiser's opinions or conclusions.
55 Extraordinary Assumptions presume as fact otherwise uncertain information about
56 physical, legal, or economic characteristics of the subject property or about conditions
57 external to the property such as market conditions or trends or about the integrity of data
58 used in an appraisal analysis.

59 *Hypothetical Condition* means a condition not presently existing but supposed for the
60 purpose of analysis in an appraisal. Hypothetical Conditions assume conditions contrary
61 to known facts about physical, legal, or economic characteristics of the subject property
62 or about conditions external to the property, such as market conditions or trends or about
63 the integrity of data used in an appraisal analysis.

64 *Invitation to Bid* means a solicitation for offers for the sale or lease of County-owned
65 real property in which price is the sole basis for evaluation of responses.

66 *Person* includes, but is not limited to, individuals, associations, partnerships,
67 corporations, limited liability companies, joint ventures and all other groups and
68 combinations.

69 *Request for Proposals* means a solicitation for proposals for the sale or lease of
70 County-owned real property in which evaluation of responses is based primarily upon
71 previously established criteria that include factors other than price.

72 *Response* means a responsive bid or proposal submitted by a responsible person in
73 response to a solicitation.

74 *Right-of-Way* means real property that will be used for development of a public
75 road or supporting infrastructure.

76 *Solicitation* means an Invitation to Bid or Request for Proposals.

77 *Workforce Housing Program* means the Workforce Housing Program
78 established by Ordinance No. 2006-055, as amended and as implemented in
79 accordance with the Workforce Housing Program Financial Assistance Strategy
80 approved by the Board on May 15, 2018.

81 **Section 22-103. Determination of value.**

82 (a) If the proposed purchase price of real property to be acquired through purchase
83 by the County or the value of real property, as determined by the County property
84 appraiser, to be disposed of through sale by the County is:

85 (1) Twenty five thousand dollars (\$25,000) or less, no appraisal shall be
86 required.

87 (2) Greater than twenty five thousand dollars (\$25,000) but less than five
88 hundred thousand dollars (\$500,000), at least one (1) appraisal shall be
89 obtained prior to approval of the agreement for purchase or sale by the Board.

90 (3) Five hundred thousand dollars (\$500,000) or more, at least two (2)
91 appraisals shall be obtained prior to approval of the agreement for purchase or
92 sale by the Board.

93 (b) The County may, at its option, utilize federal procedures for obtaining
94 appraisals where federal requirements for a specific transaction differ than those set
95 forth in this section.

96 (c) Acquisitions of real property from another governmental entity are exempt
97 from the requirements of this section when the assessed value of the real property,
98 as determined by the County property appraiser, is equal to or greater than the
99 purchase price of the real property;

100 (d) Acquisitions of Right-of-Way are exempt from the requirements of (a), (b) and
101 (c) of this section.

102 (e) The sale of workforce housing units to a qualified buyer pursuant to the
103 Workforce Housing Program are exempt from the requirements of this section.

104 (f) Appraisal values and use of Extraordinary Assumptions or Hypothetical
105 Conditions shall be clearly disclosed in the summary section of the agenda item
106 presented to the Board for approval of a transaction.

107 (g) The Board shall not be required to comply with the requirements of F.S.
108 §125.355, as may be amended, unless the Board seeks to utilize the exemption from
109 F.S. §119.07, as may be amended, for information relating to the purchase of real
110 property or except as otherwise required by law.

111 **Section 22-104. Standards and procedures for the sale or lease of real**
112 **property.**

113 (a) Any interested Person may request information regarding the procedures for
114 the acquisition or lease of County-owned real property by written request to the
115 division.

116 (b) Except as otherwise provided in this section, the Division shall utilize one (1) of
117 the following types of negotiation procedures in the selection of a Person to whom
118 County owned real property may be sold or leased: Invitation for Bid or Request for
119 Proposals. The Solicitation issued by the Division shall provide for the competition

120 and qualification standards upon which the sale or lease of County owned real
121 property will be determined. Public notice of the County's intent to consider the
122 sale or lease of the County owned real property and the availability of the
123 competition and qualification standards shall be provided a reasonable period of
124 time prior to the date set for submission of responses to the Solicitation. The
125 Division shall notify all Persons who have submitted a response by United States
126 regular mail, email or hand-delivery of the County's intention to consider final
127 action regarding the sale or lease of the County owned real property at a regular
128 meeting of the Board. The notice shall state the time and manner for making
129 objections and shall be mailed or delivered to the address provided to the Division
130 or transmitted by email to the email address provided to the Division.

131 (c) In no event shall the sale or lease of County-owned real property violate the County
132 comprehensive plan or zoning regulations of the County.

133 (d) Notwithstanding the provisions of section 22-104(b) above, the County may, in its
134 discretion:

135 (1) Extend the term of or otherwise modify the terms of an existing lease upon a
136 finding by the Board that such extension or modification is in the best interests of
137 the County.

138 (2) Negotiate the sale or lease of real property with a particular person based upon
139 a finding by the Board that the Person is the only Person capable of reasonably
140 utilizing the real property for the use which the Board has determined to be the
141 highest and best use of the real property. Circumstances justifying such action
142 may include, but shall not be limited to, the location or restrictions on the use of
143 the real property.

144 (3) Negotiate a lease of real property for a term not to exceed ninety (90)
145 consecutive days.

146 (e) The provisions of this section shall not apply to any sale or lease of real property
147 which is exempt from the competitive bidding requirements of F.S. § 125.35, as may be
148 amended; to exchanges of real property pursuant to F.S. § 125.37, as may be amended; to
149 any sale or lease of real property pursuant to F.S. § 125.38, as may be amended; or to the
150 sale of workforce housing units to a qualified buyer pursuant to the Workforce Housing
151 Program.

152 **Section 22-105. Delegation of authority.**

153 (a) The County Administrator or designee shall have the authority to execute, on
154 behalf of the Board, license agreements and limited term easements using standard
155 form documents approved by the Board and such other standard form documents
156 as may be approved by the Board from time to time.

157 **Section 22-106. Supermajority vote.**

158 All purchases (including eminent domain), sales and exchanges of fee simple title to
159 real property (including conveyances for no or nominal consideration) must be approved
160 by a supermajority vote (five (5) commissioners) of the Board. The foregoing
161 supermajority vote requirement will not apply to internal interdepartmental transactions
162 or transactions that do not require separate Board action due to a delegation of authority
163 by the Board to County staff prior to January 1, 2010. On or after January, 2010,
164 delegation of authority to staff by the Board relating to purchases, sales and exchanges
165 (including eminent domain and conveyances for no or nominal consideration) must be
166 approved by a supermajority vote of the Board.

167 **Section 22-107. Property Review Committee.**

168 (a) The Board shall create by resolution, within sixty (60) days of the effective date of
169 this ordinance a committee to be named the property review committee to review,
170 evaluate and advise the Board regarding real estate transactions involving the purchase
171 sale or exchange of fee simple title to real property, which transactions:

172 (1) Are based on appraisal(s) utilizing hypothetical conditions or extraordinary
173 assumptions.

174 (2) Are based upon appraisal(s) assuming a change of land use, a comprehensive
175 plan amendment or concurrency other than that which currently exists.

176 (3) Involve a purchase in which the purchase price of the real property is greater
177 than one hundred ten (110) percent of the fair market value as determined by the
178 appraisal or the average of the appraisals obtained by the County. Acquisitions of
179 Right-of-Way require review where the purchase price is greater than one hundred
180 fifteen (115) percent of the fair market value.

181 (4) Involve a sale in which the sale price of the real property is lower than ninety
182 (90) percent of the fair market value as determined by the appraisal or the average of
183 the appraisals obtained by the County.

184 (5) Involve an exchange of real property in which the purchase or sale price of the
185 real property to be conveyed to or by the County, plus any additional consideration to
186 be paid to or by the county in the exchange transaction exceeds two hundred fifty
187 thousand dollars (\$250,000.00).

188 (b) The Board and the County Administrator shall be entitled to direct County staff to
189 present to the property review committee any real property transaction not otherwise
190 required by this ordinance to be presented to the property review committee.

191 (c) The provisions of this section shall not apply to transactions for less than two
192 hundred fifty thousand dollars (\$250,000.00); acquisitions of Right-of-Way which
193 involve eminent domain and/or inverse condemnation litigation; transactions subject to
194 Federal Aviation Administration review or audit with the exception of off-airport
195 transactions for a non airport purpose; transactions pursuant to chapter 11, article XV, of
196 this Code, the "conservation lands protection ordinance"; any intergovernmental
197 conveyance of real property pursuant to Florida Statutes, § 125.38, as may be amended;
198 or the sale of workforce housing units to a qualified buyer in accordance with the
199 Workforce Housing Program.

200 **Article 2. REPEAL OF LAWS AND ORDINANCES IN CONFLICT:**

201 All local laws and ordinances in conflict with any provision of this
202 Ordinance are hereby repealed to the extent of any such conflict.

203 **Article 3. SEVERABILITY:**

204 If any provision, article, paragraph, sentence, clause, phrase, or work of this
205 Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or
206 void, such holding shall not affect the remainder of this Ordinance.

207 **Article 4. CAPTIONS:**

208 The captions, sections headings, and section designations used in this
209 Ordinance are for convenience only and shall have no effect on the interpretation of
210 the provisions of this Ordinance.

211 **Article 5. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

212 The provisions of this Ordinance shall become and be made a part of the
213 Code of Laws and Ordinances of Palm Beach County, Florida. The articles and
214 sections of this Ordinance may be renumbered or relettered to accomplish such, and
215 the word "Ordinance" may be changed to "Section", "Article", or other appropriate
216 word.

217 **Article 6. EFFECTIVE DATE:**

218 The provision of this Ordinance shall become effective upon filing
219 with the Department of State.

220 APPROVED and ADOPTED by the Board of County Commissioners of
221 Palm Beach County, Florida, on this the _____ day of October, 2019.

222 SHARON R. BOCK PALM BEACH COUNTY, FLORIDA, BY ITS
223 CLERK & COMPTROLLER BOARD OF COUNTY COMMISSIONERS

224

225 By: _____
226 Deputy Clerk

By: _____
Mack Bernard, Mayor

227

228 APPROVED AS TO FORM
229 AND LEGAL SUFFICIENCY

230

231 By: _____
232 County Attorney

233

234 EFFECTIVE DATE: Filed with the Department of State on the ____ day of
235 _____, 2019.
236 _____, 2019.

ATTACHMENT 2
Redline Ordinance showing changes
13 pages

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, REPEALING AND REPLACING CHAPTER 22, ARTICLE VI OF THE PALM BEACH COUNTY CODE (ORDINANCE NO. 2009-052 THE PALM BEACH COUNTY REAL PROPERTY ACQUISITION, DISPOSITION AND LEASING ORDINANCE); PROVIDING FOR A TITLE, PROVIDING FOR DEFINITIONS; PROVIDING FOR DETERMINATION OF VALUE; PROVIDING FOR STANDARDS AND PROCEDURES FOR SALE OR LEASE OF REAL PROPERTY; PROVIDING FOR DELEGATION OF AUTHORITY; PROVIDING FOR SUPERMAJORITY VOTE; PROVIDING FOR THE PROPERTY REVIEW COMMITTEE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING CAPTIONS; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 125, Florida Statutes, authorizes counties to adopt ordinances consistent with general and special law to provide for the health, safety and welfare of its citizens; and

WHEREAS, the Board of County Commissioners previously enacted the "Palm Beach County Real Property Acquisition, Disposition and Leasing Ordinance" which is codified at Chapter 22, Article VI of the Palm Beach County Code; and

WHEREAS, the Board of County Commissioners desires to repeal and replace such Ordinance to change definitions; capitalize terms; increase the thresholds for PRC review of right-of-way acquisitions and exempt right-of-way

acquisitions involving eminent domain and/or inverse condemnation litigation from PRC review; and to exempt the sale of workforce housing units from certain requirements hereof.

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

Article 1. REPEAL and REPLACEMENT Chapter 22, Article VI of the Palm Beach County Code, is hereby repealed in its entirety and replaced with the following:

Sec. 22-101. Title.

This article shall be known and may be cited as the "Palm Beach County Real Property Acquisition, Disposition and Leasing Ordinance."

(Ord. No. 02-067, §§ 1, 6, 10 22-02)

Sec. Section 22-102. - Definitions.

Board means the ~~board~~Board of ~~county-commissioners~~County Commissioners of the ~~county~~County.

County means Palm Beach County, Florida.

Department means the ~~county-facilities-development~~County Facilities Development and ~~operations-department~~Operations Department.

Division means the ~~property~~Property and ~~real estate management division~~Real Estate Management Division of the ~~county facilities development~~County Facilities Development and ~~operations department~~Operations Department.

*Extraordinary assumption*Assumption means an assumption, directly related to a specific appraisal, which, if found to be false, could alter the appraiser's opinions or conclusions. *Extraordinary assumptions*Assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property or about conditions external to the property such as market conditions or trends or about the integrity of data used in an appraisal analysis.

*Hypothetical condition*Condition means a condition not presently existing but supposed for the purpose of analysis in an appraisal. *Hypothetical conditions*Conditions assume conditions contrary to known facts about physical, legal, or economic characteristics of the subject property or about conditions external to the property, such as market conditions or trends or about the integrity of data used in an appraisal analysis.

*Invitation to bid*Bid means a solicitation for offers for the sale or lease of ~~county~~County-owned real property in which price is the sole basis for evaluation of responses.

Person includes, but is not limited to, individuals, associations, partnerships, corporations, limited liability companies, joint ventures and all other groups and combinations.

Request for ~~proposals~~ Proposals means a solicitation for proposals for the sale or lease of ~~county~~ County-owned real property in which evaluation of responses is based primarily upon previously established criteria that include factors other than price.

Response means a responsive bid or proposal submitted by a responsible person in response to a solicitation.

Right-of-Way means real property that will be used for development of a public road or supporting infrastructure.

Solicitation means an ~~invitation~~ Invitation to bid Bid or ~~request~~ Request for ~~proposals~~ Proposals.

(Ord. No. 02-067, §§ 2, 6, 10-22-02; Ord. No. 2009-052, pt. 1, 12-15-09)

See-Workforce Housing Program means the Workforce Housing Program established by Ordinance No. 2006-055, as amended and as implemented in accordance with the Workforce Housing Program Financial Assistance Strategy approved by the Board on May 15, 2018.

Section 22-103. - Determination of value.

(a) — If the proposed purchase price of real property to be acquired through purchase by the ~~county~~ County or the value of real property, as determined by the ~~county~~ County property appraiser, to be disposed of through sale by the ~~county~~ County is:

(1) — Twenty-five thousand dollars (\$25,000.00) or less, no appraisal shall be required.

- (2) — Greater than twenty-five thousand dollars (\$25,000.00) but less than five hundred thousand dollars (\$500,000.00), at least one (1) appraisal shall be obtained prior to approval of the agreement for purchase or sale by the ~~board~~ Board.
- (3) — Five hundred thousand dollars (\$500,000.00) or more, at least two (2) appraisals shall be obtained prior to approval of the agreement for purchase or sale by the ~~board~~ Board.
- (b) — ~~The county~~ County may, at its option, utilize federal procedures for obtaining appraisals where federal requirements for a specific transaction differ than those set forth in this section.
- (c) — Acquisitions of real property from another governmental entity are exempt from the requirements of this section when the assessed value of the real property, as determined by the ~~county~~ County property appraiser, is equal to or greater than the purchase price of the real property.
- (d) — Acquisitions of ~~right~~ Right-of-way Way are exempt from the requirements of (a), (b) and (c) of this section.
- (e) — The ~~board~~ sale of workforce housing units to a qualified buyer pursuant to the Workforce Housing Program are exempt from the requirements of this section.

(f) Appraisal values and use of Extraordinary Assumptions or Hypothetical Conditions shall be clearly disclosed in the summary section of the agenda item presented to the Board for approval of a transaction.

(g) The Board shall not be required to comply with the requirements of F.S. § 125.355, as may be amended, unless the ~~board~~Board seeks to utilize the exemption from F.S. §-119.07, as may be amended, for information relating to the purchase of real property or except as otherwise required by law.

(Ord. No. 02-067, §§ 3, 6, 10 22-02)

See Section 22-104. - Standards and procedures for the sale or lease of real property.

(a) Any interested ~~person~~Person may request information regarding the procedures for the acquisition or lease of ~~county~~County-owned real property by written request to the division.

(b) —Except as otherwise provided in this section, the ~~division~~Division shall utilize one (1) of the following types of negotiation procedures in the selection of a ~~person~~Person to whom ~~county~~County owned real property may be sold or leased: ~~invitation~~Invitation for ~~bid~~Bid or ~~request~~Request for ~~proposals~~Proposals. The ~~solicitation~~Solicitation issued by the ~~division~~Division shall provide for the competition and qualification standards upon which the sale or lease of ~~county~~County owned real property will be determined. Public notice of the ~~county's~~County's intent to consider

the sale or lease of the County owned real property and the availability of the competition and qualification standards shall be provided a reasonable period of time prior to the date set for submission of responses to the ~~solicitation~~, Solicitation. The ~~division~~ Division shall notify all ~~persons~~ Persons who have submitted a response by United States regular mail, ~~facsimile~~ email or hand-delivery of the ~~county's~~ County's intention to consider final action regarding the sale or lease of the County owned real property at a regular meeting of the ~~board~~, Board. The notice shall state the time and manner for making objections and shall be mailed or delivered to the address provided to the ~~division~~ Division or transmitted by ~~facsimile~~ email to the ~~facsimile number~~ email address provided to the ~~division~~, Division.

(c) In no event shall the sale or lease of ~~county~~ County-owned real property violate the ~~county~~ County comprehensive plan or zoning regulations of the ~~county~~ County.

(d) Notwithstanding the provisions of section 22-104(b) above, the ~~county~~ County may, in its

discretion:

(1) Extend the term of or otherwise modify the terms of an existing lease upon a finding by the ~~board~~ Board that such extension or modification is in the best interests of the ~~county~~ County.

(2) Negotiate the sale or lease of real property with a particular person based upon a finding by the ~~board~~ Board that the ~~person~~ Person is the only ~~person~~ Person capable of

reasonably utilizing the real property for the use which the ~~board~~Board has determined to be the highest and best use of the real property. Circumstances justifying such action may include, but shall not be limited to, the location or restrictions on the use of the real property.

(3) Negotiate a lease of real property for a term not to exceed ninety (90) consecutive days.

(e) The provisions of this section shall not apply to any sale or lease of real property which is exempt from the competitive bidding requirements of F.S. § 125.35, as may be amended; to exchanges of real property pursuant to F.S. § 125.37, as may be amended; ~~or~~ to any sale or lease of real property pursuant to F.S. § 125.38, as may be amended; or to the sale of workforce housing units to a qualified buyer pursuant to the Workforce Housing Program.

~~(Ord. No. 02-067, §§ 4, 6, 10-22-02)~~

~~See~~ **Section 22-105. - Delegation of authority.**

(a) ~~The department director or his or her~~ County Administrator or designee shall have the authority to execute, on behalf of the ~~board~~Board, license agreements and limited term easements using standard form documents approved by the ~~board~~Board and such other standard form documents as may be approved by the ~~board~~Board from time to time.

~~(Ord. No. 02-067, §§ 5, 6, 10-22-02)~~

~~sec.~~ **Section 22-106. - Supermajority vote.**

All purchases (including eminent domain), sales and exchanges of fee simple title to real property (including conveyances for no or nominal consideration) must be approved by a supermajority vote (five (5) commissioners) of the ~~board~~ Board. The foregoing supermajority vote requirement will not apply to internal interdepartmental transactions or transactions that do not require separate ~~board~~ Board action due to a delegation of authority by the ~~board~~ Board to ~~county~~ County staff prior to January 1, 2010. On or after January, 2010, delegation of authority to staff by the ~~board~~ Board relating to purchases, sales and exchanges (including eminent domain and conveyances for no or nominal consideration) must be approved by a supermajority vote of the ~~board~~ Board.

(Ord. No. 2009-052, pt. 2, 12-15-09)

~~sec.~~ **Section 22-107. - Property ~~review committee.~~ Review Committee.**

(a) The ~~board~~ Board shall create by resolution, within sixty (60) days of the effective date of ~~the~~ this ordinance ~~from which this section is derived,~~ a committee to be named the property review committee to review, evaluate and advise the ~~board~~ Board regarding real estate transactions involving the purchase ~~(including eminent domain),~~ sale or exchange of fee simple title to real property, which transactions:

- (1) Are based on appraisal(s) utilizing hypothetical conditions or extraordinary assumptions.
- (2) Are based upon appraisal(s) assuming a change of land use, a comprehensive plan amendment or concurrency other than that which currently exists.

- (3) Involve a purchase in which the purchase price of the real property is greater than one hundred ten (110) percent of the fair market value as determined by the appraisal or the average of the appraisals obtained by the ~~county~~County. Acquisitions of Right-of-Way require review where the purchase price is greater than one hundred fifteen (115) percent of the fair market value.
- (4) Involve a sale in which the sale price of the real property is lower than ninety (90) percent of the fair market value as determined by the appraisal or the average of the appraisals obtained by the ~~county~~County.
- (5) Involve an exchange of real property in which the purchase or sale price of the real property to be conveyed to or by the ~~county~~County, plus any additional consideration to be paid to or by the county in the exchange transaction exceeds two hundred fifty thousand dollars (\$250,000.00).
- (b) ~~The board~~Board and the ~~county administrator~~County Administrator shall be entitled to direct ~~county~~County staff to present to the property review committee any real property transaction not otherwise required by this ordinance to be presented to the property review committee.
- (c) The provisions of this section shall not apply to transactions for less than two hundred fifty thousand dollars (\$250,000.00); acquisitions of Right-of-Way which involve eminent domain and/or inverse condemnation litigation; transactions subject to Federal Aviation Administration review or audit with the exception of off-airport transactions for a non airport purpose; transactions pursuant to chapter 11, article XV, of this Code, the "conservation lands protection ordinance", ~~or to~~; any intergovernmental conveyance of real

property pursuant to Florida Statutes, § 125.38, as may be amended; or the sale of workforce housing units to a qualified buyer in accordance with the Workforce Housing Program.

(Ord. No. 2009-052, pt. 3, 12-15-09)

1 ~~Secs. 22-108—22-115—Reserved.~~ Article 2. REPEAL OF LAWS AND
2 ORDINANCES IN CONFLICT:

3 All local laws and ordinances in conflict with any provision of this Ordinance
4 are hereby repealed to the extent of any such conflict.

5 Article 3. SEVERABILITY:

6 If any provision, article, paragraph, sentence, clause, phrase, or work of this
7 Ordinance is for any reason held by the Court to be unconstitutional, inoperative, or
8 void, such holding shall not affect the remainder of this Ordinance.

9 Article 4. CAPTIONS:

10 The captions, sections headings, and section designations used in this
11 Ordinance are for convenience only and shall have no effect on the interpretation of
12 the provisions of this Ordinance.

13 Article 5. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:

14 The provisions of this Ordinance shall become and be made a part of the Code
15 of Laws and Ordinances of Palm Beach County, Florida. The articles and sections of
16 this Ordinance may be renumbered or relettered to accomplish such, and the word
17 “Ordinance” may be changed to “Section”, “Article”, or other appropriate word.

18 Article 6. EFFECTIVE DATE:

19 The provision of this Ordinance shall become effective upon filing with
20 the Department of State.

21 APPROVED and ADOPTED by the Board of County Commissioners of Palm
22 Beach County, Florida, on this the _____ day of October, 2019.

23 SHARON R. BOCK PALM BEACH COUNTY, FLORIDA, BY ITS
24 CLERK & COMPTROLLER BOARD OF COUNTY COMMISSIONERS

26 By: By:
27 Deputy Clerk Mack Bernard, Mayor

29 APPROVED AS TO FORM
30 AND LEGAL SUFFICIENCY

32 By:
33 County Attorney

34
35
36
37

EFFECTIVE DATE: Filed with the Department of State on the _____ day of _____, 2019.