

**TO: ALL COUNTY PERSONNEL**

**FROM: VERDENIA BAKER  
COUNTY ADMINISTRATOR**

**PREPARED BY: ENVIRONMENTAL RESOURCES MANAGEMENT**

**SUBJECT: EMINENT DOMAIN SETTLEMENTS AND PAYMENT OF  
LITIGATION EXPENSES FOR CONSERVATION LAND  
ACQUISITIONS**

**PPM#: CW-F-070**

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**ISSUE DATE**  
**October 25, 2021**

**EFFECTIVE DATE**  
**October 25, 2021**

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**PURPOSE:**

To establish procedures for the approval and payment of settlements in eminent domain matters, pre-suit and during suit, and for the payment of the County's litigation-related expenses. This PPM applies to conservation land acquisitions only.

**UPDATES:**

Future updates to this PPM are the responsibility of the Director of the Department of Environmental Resources Management.

**AUTHORITY:**

- County Administrative Code, Section 305.08.1

**POLICY:**

Palm Beach County acquires property from time to time for conservation purposes. In each situation, the County obtains an appraisal for the property interest that it intends to acquire. Formal eminent domain proceedings (lawsuits) substantially increase the County's cost of acquiring property for this purpose. In order to avoid or minimize the increased cost that litigation necessarily entails, the County requires flexibility in negotiating with property owners and/or their representatives.

When litigation is likely or has commenced, the County must retain experts and consultants to assist counsel and to testify regarding issues that may arise in the lawsuit; the County must also incur other litigation-related expenses, such as court filing fees, service of process fees, the cost of publication, court reporter charges, and the like.

## **PROCEDURE:**

### **A. Settlements**

In negotiating a voluntary pre-suit purchase or in negotiating a settlement of a pending eminent domain lawsuit, the County may agree to pay up to \$50,000 to obtain a particular parcel of property upon the written approval of the County Administrator, with the recommendation of the Director of the County's Department of Environmental Resources Management (ERM) and the concurrence of the County Attorney. With respect to properties that exceed \$50,000 in price, the County may agree to pay up to and including twenty-five percent (25%) above the appraised value of the property (based upon the most current appraisal performed at the County's request, that includes all aspects of damages, including business damages, if any), but not to exceed \$250,000 in total price for the property, also upon written approval of the County Administrator, with the recommendation of the Director of ERM and the concurrence of the County Attorney.

The County may also agree to pay the property owner's costs and attorney's fees incurred in connection with a voluntary pre-suit purchase or settlement of a pending eminent domain lawsuit to the extent that Florida Statutes authorize such costs and fees. Where a property owner's costs or attorney's fees are less than \$10,000, the determination of reasonableness of these costs and fees may be made by the Director of ERM, in conjunction with the County Attorney's Office, and the approval and payment process shall be the same as in other settlements which are less than \$50,000. Where a property owner's costs or attorney's fees exceed \$10,000, the owner's costs/attorney's fees shall be submitted to an outside expert or attorney for review of reasonableness of the time and rates charged (unless the attorney's fees are calculated pursuant to the statutory mathematical calculation). Following any required review by outside expert or attorney, the fees and/or costs shall be paid upon written approval of the County Administrator, with the recommendation of the Director of ERM and the concurrence of the County Attorney.

### **B. Litigation-Related Expenses**

The attorney representing the County in anticipated or pending eminent domain litigation shall retain, on the County's behalf, such experts and consultants (that are on the County's approved vendor list) as counsel determines to be necessary after consultation and approval of ERM (and the County Attorney's Office when outside counsel is representing the County). Counsel shall provide written notification to ERM (and to the County Attorney's Office when outside counsel proposes to retain the expert or consultant) of the need for, identity of, and rates charged by each expert and/or consultant that he or she intends to retain.

that he or she intends to retain.

The attorney who retained the expert or consultant on the County's behalf shall provide written verification to ERM that the invoices submitted by each expert or consultant are for work the attorney requested and that the time was reasonably necessary. The attorney handling the case shall approve invoices for all other litigation-related expenses.

In cases handled by outside counsel, the County Attorney's Office shall assign an Assistant County Attorney to monitor the progress of the lawsuit and to act as liaison with the outside counsel. Outside counsel's invoices shall be reviewed for reasonableness and consistency with the terms of the County's agreement with outside counsel and approved by the assigned Assistant County Attorney before payment.



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**VERDENIA C. BAKER**  
**COUNTY ADMINISTRATOR**

**Supersession History:**

1. PPM # CW-F-070, effective 8/1/03
2. PPM # CW-F-070, effective 10/25/10
3. PPM # CW-F-070, effective 10/16/15