

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

| Fiscal Years | 2024 | 2025 | 2026 | 2027 | 2028 |
|---|-----------|----------|-----------|----------|---------|
| Capital Expenditures | _____ | _____ | _____ | _____ | _____ |
| Operating Costs | _____ | _____ | _____ | _____ | _____ |
| External Revenues | _____ | _____ | _____ | _____ | _____ |
| In-Kind Match (County) | _____ | _____ | _____ | _____ | _____ |
| NET FISCAL IMPACT* | _____ | _____ | _____ | _____ | _____ |
| # ADDITIONAL FTE POSITIONS (Cumulative) | _____ | _____ | _____ | _____ | _____ |
| Is Item Included in Current Budget: | Yes _____ | No _____ | Yes _____ | No _____ | X _____ |
| Does this item include use of Federal funds? | Yes _____ | No _____ | Yes _____ | No _____ | X _____ |
| Does this item include the use of State funds? | Yes _____ | No _____ | Yes _____ | No _____ | X _____ |

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

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

This item carries no fiscal impact.

C. Departmental Fiscal Review: *Robert Eric Muddala*
RBOM

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development Comments:

| | |
|---|---|
| <p><u><i>Laura M. Bate</i></u> 9/4/2024 OFMB <i>JA 9/4</i> <i>EW 9-4-24</i></p> | <p><u><i>Brenda B. Paddock</i></u> 9/9/24 Contract Development and Control <i>MD 9/5/24</i></p> |
|---|---|

B. Legal Sufficiency:

[Signature] 9/10/24
 Assistant County Attorney

C. Other Department Review:

 Department Director

(Continued from Page 1)

Background and Policy Issues: The PREM Ordinance provides the framework under which the County acquires, disposes and leases real property. The PREM Ordinance has not been revised since 2019 and is in need of updating. Notably absent from the current ordinance is provision for the development, management and operation of County-owned property. Historically, these transactions have been processed through PREM. The proposed PREM Ordinance has been revised where needed to codify inclusion of agreements for development, management, or operation of real property to fall within the purview of PREM. Detailed explanations regarding modifications made to the proposed ordinance follow. (See also Attachment 5, Summary of Key Proposed Revisions).

Definitions

Definitions were added to Section 22-102 for *Affordable Housing, Area Median Income, and Workforce Housing*.

Determination of Value

Section 22-103 of the PREM Ordinance requires appraisals under certain conditions prior to the acquisition or disposition of property. The proposed revisions increase the threshold below which no appraisal shall be required from \$25,000 to \$100,000. Consequently, it increases from \$25,000 to \$100,000 the low threshold for the range within which one appraisal shall be required. The changes reflect the increase in property values since the initial adoption of the PREM Ordinance. Section 22-103 was also revised to add as exemptions to the appraisal requirements, the sale of Affordable Housing units to qualified buyers and acquisition or exchange of property which is required as part of a road right-of-way permit or as condition of a development order.

Standard and Procedures for the Sale, Lease, Development, Management or Operation of Real Property

The proposed revisions to Section 22-104 provide that the procedures for development, management and operation agreements shall be through competitive solicitation. The proposed revisions also add language authorizing the FDO Director to select the method of solicitation, postpone the date/time for response submission or response opening, and to cancel the solicitation for any reason prior to opening. In addition, language was added providing for the County Administrator's authority to cancel the solicitation for any reason after opening. Language was also added to acknowledge the County's ability to negotiate an agreement under the County's economic development powers under Section 125.045, Florida Statutes and during emergencies 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. Transactions exacted under the economic development statute, sale of affordable housing units to a qualified buyer pursuant to an Affordable Housing program and the acquisition or exchange of property where the conveyance of the property to the County is required as part of a road right-of-way permit or as condition of a development order are exempt from this Section. Also exempt are the leases of airport property pursuant to Section 125.35 and Chapter 332, Florida Statutes.

Delegation of Authority

Section 22-105 of the PREM Ordinance provides for the delegation of authority to the County Administrator or designee to execute specified documents on behalf of the Board, including all necessary agreements required due to a declared state of emergency. The delegation will allow for expediency and efficiency. The items are to be reviewed by FDO for terms and conditions and the County Attorney's Office for legal sufficiency prior to execution.

Property Review Committee

Section 22-106 was revised to reflect that the PRC exists pursuant to Resolution 2019-1585.

Unsolicited Proposals

A new Section 22-108 was added to provide for the procedures for unsolicited proposals. This section mirrors the language recently approved under the Purchasing Ordinance.

Attachment #1
Proposed PREM Ordinance

42 authorize the County Administrator to execute all necessary real estate agreements during
43 a state of emergency; and to exempt the acquisition or exchange of property pursuant to a
44 development order and the County's economic development powers under Section
45 125.045, Florida Statutes, from certain requirements hereof.

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

48 **Article 1. REPEAL and REPLACEMENT:**

49 Chapter 22, Article VI of the Palm Beach County Code, is hereby repealed in its
50 entirety and replaced with the following:

51 **Section 22-101. Title.**

52 This article shall be known and may be cited as the "Palm Beach County Real
53 Property Acquisition, Disposition and Leasing Ordinance" (hereinafter the "PREM
54 Ordinance").

55 **Section 22-102. Definitions.**

56 *Affordable Housing* means housing units for households whose total income is
57 between zero percent (0%) and eighty percent (80%) of the Area Median Income also
58 known as AMI. The limits stated herein shall be automatically adjusted in accordance with
59 the limits established by the United States Department of Housing and Urban Development
60 (HUD) and the Florida Housing Finance Corporation (FHFC).

61 *Area Median Income (AMI)* means the midpoint of a specific area's income
62 distribution as calculated by HUD, FHFC, or any successor agency.

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

64 *County* means Palm Beach County, Florida.

65 *Department* means the County's Facilities Development and Operations
66 Department.

67 *Division* means the Property and Real Estate Management Division of the
68 Department.

69 *Extraordinary Assumption* means an assumption, directly related to a specific
70 appraisal, which, if found to be false, could alter the appraiser's opinions or conclusions.

71 Extraordinary Assumptions presume as fact otherwise uncertain information about
72 physical, legal, or economic characteristics of the subject property or about conditions
73 external to the property, such as market conditions or trends, or about the integrity of data
74 used in an appraisal analysis.

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

80 *Invitation for Bid* means a solicitation for offers to purchase, lease, develop,
81 manage, or operate County-owned real property in which price is the sole basis for
82 evaluation of Responses.

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

86 *Request for Proposals* means a solicitation for proposals to purchase, lease, develop,
87 manage, or operate County-owned real property in which evaluation of Responses is based
88 primarily upon previously established criteria that include factors other than price.

89 *Response* means a responsive bid or proposal submitted in response to a Solicitation.

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

92 *Solicitation* means an Invitation for Bid or Request for Proposals.

93 *Workforce Housing* means housing units for households whose total income is
94 between sixty percent (60%) and one hundred forty percent (140%) of the Area Median
95 Income also known as AMI. The limits stated herein shall be automatically adjusted in
96 accordance with the limits established by HUD and FHFC.

97 *Workforce Housing Program* means the Workforce Housing Program established
98 by Ordinance No. 2006-055, as amended and as implemented in accordance with the

99 Workforce Housing Program Financial Assistance Strategy approved by the Board on May
100 15, 2018.

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

102 (a) If the proposed purchase price of real property to be acquired through purchase by
103 the County or the value of real property, as determined by the Palm Beach County Property
104 Appraiser, to be disposed of through sale by the County is:

105 (1) One hundred thousand dollars (\$100,000) or less, no appraisal shall be required.

106 (2) Greater than one hundred thousand dollars (\$100,000) but less than five hundred
107 thousand dollars (\$500,000), at least one (1) appraisal shall be required prior to
108 approval of the agreement for purchase or sale by the Board.

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

112 (b) The County may, at its option, utilize state or federal procedures for obtaining
113 appraisals where state or federal requirements for a specific transaction differ than those
114 set forth in this section.

115 (c) The following are exempt from the requirements in (a) of this section:

116 (1) Acquisitions of real property from and disposition of real property to another
117 governmental entity;

118 (2) Acquisitions of Right-of-Way;

119 (3) The sale of Workforce Housing units to a qualified buyer pursuant to the
120 Workforce Housing Program;

121 (4) The sale of Affordable Housing units to a qualified buyer pursuant to an
122 Affordable Housing program; and

123 (5) Acquisition or exchange of property where the conveyance of the property to the
124 County is required as part of a road right-of-way permit or as condition of a
125 development order.

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

129 (e) The Board shall not be required to comply with the requirements of Section 125.355,
130 Florida Statutes, as may be amended, unless the Board seeks to utilize the exemption from
131 Section 119.07, Florida Statutes, as may be amended, for information relating to the
132 purchase of real property or except as otherwise required by law.

133 **Section 22-104. Standards and procedures for the sale, lease, development,**
134 **management, or operation of real property.**

135 (a) The Division is authorized by the Board to provide information to the public about
136 procedures for acquisition, disposition, lease, development, management, or operation of
137 County-owned real property.

138 (b) Except as otherwise provided in this section, the Division shall utilize one (1) of the
139 following competitive Solicitation procedures to select a Person to whom County-owned
140 real property may be sold or leased, or to select a Person to develop, manage or operate
141 County-owned real property: Invitation for Bid or Request for Proposals. The Solicitation
142 issued by the Division shall provide the criteria and qualification standards upon which the
143 sale, lease, development, management, or operation of County-owned real property will be
144 determined. Public notice of the County's intent to consider the sale, lease, development,
145 management, or operation of the County-owned real property and the availability of the
146 criteria and qualification standards shall be provided as required by law prior to the date
147 set for submission of Responses to the Solicitation. The Division shall notify, by United
148 States regular mail, email or hand-delivery, all Persons who have submitted a Response of
149 the County's intention to consider final action regarding the sale, lease, development
150 management, or operation of the County-owned real property at a Board meeting. The
151 notice shall state the time and manner for making public comments and shall be mailed,
152 delivered, or emailed to the physical or electronic address provided to the Division. The
153 Director of the Department shall have the authority to select the method of Solicitation, to
154 postpone the date and time for Response submission or Response opening, or to cancel the

155 Solicitation for any reason before the Response opening. The County Administrator shall
156 have the authority to cancel the Solicitation for any reason after the Response opening.

157 (c) In no event shall the sale, lease, development, management, or operation of County-
158 owned real property violate the County's comprehensive plan or zoning regulations.

159 (d) Notwithstanding the provisions of Section 22-104(b) above, the County may, in its
160 discretion:

161 (1) Extend the term of or otherwise modify the terms of an existing lease,
162 development agreement, management agreement, or operation agreement of real
163 property upon a finding by the Board that such extension or modification is in the
164 best interests of the County.

165 (2) Negotiate the sale or lease of real property with a particular Person based upon
166 a finding by the Board that the Person is the only Person capable of reasonably
167 utilizing the County-owned real property for the use which the Board has
168 determined to be the highest and best use of the County-owned real property.
169 Circumstances justifying such action may include, but shall not be limited to, the
170 location or restrictions on the use of the County-owned real property.

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

173 (4) Negotiate an agreement for the development, management, use, and/or operation
174 of County-owned real property pursuant to and in accordance with the County's
175 economic development powers under Section 125.045, Florida Statutes, as may be
176 amended.

177 (5) Negotiate an agreement for the lease, development, management, or operation
178 of real property when the delay incident to complying with all governing rules,
179 regulations or procedures would be detrimental to the interests, health, safety, or
180 welfare of the County.

181 (e) The provisions of this section shall not apply to any sale or lease of real property
182 which is exempt from the competitive bidding requirements of Section 125.35, Florida
183 Statutes, as may be amended; to exchanges of real property pursuant to Section 125.37,

184 Florida Statutes, as may be amended; to any sale or lease of real property pursuant to
185 Sections 125.045 and 125.38, Florida Statutes, as may be amended; to the sale of
186 Workforce Housing units to a qualified buyer pursuant to the Workforce Housing Program;
187 to the sale of Affordable Housing units to a qualified buyer pursuant to an Affordable
188 Housing program; to the lease of airport property pursuant to Section 125.35, Florida
189 Statutes as may be amended, or Chapter 332, Florida Statutes, as may be amended; or to
190 the acquisition or exchange of property where the conveyance of the property to or by the
191 County is required as condition of a development order.

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

193 (a) The County Administrator or designee shall have the authority to execute, on behalf
194 of the Board, the following documents that have been reviewed and approved by the
195 Department for terms and conditions and by the County Attorney's Office for legal
196 sufficiency:

197 (1) For County-owned real property, short term leases where the term does not
198 exceed ninety (90) days, license agreements and use agreements not to exceed one
199 (1) year for non-government entities and not to exceed three (3) years for
200 government and non-profit entities, permits not to exceed ninety (90) days, trespass
201 affidavits as provided by law, and site access agreements for as long as necessary to
202 complete the work.

203 (2) For non-County-owned real property, short term leases, license agreements, use
204 agreements, and permits that do not obligate the County to expend more than
205 \$50,000 and where the term does not exceed ninety (90) days, and site access
206 agreements for as long as necessary to complete the work.

207 (3) Easements, utility agreements and other documents required as part of, or related
208 to, a Board approved capital project, including but not limited to any future required
209 modifications, amendments, releases and/or partial releases thereof.

210 (4) Limited term easements granted to or by the County not to exceed two (2) years.

211 (5) Closing statements, seller's affidavits and other such documents for acquisitions
212 and dispositions of real property previously approved by the Board which are
213 standard to effectuate closing of a real estate transaction.

214 (6) Subordination, nondisturbance, attornment agreements, tenant estoppel
215 certificates and other such documents which are standard in the administration of
216 leases.

217 (7) Standard license agreements, permits, development and use agreements and
218 forms of federal, state and local governmental entities involving real property.

219 (8) Revisions to governing documents of property owner associations where the
220 County is member as long as the revisions do not materially impact the County's
221 ownership rights and interests.

222 (9) Notices of non-compliance and termination for failure to comply with terms and
223 conditions of an agreement for the use, lease, development, management and
224 operation of real property.

225 (b) When the Board has declared a state of emergency, or when a state of emergency
226 has been declared which affects the County, or when a state of emergency has been
227 declared in accordance with Section 9-35 of the Palm Beach County Code and the approval
228 of the Board cannot be obtained in a timely manner, the County Administrator shall have
229 the authority to execute, on behalf of the Board, all necessary agreements required due to
230 the state of emergency, including but limited to leases, rental agreements, license and use
231 agreements, development, management and operation agreements, access agreements and
232 easements on either County-owned property or non-County-owned property; provided that
233 said agreements shall be presented to the Board for ratification as soon as possible
234 following signature or approval by the County Administrator.

235 (c) Nothing in this Section shall be construed to invalidate prior delegations of authority
236 by the Board, or to limit the authority of the Board to grant delegations of authority to the
237 County Administrator related to real property, including without limitation, the acquisition,
238 disposition, lease, license, use, management, development or operation thereof.

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

240 All acquisitions (including eminent domain), dispositions and exchanges of fee
241 simple title to real property (including conveyances for no or nominal consideration) must
242 be approved by a supermajority vote of five (5) commissioners of the Board. The foregoing
243 supermajority vote requirement will not apply to County internal interdepartmental
244 transactions or transactions that do not require separate Board action due to a delegation of
245 authority by the Board to County staff prior to January 1, 2010. On or after January 2010,
246 delegation of authority to staff by the Board relating to acquisitions, dispositions and
247 exchanges (including eminent domain and conveyances for no or nominal consideration)
248 must be approved by a supermajority vote of the Board.

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

250 (a) Pursuant to Resolution No. R-2019-1585 the Board created the Property Review
251 Committee and hereby reaffirms the authority of the Property Review Committee to
252 review, evaluate and advise the Board regarding real estate transactions involving the
253 acquisition, disposition or exchange of fee simple title to real property, when transactions:

254 (1) Are based on appraisal(s) utilizing Hypothetical Conditions or Extraordinary
255 Assumptions.

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

258 (3) Involve an acquisition in which the purchase price of the real property is greater
259 than one hundred ten percent (110%) of the fair market value.

260 (4) Involve acquisitions of Right-of-Way where the purchase price is greater than
261 one hundred fifteen percent (115%) of the fair market value;

262 (5) Involve a disposition in which the sale price of the real property is lower than
263 ninety percent (90%) of the fair market value.

264 (6) Involve an exchange of real property in which the purchase or sale price of the
265 real property to be conveyed to or by the County, plus any additional consideration
266 to be paid to or by the County in the exchange transaction exceeds five hundred
267 thousand dollars (\$500,000).

268 (b) The Board and the County Administrator shall be entitled to direct County staff to
269 present to the Property Review Committee any real property transaction not otherwise
270 required by this PREM Ordinance to be presented to the Property Review Committee.

271 (c) The following are exempt from provisions of this section:

272 (1) Transactions for less than five hundred thousand dollars (\$500,000).

273 (2) Acquisitions of Right-of-Way which involve eminent domain and/or inverse
274 condemnation litigation.

275 (3) Transactions subject to Federal Aviation Administration review or audit with the
276 exception of off-airport transactions for a non-airport purpose.

277 (4) Transactions pursuant to Chapter 11, Article XV, of this Code, the
278 "Conservation Lands Protection Ordinance".

279 (5) Any conveyance of real property to governmental and non-profit entities
280 pursuant to Section 125.38, Florida Statutes, as may be amended.

281 (6) The sale of Workforce Housing units to a qualified buyer in accordance with
282 the Workforce Housing Program.

283 (7) The sale of Affordable Housing units to a qualified buyer pursuant to the
284 Affordable Housing programs.

285 (8) The acquisition or exchange of property when the conveyance of the property
286 to the County is a requirement of a development order.

287 (9) The disposition of property pursuant to a Solicitation for the development of
288 County-owned property where the County's contribution will be provided in the
289 form of conveyance of the property.

290 (10) Any conveyance or sale of real property acquired by the County for
291 delinquent taxes pursuant to Section 197.592, Florida Statutes, as may be
292 amended.

293 **Section 22-108. Unsolicited Proposals.**

294 (a) *Submission.* Private entities may submit unsolicited proposals involving County-
295 owned real property to the Department Director.

296 (b) *Contents.* Any unsolicited proposal must include:

297 (1) An application fee of twenty-five thousand dollars (\$25,000) in the form of cash,
298 cashier's check or other non-cancelable instrument; and

299 (2) Sufficient detail and information as set out in Section 255.065, Florida Statutes,
300 for the County to evaluate the proposal in an objective and timely manner.

301 (c) *Board Notification.* Upon receipt of an unsolicited proposal, the Department
302 Director will notify the Board in writing of receipt of the unsolicited proposal. Any Board
303 member may request that the unsolicited proposal be placed on a future Board meeting
304 agenda for a determination of whether to reject the unsolicited proposal or whether to
305 advise staff to proceed with evaluation of the unsolicited proposal. If no request is received
306 from the Board, County staff may reject and not review the unsolicited proposal, or County
307 staff may place the unsolicited proposal on the next available meeting agenda for direction
308 from the Board. If placed on the next available Board meeting agenda, then the Board at
309 such meeting may by majority vote:

310 (1) Reject the unsolicited proposal; or

311 (2) Advise staff to proceed with evaluation of the unsolicited proposal.

312 (d) *Evaluation.* If so advised by the Board, County staff will evaluate the unsolicited
313 proposal and publish notice in accordance with the requirements of Section 255.065,
314 Florida Statutes, and in accordance with any applicable County ordinances, policies and
315 procedures. If the initial application fee does not cover the County's costs to evaluate the
316 unsolicited proposal, the County shall request additional fees from the proposer. The
317 proposer must remit the requested additional amount within thirty (30) days of receipt of
318 the request or the County will stop review of the unsolicited proposal and recommend its
319 rejection by the Board.

320 (e) *Notice of Competitive Proposals.* If County staff publishes notice soliciting
321 competitive proposals under (d) above, the County will use the procedures for soliciting
322 and evaluating proposals as set forth in Section 255.065, Florida Statutes, and in
323 accordance with any applicable County ordinances, policies and procedures. The submitter
324 of the unsolicited proposal shall respond to the competitive solicitation and offer the

325 County a proposal with terms not less favorable to the County than its original unsolicited
326 proposal.

327 (f) *Rejection.* If the unsolicited proposal is rejected by the County without evaluation,
328 County staff will notify the proposer of the County's decision and return the proposer's
329 application fee. The County is not required to give a reason for its decision. The County
330 reserves the right to determine, in its sole discretion, whether to reject or evaluate an
331 unsolicited proposal. The rejection of an unsolicited proposal shall create no rights in the
332 proposer and such decision shall not be subject to protest or appeal.

333 (g) Nothing contained herein shall limit or divest the Board of its authority pursuant to
334 Chapter 125, Florida Statutes or this PREM Ordinance.

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

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

338 **Article 3. SEVERABILITY:**

339 If any provision, article, paragraph, sentence, clause, phrase, or work of this
340 Ordinance is for any reason held by a court to be unconstitutional, inoperative, or void,
341 such holding shall not affect the remainder of this Ordinance.

342 **Article 4. CAPTIONS:**

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

346 **Article 5. SAVINGS CLAUSE:**

347 Notwithstanding anything to the contrary, all provisions of the Palm Beach County
348 Ordinance No. 2019-038, are specifically preserved and remain in full force and effect for
349 the limited purpose of enforcing any alleged violations of said Ordinance which occurred
350 prior to its repeal or amendment. Furthermore, nothing in this Ordinance shall be
351 constructed to modify or affect the validity of any agreement entered into or permit issued
352 prior to the effective date of this Ordinance.

353 **Article 6. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

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

358 **Article 7. EFFECTIVE DATE:**

359 The provision of this Ordinance shall become effective upon filing with the
360 Department of State.

361 APPROVED and ADOPTED by the Board of County Commissioners of Palm
362 Beach County, Florida, on this the ____ day of _____, 2024.

363 **ATTEST:**

364 JOSEPH ABRUZZO

PALM BEACH COUNTY, BY ITS

365 CLERK & COMPTROLLER

BOARD OF COUNTY COMMISSIONERS

366

367 By: _____
368 Deputy Clerk

By: _____
Maria Sachs, Mayor

369

370 APPROVED AS TO FORM

371 AND LEGAL SUFFICIENCY

372

373 By: _____
374 County Attorney

375

376 EFFECTIVE DATE: Filed with the Department of State on the ____ day of
377 _____, 2024.

Attachment #2
Summary of Key Proposed Revisions to the PREM Ordinance

**Summary of Key Revisions to the Property and Real Estate Management (PREM)
Ordinance**

| Section/Topic | Comments |
|---|--|
| <p>Sec. 22-102 Definitions</p> | <p>Added defined term <i>Affordable Housing</i>.</p> <p>Added defined term <i>Workforce Housing</i>.</p> <p>Revised the definitions of <i>Invitation for Bid</i> and <i>Request for Proposals</i> to include solicitations for the development, management or operation of County-owned property.</p> |
| <p>Sec. 22-103 Determination of Value</p> | <p>Clarified that the reference value of real property is based on information provided by the Property Appraiser's Office.</p> <p>Increased (from \$25,000) to \$100,000 the threshold below which no appraisal shall be required for property to be acquired or disposed. Consequently, increased to \$100,000 (from \$25,000) the lower end of the range for which one appraisal shall be required.</p> <p>Added that the County may, at its option, utilize state procedures for obtaining appraisals where state requirements for a specific transaction so require (previously it was limited to federal).</p> <p>Added as an exemption to the appraisal requirements the sale of Affordable Housing units to a qualified buyer pursuant to an Affordable Housing program.</p> <p>Added as an exemption to the appraisal requirements the acquisition or exchange of property where the conveyance of the property to the County is required as part of a road right-of-way permit or as condition of a development order.</p> |
| <p>Sec. 22-104 Standard and Procedures for the sale, lease, development, management or operation of real property</p> | <p>Added <i>development, management and operation</i> to the scope of actions covered by the standards.</p> <p>Added language authorizing the FDO Director to select the method of solicitation, postpone the</p> |

| Section/Topic | Comments |
|--|--|
| | <p>date/time for response submission or response opening, and to cancel the solicitation for any reason prior to opening.</p> <p>Added language providing for the Administrator's authority to cancel the solicitation for any reason after opening.</p> <p>Added language stating the County's ability to negotiate an agreement for the development, management, use and/or operation of County-owned real property pursuant to the County's economic development powers under F.S. 125.045.</p> <p>Added language providing for the County's ability to negotiate an agreement for the lease, development, management or operation of real property 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.</p> <p>Added Section 125.35, Florida Statutes and Chapter 332, Florida Statutes as an exemption to the lease of airport property.</p> <p>Added F.S. 125.045 as an exemption to the Standards and Procedures requirements.</p> <p>Added as an exemption to the Standards and Procedures requirements the sale of Affordable Housing units to a qualified buyer pursuant to an Affordable Housing program.</p> <p>Added as an exemption to the Standards and Procedures requirements the acquisition or exchange of property where the conveyance of the property to the County is required as part of a road right-of-way permit or as condition of a development order.</p> |
| <p>Sec. 22-105 Delegation of Authority</p> | <p>Added delegation authority to the County Administrator or designee, for the following items reviewed by FDO (for terms and conditions) and the CAO (for legal sufficiency):</p> <ul style="list-style-type: none"> - For County-owned real property, short term leases where the term does not exceed 90 |

| Section/Topic | Comments |
|---------------|---|
| | <p>days; license and use agreement not exceeding 1 year for non-government entities and not exceeding 3 years for government/non-profit entities; permits not to exceed 90 days; trespass affidavits as provided by law; and site access agreements for as long as necessary to complete the work.</p> <ul style="list-style-type: none"> - For non-County-owned real property, short term leases, license agreements, use agreements, and permits that do not obligate the County to expend more than \$50,000 and where the term does not exceed 90 days, and site access agreements for as long as needed to complete the work. - Easements, utility agreements and other documents required as part of, or related to, a Board approved capital project. - Limited term easements granted to or by the County not to exceed 2 years. - Closing statements, seller's affidavits and other such documents for acquisition/disposition of real property previously approved by the Board. - Subordination, nondisturbance, attornment agreements, tenant estoppel certificates and other documents typical in the administration of leases. - Standard license agreements, permits, development and use agreements and forms of federal, state and local governmental entities involving real property. - Revisions to governing documents of property owner associations where the the County is a member as long as the revisions do not materially impact the County's ownership rights and interests. |

| Section/Topic | Comments |
|--|---|
| | <ul style="list-style-type: none"> - Notices of non-compliance and termination for failure to comply with terms and conditions of an agreement for the use, lease, development, management and operation of real property. <p>Added language providing the County Administrator authority to execute all necessary agreements required due to a declared state of emergency.</p> <p>Added language to specify that nothing in this section shall be construed to limit the BCC's authority to grant delegations of authority.</p> <p>Added language to specify that nothing in this section shall be construed to invalidate prior delegations of authority.</p> |
| <p>Sec. 22-107 Property Review Committee</p> | <p>Revised the section to reflect that the PRC exists pursuant to Resolution 2019-1585.</p> |
| <p>Sec.22-108 Unsolicited Proposals</p> | <p>Added new section, mirroring the language recently approved under the Purchasing Ordinance.</p> |
| <p>Miscellaneous</p> | <p>Capitalized words throughout and performed grammatical cleanup as necessary.</p> |

Attachment #3
Proposed Revisions to the PREM Ordinance (redline to current Code)

42 authorize the County Administrator to execute all necessary real estate agreements during
43 a state of emergency; and to exempt the acquisition or exchange of property pursuant to a
44 development order and the County's economic development powers under Section
45 125.045, Florida Statutes, from certain requirements hereof.

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

48 **Article 1. REPEAL and REPLACEMENT:**

49 Chapter 22, Article VI of the Palm Beach County Code, is hereby repealed in its
50 entirety and replaced with the following:

51 **Section 22-101. Title.**

52 This article shall be known and may be cited as the "Palm Beach County Real
53 Property Acquisition, Disposition and Leasing Ordinance" (hereinafter the "PREM
54 Ordinance").

55 **Section 22-102. Definitions.**

56 Affordable Housing means housing units for households whose total income is
57 between zero percent (0%) and eighty percent (80%) of the Area Median Income also
58 known as AMI. The limits stated herein shall be automatically adjusted in accordance with
59 the limits established by the United States Department of Housing and Urban Development
60 (HUD) and the Florida Housing Finance Corporation (FHFC).

61 Area Median Income (AMI) means the midpoint of a specific area's income
62 distribution as calculated by HUD, FHFC, or any successor agency.

63 Board means the Board of County Commissioners of the County.

64 County means Palm Beach County, Florida.

65 Department means the ~~County~~County's Facilities Development and Operations
66 Department.

67 Division means the Property and Real Estate Management Division of the ~~County~~
68 Facilities Development and Operations Department.

69 Extraordinary Assumption means an assumption, directly related to a specific
70 appraisal, which, if found to be false, could alter the appraiser's opinions or conclusions.

71 Extraordinary Assumptions presume as fact otherwise uncertain information about
72 physical, legal, or economic characteristics of the subject property or about conditions
73 external to the property, such as market conditions or trends, or about the integrity of data
74 used in an appraisal analysis.

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

80 *Invitation ~~to~~for Bid* means a solicitation for offers ~~for the sale or to purchase, lease~~
81 ~~of, develop, manage, or operate~~ County-owned real property in which price is the sole basis
82 for evaluation of ~~responses~~Responses.

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

86 *Request for Proposals* means a solicitation for proposals ~~for the sale or to purchase,~~
87 ~~lease of, develop, manage, or operate~~ County-owned real property in which evaluation of
88 ~~responses~~Responses is based primarily upon previously established criteria that include
89 factors other than price.

90 *Response* means a responsive bid or proposal submitted ~~by a responsible person in~~
91 response to a ~~solicitation~~Solicitation.

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

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

95 *Workforce Housing* means housing units for households whose total income is
96 between sixty percent (60%) and one hundred forty percent (140%) of the Area Median
97 Income also known as AMI. The limits stated herein shall be automatically adjusted in
98 accordance with the limits established by HUD and FHFC.

99 *Workforce Housing Program* means the Workforce Housing Program established
100 by Ordinance No. 2006-055, as amended and as implemented in accordance with the
101 Workforce Housing Program Financial Assistance Strategy approved by the Board on May
102 15, 2018.

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

104 (a) If the proposed purchase price of real property to be acquired through purchase by
105 the County or the value of real property, as determined by the Palm Beach County property
106 ~~appraiser~~Property Appraiser, to be disposed of through sale by the County is:

107 (1) ~~Twenty-five~~One hundred thousand dollars (~~\$25,000~~100,000) or less, no
108 appraisal shall be required.

109 (2) Greater than ~~twenty-five~~one hundred thousand dollars (~~\$25,000~~100,000) but less
110 than five hundred thousand dollars (\$500,000), at least one (1) appraisal shall be
111 ~~obtained~~required prior to approval of the agreement for purchase or sale by the
112 Board.

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

116 (b) The County may, at its option, utilize state or federal procedures for obtaining
117 appraisals where state or federal requirements for a specific transaction differ than those
118 set forth in this section.

119 (c) The following are exempt from the requirements in (a) of this section:

120 (1) Acquisitions of real property from and disposition of real property to another
121 governmental entity are exempt from the requirements of this section when the
122 assessed value of the real property, as determined by the County property appraiser,
123 is equal to or greater than the purchase price of the real property;

124 (2) Acquisitions of Right-of-Way are exempt from the requirements of (a), (b)
125 and (c) of this section;

126 (3) The sale of wWorkforce hHousing units to a qualified buyer pursuant to the
127 Workforce Housing Program are exempt from the requirements;

128 (4) The sale of Affordable Housing units to a qualified buyer pursuant to an
129 Affordable Housing program; and

130 (5) Acquisition or exchange of property where the conveyance of the property to the
131 County is required as part of a road right-of-way permit or as condition of a
132 development order.

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

136 ~~(g)~~(e) The Board shall not be required to comply with the requirements of F.S. ~~§Section~~
137 125.355, Florida Statutes, as may be amended, unless the Board seeks to utilize the
138 exemption from F.S. ~~§Section~~ 119.07, Florida Statutes, as may be amended, for
139 information relating to the purchase of real property or except as otherwise required by
140 law.

141 **Section 22-104. Standards and procedures for the sale or lease, lease,**
142 **development, management, or operation of real property.**

143 (a) ~~Any interested Person may request~~The Division is authorized by the Board to provide
144 information regarding to the public about procedures for the acquisition or, disposition,
145 lease, development, management, or operation of County-owned real property by written
146 request to the division.

147 (b) Except as otherwise provided in this section, the Division shall utilize one (1) of the
148 ~~following types of negotiation competitive Solicitation procedures in the selection of to~~
149 select a Person to whom County-owned real property may be sold or leased, or to select a
150 Person to develop, manage or operate County-owned real property: Invitation for Bid or
151 Request for Proposals. The Solicitation issued by the Division shall provide for the
152 competition criteria and qualification standards upon which the sale or, lease, development,
153 management, or operation of County--owned real property will be determined. Public
154 notice of the County's intent to consider the sale or, lease, development, management, or
155 operation of the County-owned real property and the availability of the competition criteria
156 and qualification standards shall be provided a reasonable period of time as required by law

157 prior to the date set for submission of ~~responses~~Responses to the Solicitation. The Division
158 shall notify ~~all Persons who have submitted a response,~~ by United States regular mail, email
159 or hand-delivery, all Persons who have submitted a Response of the County's intention to
160 consider final action regarding the sale ~~or,~~ lease, development management, or operation
161 of the County-owned real property at a ~~regular Board meeting of the Board.~~ The notice
162 shall state the time and manner for making ~~objections~~public comments and shall be mailed
163 ~~or,~~ delivered to the address provided to the Division or transmitted by email to the email,
164 or emailed to the physical or electronic address provided to the Division. The Director of
165 the Department shall have the authority to select the method of Solicitation, to postpone
166 the date and time for Response submission or Response opening, or to cancel the
167 Solicitation for any reason before the Response opening. The County Administrator shall
168 have the authority to cancel the Solicitation for any reason after the Response opening.

169 (c) In no event shall the sale ~~or,~~ lease, development, management, or operation of
170 County-owned real property violate the ~~County~~County's comprehensive plan or zoning
171 regulations ~~of the County.~~

172 (d) Notwithstanding the provisions of Section 22-104(b) above, the County may, in its
173 discretion:

174 (1) Extend the term of or otherwise modify the terms of an existing lease,
175 development agreement, management agreement, or operation agreement of real
176 property upon a finding by the Board that such extension or modification is in the
177 best interests of the County.

178 (2) Negotiate the sale or lease of real property with a particular ~~person~~Person based
179 upon a finding by the Board that the Person is the only Person capable of reasonably
180 utilizing the County-owned real property for the use which the Board has
181 determined to be the highest and best use of the County-owned real property.
182 Circumstances justifying such action may include, but shall not be limited to, the
183 location or restrictions on the use of the County-owned real property.

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

186 (4) Negotiate an agreement for the development, management, use, and/or operation
187 of County-owned real property pursuant to and in accordance with the County's
188 economic development powers under Section 125.045, Florida Statutes, as may be
189 amended.

190 (5) Negotiate an agreement for the lease, development, management, or operation
191 of real property when the delay incident to complying with all governing rules,
192 regulations or procedures would be detrimental to the interests, health, safety, or
193 welfare of the County.

194 (e) The provisions of this section shall not apply to any sale or lease of real property
195 which is exempt from the competitive bidding requirements of F.S. §Section 125.35,
196 Florida Statutes, as may be amended; to exchanges of real property pursuant to F.S.
197 §Section 125.37, Florida Statutes, as may be amended; to any sale or lease of real property
198 pursuant to F.S. §Sections 125.045 and 125.38, Florida Statutes, as may be amended; or to
199 the sale of wWorkforce hHousing units to a qualified buyer pursuant to the Workforce
200 Housing Program; to the sale of Affordable Housing units to a qualified buyer pursuant to
201 an Affordable Housing program; to the lease of airport property pursuant to Section 125.35,
202 Florida Statutes as may be amended, or Chapter 332, Florida Statutes, as may be amended;
203 or to the acquisition or exchange of property where the conveyance of the property to or
204 by the County is required as condition of a development order.

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

206 (a) The County Administrator or designee shall have the authority to execute, on behalf
207 of the Board, ~~license agreements and limited term easements using standard form~~the
208 following documents that have been reviewed and approved by the Board~~Department for~~
209 terms and such other standard form documents as may be approved~~conditions and~~ by the
210 ~~Board from time to time.~~County Attorney's Office for legal sufficiency:

211 (1) For County-owned real property, short term leases where the term does not
212 exceed ninety (90) days, license agreements and use agreements not to exceed one
213 (1) year for non-government entities and not to exceed three (3) years for
214 government and non-profit entities, permits not to exceed ninety (90) days, trespass

215 affidavits as provided by law, and site access agreements for as long as necessary to
216 complete the work.

217 (2) For non-County-owned real property, short term leases, license agreements, use
218 agreements, and permits that do not obligate the County to expend more than
219 \$50,000 and where the term does not exceed ninety (90) days, and site access
220 agreements for as long as necessary to complete the work.

221 (3) Easements, utility agreements and other documents required as part of, or related
222 to, a Board approved capital project, including but not limited to any future required
223 modifications, amendments, releases and/or partial releases thereof.

224 (4) Limited term easements granted to or by the County not to exceed two (2) years.

225 (5) Closing statements, seller's affidavits and other such documents for acquisitions
226 and dispositions of real property previously approved by the Board which are
227 standard to effectuate closing of a real estate transaction.

228 (6) Subordination, nondisturbance, attornment agreements, tenant estoppel
229 certificates and other such documents which are standard in the administration of
230 leases.

231 (7) Standard license agreements, permits, development and use agreements and
232 forms of federal, state and local governmental entities involving real property.

233 (8) Revisions to governing documents of property owner associations where the
234 County is member as long as the revisions do not materially impact the County's
235 ownership rights and interests.

236 (9) Notices of non-compliance and termination for failure to comply with terms and
237 conditions of an agreement for the use, lease, development, management and
238 operation of real property.

239 (b) When the Board has declared a state of emergency, or when a state of emergency
240 has been declared which affects the County, or when a state of emergency has been
241 declared in accordance with Section 9-35 of the Palm Beach County Code and the approval
242 of the Board cannot be obtained in a timely manner, the County Administrator shall have
243 the authority to execute, on behalf of the Board, all necessary agreements required due to

244 the state of emergency, including but limited to leases, rental agreements, license and use
245 agreements, development, management and operation agreements, access agreements and
246 easements on either County-owned property or non-County-owned property; provided that
247 said agreements shall be presented to the Board for ratification as soon as possible
248 following signature or approval by the County Administrator.

249 (c) Nothing in this Section shall be construed to invalidate prior delegations of authority
250 by the Board, or to limit the authority of the Board to grant delegations of authority to the
251 County Administrator related to real property, including without limitation, the acquisition,
252 disposition, lease, license, use, management, development or operation thereof.

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

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

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

264 (a) ~~The~~Pursuant to Resolution No. R-2019-1585 the Board shall create by resolution,
265 ~~within sixty (60) days~~created the Property Review Committee and hereby reaffirms the
266 authority of the effective date of this ordinance a committee to be named the property
267 ~~review committee~~Property Review Committee to review, evaluate and advise the Board
268 regarding real estate transactions involving the ~~purchase~~saleacquisition, disposition or
269 exchange of fee simple title to real property, ~~which~~when transactions:

270 (1) Are based on appraisal(s) utilizing ~~hypothetical conditions~~Hypothetical
271 Conditions or ~~extraordinary assumptions~~Extraordinary Assumptions.

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

274 (3) Involve a ~~purchase~~ acquisition in which the purchase price of the real property
275 is greater than one hundred ten ~~(110)~~-percent (110%) of the fair market value ~~as~~
276 ~~determined by the appraisal or the average of the appraisals obtained by the County.~~
277 ~~Acquisitions.~~

278 (4) Involve acquisitions of Right-of-Way ~~require review~~ where the purchase price
279 is greater than one hundred fifteen ~~(115)~~-percent (115%) of the fair market value ~~;~~

280 (5) Involve a sale ~~disposition~~ in which the sale price of the real property is lower
281 than ninety ~~(90)~~-percent (90%) of the fair market value ~~as determined by the~~
282 ~~appraisal or the average of the appraisals obtained by the County.~~

283 (6) Involve an exchange of real property in which the purchase or sale price of the
284 real property to be conveyed to or by the County, plus any additional consideration
285 to be paid to or by the ~~county~~ County in the exchange transaction exceeds ~~two~~ five
286 ~~hundred fifty thousand dollars (\$250,000.00)~~ 500,000).

287 (b) The Board and the County Administrator shall be entitled to direct County staff to
288 present to the ~~property review committee~~ Property Review Committee any real property
289 transaction not otherwise required by this ~~ordinance~~ PREM Ordinance to be presented to
290 the ~~property review committee~~ Property Review Committee.

291 (c) The following are exempt from provisions of this section ~~shall not apply to~~
292 ~~transactions:~~

293 (1) Transactions for less than ~~two~~ five hundred ~~fifty~~ thousand dollars
294 ~~(\$250,000.00); acquisitions).~~

295 (2) Acquisitions of Right-of-Way which involve eminent domain and/or inverse
296 condemnation litigation ~~;~~ transactions.

297 (3) Transactions subject to Federal Aviation Administration review or audit with the
298 exception of off-airport transactions for a non-airport purpose ~~;~~ transactions pursuant
299 ~~to chapter 11, article XV, of this Code, the "conservation lands protection~~
300 ~~ordinance"; any intergovernmental conveyance of real property pursuant to Florida~~

301 ~~Statutes, § 125.38, as may be amended; or the sale of workforce housing units to a~~
302 ~~qualified buyer in accordance with the Workforce Housing Program. airport~~
303 ~~purpose.~~

304 (4) Transactions pursuant to Chapter 11, Article XV, of this Code, the
305 "Conservation Lands Protection Ordinance".

306 (5) Any conveyance of real property to governmental and non-profit entities
307 pursuant to Section 125.38, Florida Statutes, as may be amended.

308 (6) The sale of Workforce Housing units to a qualified buyer in accordance with
309 the Workforce Housing Program.

310 (7) The sale of Affordable Housing units to a qualified buyer pursuant to the
311 Affordable Housing programs.

312 (8) The acquisition or exchange of property when the conveyance of the property
313 to the County is a requirement of a development order.

314 (9) The disposition of property pursuant to a Solicitation for the development of
315 County-owned property where the County's contribution will be provided in the
316 form of conveyance of the property.

317 (10) Any conveyance or sale of real property acquired by the County for
318 delinquent taxes pursuant to Section 197.592, Florida Statutes, as may be
319 amended.

320 **Section 22-108. Unsolicited Proposals.**

321 (a) Submission. Private entities may submit unsolicited proposals involving County-
322 owned real property to the Department Director.

323 (b) Contents. Any unsolicited proposal must include:

324 (1) An application fee of twenty-five thousand dollars (\$25,000) in the form of cash,
325 cashier's check or other non-cancelable instrument; and

326 (2) Sufficient detail and information as set out in Section 255.065, Florida Statutes,
327 for the County to evaluate the proposal in an objective and timely manner.

328 (c) Board Notification. Upon receipt of an unsolicited proposal, the Department
329 Director will notify the Board in writing of receipt of the unsolicited proposal. Any Board

330 member may request that the unsolicited proposal be placed on a future Board meeting
331 agenda for a determination of whether to reject the unsolicited proposal or whether to
332 advise staff to proceed with evaluation of the unsolicited proposal. If no request is received
333 from the Board, County staff may reject and not review the unsolicited proposal, or County
334 staff may place the unsolicited proposal on the next available meeting agenda for direction
335 from the Board. If placed on the next available Board meeting agenda, then the Board at
336 such meeting may by majority vote:

337 (1) Reject the unsolicited proposal; or

338 (2) Advise staff to proceed with evaluation of the unsolicited proposal.

339 (d) *Evaluation.* If so advised by the Board, County staff will evaluate the unsolicited
340 proposal and publish notice in accordance with the requirements of Section 255.065,
341 Florida Statutes, and in accordance with any applicable County ordinances, policies and
342 procedures. If the initial application fee does not cover the County's costs to evaluate the
343 unsolicited proposal, the County shall request additional fees from the proposer. The
344 proposer must remit the requested additional amount within thirty (30) days of receipt of
345 the request or the County will stop review of the unsolicited proposal and recommend its
346 rejection by the Board.

347 (e) *Notice of Competitive Proposals.* If County staff publishes notice soliciting
348 competitive proposals under (d) above, the County will use the procedures for soliciting
349 and evaluating proposals as set forth in Section 255.065, Florida Statutes, and in
350 accordance with any applicable County ordinances, policies and procedures. The submitter
351 of the unsolicited proposal shall respond to the competitive solicitation and offer the
352 County a proposal with terms not less favorable to the County than its original unsolicited
353 proposal.

354 (f) *Rejection.* If the unsolicited proposal is rejected by the County without evaluation,
355 County staff will notify the proposer of the County's decision and return the proposer's
356 application fee. The County is not required to give a reason for its decision. The County
357 reserves the right to determine, in its sole discretion, whether to reject or evaluate an

358 unsolicited proposal. The rejection of an unsolicited proposal shall create no rights in the
359 proposer and such decision shall not be subject to protest or appeal.

360 (g) Nothing contained herein shall limit or divest the Board of its authority pursuant to
361 Chapter 125, Florida Statutes or this PREM Ordinance.

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

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

365 **Article 3. SEVERABILITY:**

366 If any provision, article, paragraph, sentence, clause, phrase, or work of this
367 Ordinance is for any reason held by a court to be unconstitutional, inoperative, or void,
368 such holding shall not affect the remainder of this Ordinance.

369 **Article 4. CAPTIONS:**

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

373 **Article 5. SAVINGS CLAUSE:**

374 Notwithstanding anything to the contrary, all provisions of the Palm Beach County
375 Ordinance No. 2019-038, are specifically preserved and remain in full force and effect for
376 the limited purpose of enforcing any alleged violations of said Ordinance which occurred
377 prior to its repeal or amendment. Furthermore, nothing in this Ordinance shall be
378 constructed to modify or affect the validity of any agreement entered into or permit issued
379 prior to the effective date of this Ordinance.

380 **Article 6. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

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

385 **Article 7. EFFECTIVE DATE:**

Attachment 4
Resolution No. 2019-1585-PRC

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, REPEALING AND REPLACING RESOLUTION R-2013-1421; PROVIDING FOR THE PALM BEACH COUNTY PROPERTY REVIEW COMMITTEE; PROVIDING FOR MEMBERSHIP; PROVIDING FOR MEETINGS AND ORGANIZATION; PROVIDING FOR REMOVAL; PROVIDING FOR DUTIES AND FUNCTIONS; PROVIDING FOR BOARD ACTION ADVISORY ONLY; PROVIDING FOR ASSISTANCE TO THE COMMITTEE; PROVIDING FOR SEVERABILITY; PROVIDING FOR UNIFORM POLICIES AND PROCEDURES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Palm Beach County adopted Ordinance No. 2009-052 on December 15, 2009, which ordinance, among other things, required the Board to create by resolution a committee to be named the "Property Review Committee" to review, evaluate and advise the Board regarding real estate transactions involving the purchase (including eminent domain), sale or exchange of fee simple title to real property if certain triggers or thresholds are met; and

WHEREAS, the Board established the Property Review Committee on February 23, 2010, pursuant to Resolution R-2010-0292; and

WHEREAS, Resolution R-2010-0292 was repealed and replaced by Resolution R-2013-1421 in order to be in compliance with the Board of County Commissioners' uniform policies and procedures on advisory boards as provided for in Resolution R-2013-0193; and

WHEREAS, there is a need to reduce the number of members of the Property Review Committee in order to find sufficient members willing to serve on the Committee; and

WHEREAS, repealing and replacing Resolution R-2013-1421, pertaining to the Property Review Committee will simplify future reference.

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

Section 1. Repeal and replacement of Prior Resolution. Resolution R-2013-1421 is hereby repealed and replaced in its entirety.

Section 2. Creation. There is hereby established a committee to be known as the Palm Beach County Property Review Committee.

Section 3. Membership.

- a. The Property Review Committee shall consist of three (3) members. Appointments shall be based upon nominations of individuals with the following qualifications:
1. One (1) representative from the Palm Beach County Property Appraiser's Office;
 2. One (1) representative licensed as a real estate broker with an office in Palm Beach County and expertise in Palm Beach County commercial real estate.
 3. One (1) representative with expertise in land planning, eminent domain and/or real estate law who is a licensed attorney with offices in Palm Beach County.
- b. Appointment of new members to fill vacancies and reappointment of members whose terms have expired shall be made at large by the Board of County Commissioners. Should a vacancy occur among the three (3) member categories identified in 3.a. that cannot be filled by that group, that vacancy may be filled by a county resident having experience in real estate valuation or eminent domain. Vacancies occurring during a term shall be filled for the unexpired portion of the term, and shall not count toward the member's term limits.
- c. Members shall serve for staggered terms of three (3) years, with a limit of three (3) consecutive terms. Terms shall begin on October 1st and end on September 30th. Current members' terms shall expire on September 30th of the year in which their term expires. The property appraiser representatives appointed as members shall have discretion to delegate authority to other staff members of such property appraiser's office to represent such office on the Property Review Committee as such representatives deems appropriate.
- d. No member may serve on more than three (3) boards at any one time, except that no member may serve on any other board if doing so would violate Article II, Section 5(a) of the Florida Constitution, which prohibits dual-office holding.

Section 4. Meetings and Organization. The Committee shall establish a time and place for holding meetings as may be necessary and shall adopt such rules of organization and procedure as

may be required. A majority of members of the Committee shall constitute a quorum for the transaction of business and the concurrence of a majority of the members present and voting shall be required to take any official action. All meetings of the Committee and any of its subcommittees shall be open to the public, duly advertised and otherwise comply with all applicable requirements of Florida's "Sunshine" Law as set forth in Chapter 286 Florida Statutes. Minutes shall be taken at each meeting.

Section 5. Removal. All members serve at the pleasure of the Board of County Commissioners and may be removed without cause upon majority vote by the Board of County Commissioners. Any member that fails to attend three (3) consecutive meetings or that fails to attend more than one-half of the meetings scheduled during a calendar year shall be automatically removed for lack of attendance. Participation for less than three-fourths of a meeting shall be the same as failure to attend a meeting.

Section 6. Duties and Functions. The Committee shall have the following duties and functions:

- a. To review, evaluate and advise the Board of County Commissioners regarding real estate transactions required to be reviewed by the Property Review Committee pursuant to Palm Beach County Ordinance No. 2009-052, as may be amended, or which may otherwise be presented to the Property Review Committee by the County.

Section 7. Committee Action Advisory Only. The actions, decisions, and recommendations of the Property Review Committee shall not be final or binding on the Board of County Commissioners but shall be advisory only.

Section 8. Assistance to the Committee. The Property Review Committee may call upon any department or other agency of the County, regional, state, federal, or local governments for information or advice in the performance of its duties and function. County government will provide legal, administrative and consultant support and facilities as needed which is hereby declared to be a County purpose. Staff from the Property and Real Estate Management Division of the Facilities Development and Operations Department shall provide administrative support to the Committee. The County Attorney's office shall act as legal counsel to the Property Review Committee at all its meetings and shall provide such legal advice and assistance as may be requested by the Committee.

Section 9. Uniform Policies and Procedures of Advisory Boards. The Property Review Committee shall be subject to the uniform policies and procedures established by the Board of County Commissioners for Advisory Boards as currently set forth in Resolution No. 2013-0193, as may be amended by action of the Board of County Commissioners.

Section 10. Severability. If any section, sentence, clause, phrase, or word of this Resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holdings shall in no way affect the validity of the remaining portions of this Resolution.

Section 11. Future Review. The Board shall review the effectiveness of the Property Review Committee on or about February 23, 2025 to determine whether a public need exists for the continuation of such Committee.

Section 12. Effective Date. This Resolution shall take effect immediately upon its adoption.

The foregoing Resolution was offered by Commissioner Weiss who moved its adoption. The motion was seconded by Commissioner Weinroth and upon being put to a vote, was as follows:

| | ABSENT | AYE | NAY |
|-------------------------------|--------------|--------------|-------|
| Comm. Mack Bernard, Mayor | _____ | <u> X </u> | _____ |
| Comm. Dave Kerner, Vice Mayor | <u> X </u> | _____ | _____ |
| Comm. Hal R. Valeche | <u> X </u> | _____ | _____ |
| Comm. Gregg K. Weiss | _____ | <u> X </u> | _____ |
| Comm. Robert S. Weinroth | _____ | <u> X </u> | _____ |
| Comm. Mary Lou Berger | <u> X </u> | _____ | _____ |
| Comm. Melissa McKinlay | _____ | <u> X </u> | _____ |

The Mayor thereupon declared the Resolution duly passed and adopted this 8th day of October, 2019.

PALM BEACH COUNTY, FLORIDA, BY ITS BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK, CLERK & CONTROLLER

By: [Signature]
Deputy Clerk



APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: [Signature]
Assistant County Attorney

Attachment 5

Staff's Report on PRC Operations

Background

On December 15, 2009, the BCC adopted Ordinance No. 2009-052, which among other things, required the BCC to create by resolution a committee to be named the "Property Review Committee" to review, evaluate and advise the BCC regarding real estate transactions involving the purchase, sale or exchange of fee simple title to real property if certain triggers or thresholds are met. Specifically, the PRC reviews transactions which (1) are based on appraisals utilizing hypothetical conditions or extraordinary assumptions; (2) are based upon appraisals 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 is greater than 110% of the fair market value; (4) involve acquisitions of right-of-way where the purchase price is greater than 115% of the fair market value; (5) involve a sale in which the sale price is lower than 90% of the fair market value; or (6) involve an exchange of real property in which the purchase or sale price of the 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 \$250,000. The BCC established the PRC on February 23, 2010 pursuant to Resolution No. 2010-0292, which was repealed and replaced by Resolution No. 2013-1421 to comply with the BCC's uniform policies and procedures on advisory boards. On October 8, 2019, the BCC approved the repeal and replacement of Resolution No. 2013-1421 by Resolution No. 2019-1585 to reduce the number of committee members from five (5) to three (3) because, at the time, the PRC did not have a quorum due to term limits and difficulty finding individuals willing to serve.

Operations

Since its inception in 2010, the PRC has met eight (8) times (excluding its organizational meeting); most recently, meeting on August 30, 2024 to review the proposed revisions to the PREM Ordinance. Between 2010 and 2016, the PRC reviewed five (5) transactions, all of which were approved by the BCC. The PRC was inactive between the years of 2016 and 2023 as there were no items requiring its review; subsequently the terms of the committee members expired. The PRC was recently reestablished on August 22, 2023 with the appointment of three members.

Attachment 6
Business Impact Estimate

Business Impact Estimate

Proposed ordinance's title/reference:

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. 2019-038 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, LEASE, DEVELOPMENT, MANAGEMENT, OR OPERATION OF REAL PROPERTY; PROVIDING FOR DELEGATION OF AUTHORITY; PROVIDING FOR SUPERMAJORITY VOTE; PROVIDING FOR THE PROPERTY REVIEW COMMITTEE; PROVIDING FOR UNSOLICITED PROPOSALS; PROVIDING FOR REPEAL OF LAWS AND ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CAPTIONS; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with Section 126.66, Florida Statutes. If one or more boxes are checked below, this means Palm Beach County is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- The proposed ordinance is required for compliance with Federal or State law or regulation.
- The proposed ordinance relates to the issuance or refinancing of debt.
- The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget.
- The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the county government.
- The proposed ordinance is an emergency ordinance.
- The ordinance relates to procurement.
- The proposed ordinance is enacted to implement the following:
 - a. Development orders and development permits, as those terms are defined in Section 163.3164, Florida Statutes, and development agreements as authorized by the Florida Local Government Development Agreement Act under Sections 163.3220-163.3243, Florida Statutes;
 - b. Comprehensive plan amendments and land development regulation amendments initiated by an application by a private party other than the county;
 - c. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
 - d. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
 - e. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

See Section 126.66(3)(c)

In accordance with the provisions of controlling law, Palm Beach County hereby publishes the following information:

1. Summary of the proposed ordinance (must include a statement of the public purpose, such as serving the public health, safety, morals and welfare):

The proposed ordinance repeals and replaces Chapter 22, Article VI of the Palm Beach County Code, entitled "The Palm Beach County Real Property Acquisition, Disposition and Leasing Ordinance." The aim is to clarify, update, and codify the procedures by which County transacts real property related matters. The public purpose is to ensure a transparent and consistent process for the acquisition, disposition, lease, development, management, and operation of County-owned real property.

A summary of the changes include:

Sec. 22-102 Definitions

Added definitions for *Affordable Housing, Area Median Income, and Workforce Housing*. Revised definitions of *Invitation for Bid* and *Request for Proposals* to include solicitations for the development, management or operation of County-owned property.

Sec. 22-103 Determination of Value

Clarified that the value of real property is based on the Property Appraiser's Office. Increased the threshold from \$25,000 to \$100,000 below which no appraisal shall be required for property to be acquired or disposed. Consequently, increased the lower end of the range from \$25,000 to \$100,000 for which one appraisal shall be required. Added that the County may, at its option, utilize state procedures for obtaining appraisals where required (previously limited to federal). Added as an exemption to the appraisal requirements the sale of Affordable Housing units to a qualified buyer. Acquisition or exchange of property where conveyance to the County is required as part of a road right-of-way permit or as condition of a development order.

Sec. 22-104 Standards & Procedures

Added *development, management and operation* to the scope of actions covered by this Section. Added language authorizing the FDO Director to select the method of solicitation, postpone the date/time for response submission or opening, and to cancel the solicitation for any reason prior to opening. Added language providing for the County Administrator's authority to cancel the solicitation for any reason after opening. Added language stating the County's ability to negotiate an agreement for the development, management, use and/or operation of County-owned real property pursuant to the County's economic development powers under Section 125.045, Florida Statutes. Added language providing for the County's ability to negotiate an agreement for the lease, development, management or operation of real property 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. Added as exemptions to the requirements of this Section: Lease of airport property pursuant to Section 125.35 and Chapter 332, Florida Statutes; conveyances/leases under economic development powers pursuant to Section 125.045, Florida Statutes; sale of Affordable Housing units to a qualified buyer; added as an exemption to the Standards and Procedures requirements the acquisition or exchange of property where the conveyance of the property to the County is required as part of a road right-of-way permit or as condition of a development order.

Sec. 22-105 Delegation of Authority

Added delegation authority to the County Administrator or designee, for the following items reviewed by FDO (for terms and conditions) and the CAO (for legal sufficiency):

- For County-owned real property, short term leases where the term does not exceed 90 days; license and use agreement not exceeding 1 year for non-government entities and not exceeding 3 years for government/non-profit entities; permits not to exceed 90 days; trespass affidavits as provided by law; and site access agreements for as long as necessary to complete the work;

- For non-County-owned real property, short term leases, license agreements, use agreements, and permits that do not obligate the County to expend more than \$50,000 and where the term does not exceed 90 days, and site access agreements for as long as needed to complete the work;
- Easements, utility agreements and other documents required as part of, or related to, a Board approved capital project;
- Limited term easements granted to or by the County not to exceed 2 years;
- Closing statements, seller's affidavits and other such documents for acquisition/disposition of real property previously approved by the Board;
- Subordination, nondisturbance, attornment agreements, tenant estoppel certificates and other documents typical in the administration of leases;
- Standard license agreements, permits, development and use agreements and forms of federal, state and local governmental entities involving real property; and
- Revisions to governing documents of property owner associations where the County is a member as long as the revisions do not materially impact the County's ownership rights and interests;
- Notices of non-compliance and termination for failure to comply with terms and conditions of an agreement for the use, lease, development, management and operation of real property.

Added language providing the County Administrator authority to execute all necessary agreements required due to a declared state of emergency; added language to specify that nothing in this section shall be construed to limit the BCC's authority to grant delegations of authority; and added language to specify that nothing in this section shall be construed to invalidate prior delegations of authority.

Sec. 22-107 Property Review Committee

Revised Section to reflect that the PRC exists pursuant to Resolution 2019-1585. Increased the threshold to \$500,000 from \$250,000 for the value of the consideration to be paid by or to the County for transactions involving the exchange of real property which require PRC review.

Sec. 22-108 Unsolicited Proposals

Added new Section, setting forth the procedures for submittal and review of unsolicited proposals.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in Palm Beach County, including the following, if any:

- (a) An estimate of direct compliance costs that businesses may reasonably incur if the ordinance is enacted.
- (b) Identification of any new charge or fee on businesses subject to the proposed ordinance or for which businesses will be financially responsible.
- (c) An estimate of the county's regulatory costs, including an estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs.

None.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

None.

4. Additional information the Board of County Commissioners deem useful (if any):

None.