

TO: ALL COUNTY EMPLOYEES

FROM: ROBERT WEISMAN
COUNTY ADMINISTRATOR

PREPARED BY: FACILITIES DEVELOPMENT & OPERATIONS/ PROPERTY
AND REAL ESTATE MANAGEMENT DIVISION

SUBJECT: REQUIREMENTS FOR THE ACQUISITION, DISPOSITION,
LEASE AND EXCHANGE OF REAL PROPERTY

PPM #: CW-L-023

ISSUE DATE
July 3, 2014

EFFECTIVE DATE
July 3, 2014

A. PURPOSE:

To provide a single location for all countywide procedures for the acquisition, disposition, exchange and lease of property by the County. A table of contents is included as Attachment 1.

B. UPDATES:

Future updates to this PPM will be the responsibility of the Director of Property and Real Estate Management under the authority of the Director Facilities Development & Operations.

C. AUTHORITY:

Ordinance No. 2002-067, Palm Beach County Real Property Acquisition, Disposition and Leasing Ordinance, as amended.

D. DEFINITIONS:

Defined terms as used in this PPM, carry the specified meaning.

- 1) **Airport Purposes:** means aeronautical activities, or non-aeronautical activities which support or are incidental to aeronautical activities, or are necessary or desirable for operation of the County's airports for public airport purposes. Airport Purposes include, but are not limited to, scheduled and non-scheduled air service; fixed based operations; specialized aeronautical services; airport concessions as defined in 49 CFR Part 23; rental car facilities; ground transportation services; ground support services; parking

facilities; cargo operations; aircraft and/or ground support equipment maintenance; fueling operations; aircraft storage; flight training; airport development, navigational aids, runway protection or noise abatement purposes; aircraft catering; skycap services; and aircraft manufacturing.

- 2) **Alternative Source Selection:** is one of five methods used to purchase, sell or lease a property other than an IFB or RFP as set forth in Section I 3) below.
- 3) **Board:** means the Board of Commissioners of Palm Beach County, Florida.
- 4) **CID:** means the Capital Improvements Division of the County Facilities Development & Operations Department.
- 5) **Concession Agreements:** means agreements regarding the provision of food service and/or retail products within County facilities, or operating upon CORE. For purposes of this PPM Vending machines shall not be deemed Concession Agreements. Vending Machines are governed by PPM CW-F-039.
- 6) **Constitutional Officer:** means an elected official, separate from the Board of County Commissioners, who the Board is statutorily required to provide space including but not limited to the Clerk of Court, Tax Collector, Property Appraiser, State Attorney, Public Defender, Sheriff, Supervisor of Elections and also including the 15th Judicial Circuit Court.
- 7) **County:** means Palm Beach County, Florida.
- 8) **CORE:** means County owned real estate which has been assigned a Parcel Control Number (PCN) by the Property Appraiser.
- 9) **DOA Property** means real property for which the Department of Airports is the User Department.
- 10) **Disposition:** means the sale or donation of any County owned real property.
- 11) **Division:** means the Property and Real Estate Management Division of the County Facilitates Development & Operations Department.
- 12) **Donation:** means the acquisition, disposition or lease of real property providing no revenue, or at no cost, to the County.
- 13) **Easement:** means the right of use over County real property or the property of another as set forth in a formal written document.
- 14) **Emergency:** means an acquisition, disposition or lease made in response to County requirements when the delay incident to complying with all governing rules, regulations,

or procedures would be detrimental to the interest, health, safety or welfare of the County.

- 15) **Employee:** means an individual of a governmental body of the County government under the control of the Board who is drawing a salary or wages from the Board.
- 16) **Environmentally Sensitive Lands:** means real property which has significant environmental, natural resource based, restoration or preservation characteristics where the Department of Environmental Resource Management is the User Department.
- 17) **Exchange:** means the conveyance of any County owned real property where all or part of the consideration received by the County is in the form of real property.
- 18) **Extraordinary Assumptions:** 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 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 about the integrity of data used in an appraisal analysis
- 19) **Governmental Entity:** means any division, department, separate office, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or constitutional office, or other establishment or official of the County government or state, federal or local government.
- 20) **Hypothetical Conditions:** means a condition not presently existing but supposed for the purpose of analysis in an appraisal. Hypothetical 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 about the integrity of data used in an appraisal analysis.
- 21) **Improved Property:** means a property upon which a building or other improvements such as a park, lift station, or parking lot has been constructed.
- 22) **Invitation For Bid:** means a solicitation for offers for the sale or lease of County-owned real property in which the sale price or rental amount is the sole basis for evaluation of responses.
- 23) **License Agreement:** means the revocable privilege to enter upon and use property for a certain purpose, which purpose does not vest any title or interest in such property.
- 24) **Limited Duration Easement:** means an easement granted to or by the County for a

- limited duration, usually less than two years.
- 25) **Ordinance:** means the Palm Beach County Real Property Acquisition, Disposition and Leasing Ordinance (Ordinance No. 2002-67), as the same may be amended from time to time.
 - 26) **Not For Profit Agency:** means an organization or agency, which has not for profit status pursuant to the Federal tax regulations.
 - 27) **OFMB:** means the County's Office of Financial Management and Budget.
 - 28) **Operating Agreements:** means agreements for the operation and/or management of a facility or CORE such as operation and/or management of a golf course, convention center, stadium etc., including accessory facilities within such facilities or property, which may have characteristics of a lease or license agreement, such as an assumption of maintenance responsibility for the facility and/or include the ability to license use of the facility to third parties on behalf of the County.
 - 29) **Person:** means, but is not limited to, individuals, associations, partnerships, corporations, limited liability companies, joint ventures and all other groups and combinations.
 - 30) **Posting:** means an act whereby the County places on a physical or electronic bulletin board, in a designated location, a listing which indicates the real property bid or proposal that County Staff is recommending to the Board receive the award of an invitation for bid or request for proposal.
 - 31) **PRC:** means the Property Review Committee established pursuant to the Ordinance.
 - 32) **P.U.D.:** means Planned Unit Development.
 - 33) **Purchasing Code:** means the Palm Beach County Code (Chapter 2, Article III, Division 2, Part A), as the same may be amended from time to time.
 - 34) **Request For Proposals (RFP):** means a solicitation for proposals for the sale or lease of County-owned real property, or for the purchase or lease of real property by the County, in which evaluation of responses is based primarily upon established criteria which include factors in addition to price.
 - 35) **Short Term Lease:** means a lease granted to or by the County for a limited duration, usually less than ninety days.
 - 36) **Solicitation:** means an Invitation to Bid or RFP.
 - 37) **User Department:** means a department or division within the County which has, or will

have, operating and/or management responsibility for the real property.

E. POLICY: It is the policy of the Board of County Commissioners to establish a uniform set of procedures for the acquisition, disposition, exchange and lease of property by the County applicable to all County Departments and agencies and to ensure compliance with the Ordinance.

F. APPLICATION:

1) **General application:** The provisions of this PPM shall apply to every acquisition, disposition, exchange or lease of real property by the County on its own behalf or on behalf of a Constitutional Officer, including those purchases, sales and leases utilizing state and federal assistance moneys, except as otherwise specified by law.

2) **Limited application:**

a. The following transactions shall be subject only to the provisions of Sections K, L and M hereof:

i. The purchase of rights of way and the purchase of easements and other less than fee simple interests in real property, conducted by the Department of Engineering and Public Works or by the Water Utilities Department for use by such Departments in connection with road and/or water and sewer projects.

ii. Any acquisition or disposition of any interest in real property through or as a result of eminent domain.

b. The following transactions shall be subject only to the provisions of Sections L 1) thru 4) and M hereof:

i. Concession Agreements

ii. Operating Agreements

c. Transactions involving real property to be utilized for Airport Purposes shall be subject only to the provisions of Sections J, K and L hereof, to the extent applicable to the specific transaction.

G. DELEGATED AND ADMINISTRATIVE AUTHORITY

1) **Delegated Authority:** The Directors listed below shall present standard form agreements to the Board for approval and shall request that the Board delegate authority

to execute such approved standard form agreements for the transactions listed below with review and approval by the County Attorney's Office. Nothing contained herein is intended to limit the authority delegated by the Board to execute standard form agreements.

- a. The Director of Facilities Development & Operations Department: License Agreements, Limited Duration Easements, Short Term Leases, and Permits for the Use of County Facilities for Non-County Activities pursuant to PPM CW-O-024.
 - b. The Director of the Department of Airports: standard form agreements approved by the Board for the license, use or lease of DOA Property, including, but not limited to, License Agreements, Limited Duration Easements and Short Term Leases of real property where DOA is the User Department.
 - c. The County Engineer: Limited Duration Easements across rights of way and Limited Duration Easements in favor of the County across properties owned by a non-County entity.
 - d. The Director of Water Utilities Department: Limited Duration Easements across property where WUD is the User Department and Limited Duration Easements in favor of the County across properties owned by a non-County entity.
- 2) **Administrative Authority of Division Director:** Subject to the provisions and exemptions of this part and under the direction of the County Administrator, the Division Director shall serve as the principal officer for the acquisition, disposition, exchange, and lease of real property by the County. The authority of the Division Director is subject to the direction of the Board and/or the County Administrator. All powers, duties and authority relating to the acquisition, disposition, exchange, or lease of real property are governed by this PPM and, provided that they are in conformance with the law and all applicable rules and regulations, are vested in the Division Director unless specifically vested elsewhere by the provisions of this PPM. The Division Director, or other designee, shall have no independent discretion in the award or execution of agreements, except as specifically granted in this PPM. In the absence of the Division Director, a supervisor of the Division Director or an individual specifically appointed by the County Administrator, may assume powers, duties and authority vested by this Section. The duties of the Division Director shall be to:

- a. Administer the acquisition, disposition, lease and exchange of real property for the County.
- b. Maintain a list of CORE.
- c. Provide for the establishment/promulgation of policies and procedures for the acquisition, disposition, lease or exchange of real property which shall be reviewed and amended from time to time.
- d. Develop standard form License Agreements, Limited Duration Easements and Short Term Leases.

3) **Administrative Authority of User Department:** The Directors of the User Departments/Divisions identified below shall have the authority to conduct those transactions described below:

- a. Airports: all aspects of the real estate program applicable to DOA Property. The Department of Airports will establish policies and procedures for the acquisition, disposition, exchange and lease of DOA Property consistent with requirements of the Ordinance, this PPM and applicable state and federal laws. The Division shall provide support services to the Department of Airports as requested.
- b. Environmental Resources Management: the identification, performance of certain due diligence pursuant to Section I 5) of this PPM and prioritization of purchases and leases of Environmentally Sensitive Lands.
- c. Housing and Community Development: the identification, performance of certain due diligence pursuant to Section I 5) of this PPM and prioritization of the purchase of unimproved and improved properties with funds from federal and state funding sources provided for the purpose of housing or community development (ie: CBDG funds).
- d. Negotiations for land acquisition as part of a Board approved program where the Board has approved an outside consultant/agency to assume responsibility for land acquisition negotiations pursuant to a Board approved contract for such services shall be exempt from this Section G 3) to the extent authority is assigned to the consultant/agency in the Board approved contracts.
- e. Any User Department/Division to whom the Division Director may assign responsibility to on a transaction by transaction basis. Such assignment shall identify specifically which tasks are to be retained by the Division Director and

those being administratively performed by the User Department/Division.

- 4) **Management of Unimproved Property:** The Division shall be the agency through which the County will manage unimproved property of the County unless such unimproved property is:
- a. Is adjacent to an improved property managed by a User Department, in which event the User Department shall be responsible for management of said property;
 - b. Is managed by the Department of Airports, Water Utilities Department or the Department of Engineering and Public Works;
 - c. Is an Environmentally Sensitive Land; or
 - d. As may be agreed to by the Division and User Department.

H. IDENTIFICATION OF NEED

In conjunction with the development of the User Department's budget for the upcoming fiscal year, the User Department shall identify its needs for real property to meet its program objectives. This information shall be transmitted to the Division in memorandum form along with a detailed description of the program, program objectives, land area required, type and square footage of building area required, parking requirements, and other special or unique requirements of the program to be conducted on the property. Acquisition of Environmentally Sensitive Lands by ERM and acquisitions conducted by the Department of Airports shall not be required to comply with the process set forth in this Section.

Upon receipt of the foregoing information, the Division will review the CORE inventory to determine whether there exists any suitable CORE which could be utilized for the intended purpose of the project in lieu of acquiring additional real property. If there are no suitable sites within the existing CORE inventory, the Division shall conduct a general search with Division staff to initially identify potential sites. The Division shall develop information on the suitability of all identified sites for the program use and preliminary estimates of acquisitions costs. The Division shall also coordinate with the CID to develop preliminary estimates of development costs of each site.

The Division shall then review the results of such preliminary investigations with the User Department/constitutional office. The Division shall also verify that the established project

budget is sufficient to fund the projected costs of acquisition.

Based upon the results of such preliminary investigation, review thereof with the User Department/constitutional office, and availability of sufficient funds for completion of the project, the Division shall prepare a report to the User Department, Assistant County Administrator supervising the User Department, the County Administrator and OFMB addressing the feasibility of proceeding with the project and including recommendations of the estimated project cost and utilization of CORE or acquisition of additional real property for implementation of the projects. Said report shall also make specific recommendations as to the process by which further site identification activities will be conducted. Any recommendation to use a process other than the RFP process shall be supported by a detailed analysis of the programming requirements of the User Department/agency/constitutional office necessitating that a specific site be acquired or that RFP process would otherwise not be in the best interest of the County. The report shall also identify any real property which could potentially be utilized in exchange for acquisition of additional real property. The report shall identify where the project should be located within the 5 Year Capital Improvement Program and identify the appropriate funding source.

It is recognized that certain projects will arise in the middle of a budget year. The Division Director will give priority to those projects initially included in the budgetary process for the fiscal year, unless different priorities are established by the County Administrator and/or the Board. However, all projects must follow the above described process as to the review of project budget and site selection.

I. SOURCE SELECTION

Except for those transactions over which this PPM has limited application pursuant to Section F 2) hereof, the purchase, sale or lease of all real property on behalf of the County, shall be awarded by either a IFB or RFP process unless: 1) authorized by the County Administrator pursuant to Section H above; 2) another process is specifically provided by state or federal law; or 3) the use of an Alternate Source Selection is approved by the County Administrator.

Prior to initiating a IFB or RFP or Alternative Source Selection for a transaction involving:

1) the exchange of CORE for other real property, or 2) any form of compensation other than money (ie: personal property, improvements, etc), the Division must receive conceptual approval from the Board prior to advertising, or commencement of negotiations in the case of Alternative Source Selection. The requirement to obtain conceptual approval applies even if an Alternative Source Selection process is utilized and is required to be obtained prior to commencement of negotiations.

No real property agreement resulting from an IFB or RFP shall be effective until approval by the Board and execution of an agreement. The Board retains the right to cancel any IFB or RFP and to reject any and all responses received at any time prior to award and for any reason, in its sole and absolute discretion.

The Director of Facilities Development & Operations, as well as any other Department with administrative responsibilities pursuant to Section G 3), shall develop written procedures for the conduct of an IFB and RFP for real property.

1) **Competitive Bid Process:**

At a minimum, an IFB shall include:

- a. The terms for the proposed acquisition, disposition, or lease of real property, and the competition and qualification standards upon which the responses to the Solicitation will be evaluated.
- b. Public notice of the IFB shall be published in a newspaper of general circulation for a reasonable period not less than required by law prior to the date set for submission of bids. The Division may identify and advertise in any industry specific publications or contact specific interest groups that may have an interest in the property but may not routinely view the legal ads. The Division shall also consider various forms of electronic advertising applicable to the particular market.
- c. A bid shall be considered responsive only if it conforms to the requirements of the IFB concerning pricing, insurance, specifications requested and any other matter unequivocally stated in the IFB as a determinant of responsiveness
- d. The Division may conduct a pre-qualification process in which the responsibility

of prospective bidder/proposers is evaluated and may then limit acceptance of bids or responses to those bidders/proposers deemed qualified in such process.

2) **Competitive Proposal Process:**

The County may use the following competitive process as an alternative to the competitive bid process when recommended by the Division Director, and approved by the County Administrator, where the use of competitive sealed bidding is impractical or inappropriate under the circumstances. At a minimum, RFPs may be issued in accordance with the following standards and process:

- a. The RFP shall set forth the competition and qualification standards upon which the proposed acquisition, disposition, or lease will be evaluated and determined.
- b. Public notice of the RFP shall be published in a newspaper of general circulation for a reasonable period not less than required by law prior to the date set for submission. The Division may identify and advertise in any industry specific publications or contact specific interest groups that may have an interest in the property but may not routinely view the legal ads. The Division shall also consider various forms of advertising applicable to the particular market, including electronic advertising or listings.
- c. Evaluation of offers and/or proposers may be made in a multi-step selection process as set forth in the RFP.

3) **Alternative Source Selection:**

- a. There are five types of procurement alternatives to an IFB or RFP which may be used (Alternative Source Selections). The Division shall seek approval of the County Administrator to use an Alternative Source Selection prior to commencing negotiations on a real property procurement.
 - i. Emergency: An acquisition, disposition, lease or exchange made in response to a need when the delay incident to complying with all governing rules, regulations or procedures would be detrimental to the interests, health, safety or welfare of the County.
 - ii. Modifications to Existing Leases: A modification made to an existing lease without the benefit of competitive selection that is determined to be in the best interests of the County.
 - iii. Sole Source: An acquisition, disposition, lease or exchange where there is

only one property (in the case of acquisition) or purchaser (in the case of disposition or exchange) which meets the need of the User Department as determined by a reasonably thorough analysis of the market. The need statement submitted to the County Administrator for approval and ultimately to the Board as the basis for a finding of fact shall describe the reasonably thorough market review conducted and may consider the location, compatibility with adjacent uses, or restrictions on the use, etc.

- iv. Transactions with Governmental Entities: An acquisition, disposition, lease or exchange with a governmental entity.
- v. Transactions with Not For Profit Organizations: An acquisition, disposition, lease or exchange with a Not For Profit Agency.

Any purchase, sale, exchange or lease agreement executed by the Board pursuant to this Subsection, shall only be after a finding of fact by the Board that the transaction meets the criteria specified in each Alternative Source Selection. In the event of a procurement of real property pursuant to an Alternative Source Selection, the Division shall still be required to follow Section I 5) of this PPM.

4) **Rights Of Appeal On Recommended IFB And RFP Awards:**

Respondents or any party aggrieved by a pending award or other element of the process leading to the award of an agreement involving real property may appeal the recommendation for an award to the Board. Except as otherwise provided for in the IFB or RFP, there is no administrative appeal procedure. Every IFB or RFP shall contain language indicating a Respondent's rights of appeal.

5) **Due Diligence:**

The following due diligence shall be performed by the Division prior to recommending entering into a contract for the acquisition of real property by the County, whether by purchase, exchange or lease. The purpose of the due diligence is to identify any findings which materially impact the; 1) developability of the property, 2) cost of developing the property, 3) intended use of the property or 4) title to the property. At a minimum, due diligence investigations shall include the following items.

- a. Status of Title: Sufficient review of the status of title to the real property

proposed to be acquired by the County to ensure that the property can be developed for its intended purpose. Title insurance shall be obtained on all acquisitions where the purchase price exceeds \$100,000.

- b. **Land Use/Zoning:** The existing land use/zoning of real property proposed to be acquired by the County shall be determined and a review conducted to ensure that the current classification will permit the intended use of the property. In the event that a land use/zoning change will be required, an analysis of the probability of receiving approval of the required change will be conducted and the results of said analysis will be included in the agenda item presented to the Board.
- c. **Survey:** A complete survey of the real property to be acquired shall be obtained for properties where the purchase price exceeds \$100,000. The survey shall meet the minimum technical standards for surveys in the State of Florida, shall depict all improvements, easements and encroachments upon the property and shall be based upon the State Plane Coordinate System. The Division Director shall have the sole authority to waive all or any part of the survey requirements in his/her discretion, provided a written justification for same shall be included within the agenda item presented to the Board approving the transaction or in a separate memorandum to the Board.
- d. **Environmental Audit:** A Phase I Environmental Site Assessment shall be performed on all proposed purchases and exchanges of real property subject to this PPM. Where recommended in the Phase 1 ESA, a Phase II ESA shall be performed. The Division Director shall have the sole authority to waive all or any part of this requirement in his/her discretion, provided a written justification for same shall be included with the agenda item presented to the Board approving the transaction or in a separate memorandum to the Board.
- e. **Conceptual Development Plan:** A conceptual development plan shall be prepared showing how the proposed improvements will be configured upon real property proposed to be acquired by the County. Said plan shall also depict how the configuration will address all applicable regulatory requirements, including landscape buffers, set-backs, parking, stormwater management and legal positive outfall. The intent of this requirement is to document the detailed review of the

proposed improvements by the Division and CID.

- f. Development Cost/Tenant Improvement Analysis: A detailed written analysis of the cost of the proposed improvements to be constructed by the County upon the property (or tenant improvements in the case of a leased facility) performed by CID shall be obtained in all instances, unless waived by the Division Director. The estimated costs shall include zoning/land use changes, regulatory approvals and permitting, site work, paving, grading and drainage, building improvements, professional fees and staff charges. The purpose of this requirement is to verify that the project can be accomplished by the County within the estimated project budget.

6) **Negotiations:**

Except for those transactions over which this PPM has limited application pursuant to Section F 2) hereof; where authority to execute a standard form agreement has been delegated to a Department Director pursuant to Section G 1); or administration of a transaction has been assigned to User Departments pursuant to Section G 3) hereof, all real property negotiations shall be conducted by the Division, with assistance from the County Attorney's office. Representatives of the User Department shall not contact, or respond to requests of, individuals representing the opposing side of the transaction, except where involvement by the User Department is requested by the Division Director.

7) **Agreements and Forms:**

- a. The Division, in conjunction with the County Attorney's Office, shall develop standard form agreements for License Agreements, Limited Duration Easements and Short Term Leases. All such standard form agreements, along with the basic terms upon which such standard agreements may be entered into without Board approval, and the process for approval thereof, shall be presented to the Board for review and approval of the form, terms and process. Nothing contained herein is intended to limit the authority delegated by the Board to execute approved standard form agreements.
- b. Except for those transactions over which this PPM has limited application pursuant to Section F 2) hereof; where authority to execute a standard form agreement has been delegated to a Department Director pursuant to Section G 1); or administration of a transaction has been assigned to User Departments

pursuant to Section G 3) hereof, the Division shall be responsible for preparation of all agreements for acquisition, disposition, exchange or lease of real property, with the assistance from the County Attorney's office.

- c. All agreements for acquisitions, dispositions, leases or exchanges of real property shall include, at a minimum, provisions addressing the following to the extent applicable to the specific transaction:
 - i. Inspection Period: All agreements for the purchase of real property by the County shall contain an inspection period during which the County will have the right to perform such survey, testing, environmental audits and other due diligence as the Division Director may deem appropriate, and providing the County the right to terminate the agreement in the event the results of said inspections are unsatisfactory to the County.
 - ii. All agreements for the purchase of real property by the County with a purchase price in excess of \$50,000 will require title insurance to be provided; however, the County may assume responsibility for payment of the premiums associated therewith.
 - iii. "As Is" Dispositions: All agreements for sale by the County of CORE shall provide that the property will be conveyed "As Is" without representation or warranty whatsoever. All conveyances of CORE shall be conveyed by County Deed in the form prescribed in Florida Statutes Section 125.411.
 - iv. Rental Rate Calculation: The annual rental rate for leases of vacant and unimproved CORE, excluding DOA Property, shall be calculated based upon 10% of the assessed fair market value of the property, or if an appraisal of the real property has been obtained, based upon the rental rate determined by the appraisal.
 1. Lease rates for improved CORE shall be determined by an appraisal.
 2. The annual rental rate for leases of CORE will be increased annually by the increase in the CPI – Consumer Price Index.
 3. Rental rates for DOA Property shall be established by the Department of Airports in accordance with the policies and

procedures adopted by the Department to ensure compliance with applicable Federal Aviation Administration leasing requirements.

8) Closing Documents: At closing, the Division Director and/or Division Assistant Director shall have the authority to execute ancillary closing documents on behalf of the County which are required pursuant to the terms of the agreement approved by the Board and have been reviewed, approved and executed by the County Attorney's office.

J. APPRAISALS

- 1) **Determination of value**: If the proposed purchase price of real property to be acquired through purchase by the County or the value of real property, as determined by the County Property Appraiser, to be disposed of through sale by the County is:
 - a. Twenty five thousand dollars (\$25,000) or less, no appraisal shall be required.
 - b. Greater than twenty five thousand dollars (\$25,000) but less than five hundred thousand dollars (\$500,000), at least one appraisal shall be obtained prior to approval of the Agreement for purchase, sale, or exchange by the Board.
 - c. Five hundred thousand dollars (\$500,000) or more, at least two appraisals shall be obtained prior to approval of the agreement for purchase, sale, or exchange by the Board.
- 2) The County may, at its option, utilize federal procedures for obtaining appraisals where federal requirements for a specific transaction differ from those set forth in this section.
- 3) Acquisitions of real property from another Governmental Entity are exempt from the requirements of this section where the assessed value of the real property, as determined by the County property appraiser, is greater than the purchase price of the real property.
- 4) **Ordering of Appraisal Services**: All appraisals for acquisition, disposition, exchange and lease of real property, excluding DOA Property, shall be obtained from appraisers on the list of County approved appraisal firms through such process as may be established with the Purchasing Department from time to time. The Division shall have sole authority to procure such required appraisals for transactions for which administrative authority is assigned to the Division.
- 5) **Disclosure of Appraisals**: Appraisals shall be made available for review as public records unless the Division Director and County Administration agree that it is in the

County's interest to keep such appraisals confidential. Florida Statutes Section 125.355 shall be complied with in the event that it is desired to keep the results of appraisals of real property obtained hereunder confidential.

K. REVIEW BY PROPERTY REVIEW COMMITTEE

- 1) **PRC Review Required:** The Property Review Committee shall review all real estate transactions involving the purchase (including eminent domain), sale or exchange of fee simple title to real property, which transactions involve:
 - a. Appraisal(s) utilizing hypothetical conditions or extraordinary assumptions.
 - b. Appraisal(s) assuming a change of land use, a comprehensive plan amendment or concurrency other than that which currently exists.
 - c. A purchase in which the purchase price of the real property is greater than one hundred ten percent (110%) of the fair market value as determined by the appraisal or the average of the appraisals obtained by the County.
 - d. A sale in which the sale price of the real property is lower than ninety percent (90%) of the fair market value as determined by the appraisal or the average of the appraisals obtained by the County.
 - e. An exchange of real property in which the purchase or sale price of the real property to be conveyed to or by the 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)
- 2) **Optional Review:** The Board and the County Administrator shall be entitled to direct County staff to present to the PRC any real property transaction not otherwise required by Ordinance to be presented to the PRC.
- 3) **Exclusions from Review:** The provisions of this section shall not apply to transactions:
 - a. For less than two hundred fifty thousand dollars (\$250,000.00);
 - b. Subject to Federal Aviation Administration review or audit with the exception of off-airport transactions for a non-Airport Purpose;
 - c. Pursuant to chapter 11, article XV, of the County Code of ordinances, the "Conservation Lands Protection Ordinance"; or
 - d. Any intergovernmental conveyance of real property pursuant to Florida Statutes, § 125.38, as may be amended.

4) **Procedures for Review:**

- a. If subject to PRC review, the transaction must be reviewed by the PRC prior to being submitted to the Board for approval.
- b. The Department processing the transaction shall submit to the Division a narrative description of the transaction including the following information:
 - i. Business purpose for the acquisition, disposition or exchange of property.
 - ii. Parties to this transaction.
 - iii. Disclosure of representatives involved in the transaction, including brokers, land planners, lobbyists, other consultants
 - iv. Disclosure of any contemplated land use or zoning changes or pending land development approval applications.
 - v. Discussion of the valuation issues involved in the transaction:
 1. Hypothetical and extraordinary assumptions
 2. Change in land use and/or zoning
 - vi. History of negotiations on the price.
- c. The Department processing the transaction shall also provide:
 - i. Copies of appraisals, location maps, surveys or sketches of property, environmental audits and other consultant reports utilized in arriving at valuation of the property.
 - ii. For eminent domain transactions, or transactions negotiated in settlement or in lieu of condemnation, a summary of the issues likely to be encountered in the condemnation case, including estimates of fees, costs and additional claims.
- d. This information will be submitted to the Division to ensure that it is complete, and the Division will coordinate with the Departments to correct any deficiencies. Upon receipt of a completed package of information, the Division will provide the PRC with copies of the information package and schedule a meeting of the PRC to review the transaction.
- e. At the meeting, Staff from the Department will make a presentation to the PRC on the details of the transaction and answer any questions posed by the PRC.
- f. The PRC will be asked to make a recommendation to the Board on the terms of the proposed transaction.

- g. The Division will prepare the minutes of the PRC meeting and document the recommendation of the PRC.
- h. If the Department desires to proceed with the proposed transaction, the Department will include in its Agenda Item the information submitted to the PRC and include the recommendations of the PRC as an attachment to the Agenda Item.
- i. Due to the length of time it will take to compile the backup information on a transaction, ensure it is complete, forward the information to the PRC and schedule a meeting, the Departments are encouraged to submit the documentation and request a PRC meeting as early as possible. In order to be as efficient as possible, every attempt will be made to group the transactions requiring review, which may cause some delay.

L. FORMAT AND PRESENTATION OF BOARD ITEM FOR REAL PROPERTY TRANSACTIONS

- 1) In order to ensure transparency for the public and that the Board is provided all relevant information on which to make a decision regarding a real property transaction all Board items with the completed agreement shall be submitted into the agenda process no less than 14 calendar days prior to the date of consideration. All such Board items shall be placed on the regular agenda, except for: i) standard form agreements with delegated authority pursuant to Section G 1), ii) leases with Governmental or Not-for-Profit Agencies, iii) leases of real property for Airport Purposes which are subject to FAA review and audit, iv) acquisitions or dispositions of real property with an assessed value which is less than \$100,000; and v) Easements, License Agreements, Short Term Leases and similar agreements for use of real property..
- 2) Unless a transaction is subject to only limited application of this PPM pursuant to Section F 2); where authority to execute a standard form agreement has been delegated to a Department Director pursuant to Section G 1); or administrative authority has been assigned to the Department of Airports pursuant to Section G 3), all agenda items concerning real property to be presented to the Board for approval shall require the signature of the Division Director, with comments as applicable, prior to submission into

the agenda process.

3) Each Board item shall, at a minimum contain the following information, to the extent applicable to the specific transaction:

- a. Motion and Title.
- b. Summary. The following items shall be discussed in the summary of the item.
 - i) Any procedural waivers from the requirements of this PPM.
 - ii) If an Alternate Source Selection process is utilized and the required finding of fact, if applicable.
 - iii) Any material findings of the due diligence investigations conducted by or on behalf of the County which materially impact the 1) developability of the property, 2) cost of developing the property, 3) intended use of the property, or 4) title to the property. In addition, the summary shall disclose any due diligence requirements which were not performed and the justification therefore.
 - iv) The assessed value and appraised value of the property if applicable.
 - v) If applicable, the recommendation of the Property Review Committee.
 - vi) The terms of the agreement.
 - vii) The conditions under which the County can terminate.
 - viii) Conditions to closing.
 - ix) A statement that the Ordinance requires that the transaction must be approved by a supermajority vote (5 votes).
 - x) For a disposition of property acquired with bond proceeds, a summary of bond counsel's opinion as to use/allocation of funds.
- c. Fiscal Impact Summary. Include the recommendation of the Division/OFMB as to proceeds of disposition where applicable.
- d. Background and Policy Issues.
- e. Attachments (as applicable)
 - i) Location Map
 - ii) Environmental Audit
 - iii) Conceptual Development Plan

iv) Development Cost / Tenant Improvement Analysis

- 4) **Post Contract and/or Pre Closing:** If post contract and pre-closing inspections result in findings different from those disclosed to the Board at the time of contract, the new findings shall be presented to the Board either by memo or board item, as determined by the County Administrator, prior to closing.

M. MANAGEMENT RESPONSIBILITY FOR CORE AND LEASE PROPERTY RECORDS

- 1) **Division Responsibility:** The Division shall have primary responsibility for maintaining a centralized record keeping and file system for all CORE and leases of real property, excluding DOA Property, which shall be the primary responsibility of the Department of Airports, and excluding rights of way and easements where the Department of Engineering and Public Works or the Water Utilities Departments are the User Departments. In those instances where a User Department prepares and submits an Agenda Item for Board Approval of any document or agreement by which the County grants or obtains any interest in real property for which the Division has record keeping responsibility, the User Department shall provide the Division a copy of such approved document or agreement, including a recorded copy where applicable. The foregoing shall not prohibit the User Department from maintaining separate duplicate records regarding property controlled by the User Department for its own internal purposes.
- 2) **Management Responsibility:** All Agenda Items submitted to the Board for approval of an acquisition, disposition, exchange, or lease of CORE shall include a statement identifying which department will have responsibility for administering the CORE, or lease, including record keeping, financial payments or receipts, maintenance and other administrative responsibilities arising out of the CORE or lease. The assignment of responsibilities contained within the Agenda Item shall continue in effect until such time that memorandum signed by both the Division Director and the User Department acknowledges a change in said responsibility. A copy of the Agenda Item, and memo if applicable shall be maintained by the Division in the CORE files.
- 3) **CORE List:** The Division shall prepare a list of all CORE and leases acquired/approved prior to adoption of this PPM and the assignment of management responsibility for the

CORE or lease. The User Departments shall review and approve this list. Any disagreement regarding assignment of management responsibility for a particular parcel of CORE or lease shall be submitted to the County Administrator for resolution.

N. USE OF CORE BY NOT-FOR-PROFIT AGENCIES

- 1) The use of any CORE by a Not-For-Profit Agency shall be authorized only in support of programs which are funded (at least in part) by the County and/or which enhance or are complementary to existing programs conducted by County departments. Prior to recommending the CORE be leased or conveyed to a Not-For-Profit Agency, the Division shall verify that:
 - a. The property is not reasonably expected to generate revenue for the County in excess of \$100,000, whether by sale, lease, or exchange for other property
 - b. The property can not be exchanged for other property which would fulfill any of the above requirements.
- 2) When the Division has determined that the CORE cannot be used to generate revenue or exchanged for other property to fulfill the above requirements, the Division will prepare a Board item seeking approval to commence negotiations with the Not-For-Profit.
- 3) Any recommendations to the Board for approval of a lease or conveyance to a Not For Profit Agency which is not in compliance with the foregoing shall contain a statement to that effect in the summary section of the Agenda Item.
- 4) The provisions of this Section shall not apply to DOA Property.

O. PROCEDURES FOR ACCEPTANCE OF DONATIONS OF REAL PROPERTY

The acceptance of donation of real property must be recommended by the Division Director and approved by the Board. All donations of real property proposed to be accepted by the County shall comply with the due diligence requirements of Section I 5) of this PPM unless waived in the summary section of the Agenda Item accepting the donation approved by the Board.

P. PROCEDURES FOR PLANNED UNIT DEVELOPMENT CIVIC SITE PROCESSING

1) The Division shall be responsible for:

- a. The definition and coordination of civic site land requirements for all County departments/agencies/constitutional offices.
 - b. The review of all petitions and coordination of proposed civic site dedication locations and sizes.
 - c. The determination whether to receive dedicated lands, exchange dedicated lands, or cash-out dedicated lands.
 - d. The coordination of proposed locations with the County's facilities plans.
- 2) The Division shall determine whether site dedication shall be required for private civic use, for public civic use, or whether the County will permit the cash-out and/or exchange option. The Division shall provide a standard set of conditions to the Zoning Department and these conditions shall be incorporated into the record as the conditions of approval at the time of Board approval for the P.U.D. project.
- 3) It is the intent of this policy that monies collected from cash-outs shall be used for land acquisitions or capital improvements for governmental services to benefit the area with a rational nexus to the impacts arising from development of the subject P.U.D. The governmental services could include:
- a. A governmental service within the P.U.D. service district.
 - b. A district governmental service area of which the P.U.D. is part.
 - c. A regional governmental service area of which the P.U. D. is part.
 - d. A countywide governmental service which services the P.U.D.
- 4) All monies received from cashing-out civic site interests shall be managed by the Facilities Development & Operations Department (FD&O) in conjunction with the OFMB.

Q. PROCEEDS OF DISPOSITION OF COUNTY PROPERTY

The Division shall coordinate with OFMB and the User Department and develop a joint recommendation as to which fund shall be allocated the proceeds derived from the sale or other disposition of CORE. If bond proceeds were utilized in the acquisition or development of the property and such bonds remain outstanding, such recommendation must be supported

by a written opinion of bond counsel. All agenda items recommending the disposition of CORE shall include such recommendation in the Fiscal Impact Section.

R. GRANT FUNDED TRANSACTIONS

The County provides funding to various local government and not for profit organizations for projects which often include the acquisition of real property by such organizations. It is intended that such acquisitions shall be subject to the provisions of this PPM to the maximum extent reasonably practicable, and in all cases subject to Sections J, K and L hereof. The Division Director or User Department shall ensure that such terms are included in each and every grant agreement. If the grant agreement does not comply with requirements of Sections J, K & L hereof, that information shall be discussed in the Summary of the Board item where the transaction is considered.

S. ENCROACHMENTS ON COUNTY-OWNED REAL ESTATE

No material encroachments shall be permitted on CORE. When an encroachment(s) is discovered by County Staff or otherwise reported to the Division, the Division shall be responsible for (1) determining the extent of the encroachment, (2) notifying the perpetrator for correction of said encroachment; and (3) inspection and follow-up of corrective action by perpetrator.

If perpetrator fails to remedy said encroachment, FDO shall prepare an item report to be placed on the Board's regular agenda for further direction, including consideration of initiating legal action against the perpetrator. In addition to presenting the facts of the encroachments such as extent, duration, owner, and any conflicts with code, use or property restrictions, the item shall describe the current and future use of the property. Depending on the urgency of the need to remove the encroachments, the Division may recommend that the encroachments be removed by the County at the County's expense.

T. CONFLICT OF INTEREST

Neither the Division Director nor any member of his/her staff, nor any Department Director exercising delegated authority pursuant to Section G hereof, shall be financially interested or have any personal beneficial interest directly, or indirectly, in any transaction governed by

this PPM. The Division Director and every member of his/her staff are prohibited from accepting or receiving from any Person or firm to which transaction governed by this PPM may be awarded, any money, rebate, gift, or anything of value or any promise, obligation or contract for future reward or compensation.

U. WAIVER OF PPM PROVISIONS

The provisions of this PPM may be waived only by the Board or the County Administrator, unless otherwise specifically identified within this PPM.



**ROBERT WEISMAN
COUNTY ADMINISTRATOR**

Supersession History

Rescinds and Replaces:

- CW-L-012 Real Property Dispositions
- CW-L-013 Real Property Acquisition (Non Right-of-Way)
- CW-L-016 Planned Unit Development Civic Site Processing
- CW-L-020 Real Property Donations/Charitable Lease to Not-for-Profit Palm Beach County Organizations
- CW-L-022 Encroachments
- CW-L-024 Real Property Out Leases
- CW-L-025 Real Property Acquisition/Disposition/Exchange/Lease/Requests for Proposals Process
- CW-L-026 Real Property Exchanges
- CW-L-023 Real Property In-Leases

Replaces:

- CW-L-023 issued 12/1/2012 Requirements for the Acquisition, Disposition, Lease and Exchange of Real Property

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