Board of County Commissioners
Leon County, Florida

Policy No. 03-01

Title:	Approval Authority for the Acquisition, Disposition, and Leasing of Real Property
Date Adopted:	~~August 25, 2009~~October 13, 2009
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Reference:	Chapters 73, 74, 125, and 127, *Florida Statutes*
Policy Superseded:	Policy No. 03-01, "Approval Authority for the Acquisition, Disposition, and Leasing of Real Property", adopted January 14, 2003; amended November 18, 2003; amended February 24, 2004; amended August 25, 2009

It shall be the policy of the Board of County Commissioners of Leon County, Florida (the Board), that Policy No. 03-01, "Approval Authority for the Acquisition, Disposition, and Leasing of Real Property", originally adopted by the Leon County Board of County Commissioners on January 14, 2003, amended on November 18, 2003, ~~and~~ amended on February 24, 2004, and amended August 25, 2009, is hereby superseded and amended to wit:

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POLICY

I. Authority, Purpose, Intent, and Scope

A. The authority set forth herein shall be deemed to be the Board's pre-approval of the contracts and agreements negotiated by the County Administrator for the acquisition, disposition, and leasing of real property in accordance with those specific duties set forth in Section 2-501(b)(8) of the Leon County Administrative Code, as may be amended from time to time. ~~is delegated to the County Administrator.~~

B. The purpose of this Policy is to establish a policy and procedure for the Board's approval ~~to govern the delegation of authority for~~ of any and all contracts or agreements for the conveyances of any interest in real property involving Leon County (the County), including, but not limited to, acquisitions, sales and dispositions, leases to others of real property owned by the County and leases to the County of real property owned by others, and all property management activities.

C. The intent of this Policy is to provide operating procedures and a set of rules to insure proper accountability in any real estate transaction involving the County and to insure proper management of any real property owned or leased by the County. Further, these policies and procedures shall be followed, along with all applicable laws and professional ethics, in order to insure fair and equitable treatment to the County, the general public, and all affected property owners.

D. The policies and procedures contained herein shall govern all County real estate functions.

II. Definitions

A. Acquisition Not Under the Threat of Condemnation: an acquisition of real property that may be needed for County purposes but that will be completed only if an acceptable price can be negotiated with the owner.

B. Acquisition Under the Threat of Condemnation: an acquisition of real property that has been identified on a Right-of-Way Map as being necessary to implement a Capital Improvements Project and that must be completed notwithstanding an owner's unwillingness to sell at a price that is acceptable to the County.

C. BOA: the Bank of America Plaza located at 311 and 315 S. Calhoun Street, Tallahassee, Florida, and any part thereof including but not limited to office and parking spaces.

D. Capital Improvements Projects: all projects which have been approved by the Board in a Capital Improvements Project Budget and have been included on the list of approved projects in the 2020 Transportation Plan, Comprehensive Plan, or other such Board declaration of intent.

E. Fair Market Rent: the reasonable rental rate and other related terms applicable to the conveyance of any leasehold interest or right of possession of BOA real property, as estimated by the Property Manager subject to the approval of the County Administrator or his designee.

F. Full Compensation: monetary or nonmonetary compensation paid to an owner, pursuant to Chapter 73, *Florida Statutes*, and as otherwise provided by law, in consideration for the acquisition of real property under the threat of condemnation. Full compensation shall include, but not be limited to, the following:

1. compensation for the real property acquired;

2. damages to any remaining real property not acquired;

3. any legal entitlement to damages to an owner's business caused by the denial of the use of the real property acquired; and

4. any legal entitlement to an owner's reasonable attorneys' fees and costs incurred in the defense of the proceedings.

G. Nonmonetary Terms: full compensation or consideration paid, in terms other than money, by the County for the acquisition of real property including, but not limited to, agreements for access to the owner's property, agreements for owner's extended possession of the property acquired by the County, agreements for management of stormwater on the owner's property, and other such agreements between the County and the property owner.

H. Huntington Oaks: The Huntington Oaks center, located at 3840 N. Monroe Street, Tallahassee, Florida, and any part thereof.

~~H.~~I Property Manager: the individual or entity retained by the County or assigned by the County Administrator to lease and manage the BOA and/or Huntington Oaks.

~~I.~~J Real Property: any interest in the land or the improvements located thereon, including, but not limited to, fee simple, leasehold and other rights of possession, temporary and perpetual easements, and grants of right-of-entry.

~~J.~~K Right-of-Way Map: any map of survey prepared by or on behalf of the County that identifies the real property necessary to implement a Capital Improvements Project.

III. Responsible Departments

A. Unless specifically directed otherwise by the County Administrator, the Public Works Department (the Department) shall implement and comply with these policies and procedures and shall be charged with the following responsibilities:

1. Developing uniform and clear procedures for all real property transactions;

2. Assuring uniform and clear documentation of all real property transactions;

3. Assuring that all real property transactions are negotiated equitably and in good faith and in accordance with all applicable state and federal laws;

4. Assuring cost effective management of all real property not currently in use by a County department; and

5. Assuring that, in those instances when negotiations for the acquisition of real property under the threat of condemnation are unsuccessful, all information necessary for the filing of an eminent domain lawsuit is provided to the County Attorney.

B. The County Attorney or his designee shall be charged with the following responsibilities:

1. acquiring real property through the use of eminent domain in those instances when negotiations for the acquisition of real property under the threat of condemnation are unsuccessful.

2. determining the scope of the appraisal assignment and the form of the appraisal report to be prepared for use in the County's real property transactions, unless such scope is otherwise established by the Board

3. approving any and all documents related to any transaction pursuant to this Policy.

C. With regard to the leasing and management of the BOA and Huntington Oaks, ~~unless specifically directed by~~ the County Administrator or his/her designee(s) ~~, the Department of Management Services~~ shall implement and comply with these policies ~~and procedures~~ and shall be charged with the responsibilities set forth in Sections VI(E), "BOA Real Property and Huntington Oaks Real Property."~~3.a.i, 3.a.ii, and 3.a.iii.~~

IV. Appraisals and Other County Estimates

A. For all real property transactions, the County shall obtain an appraisal report which estimates the fair market value of the real property interest involved in the transaction in accordance with the following procedures:

1. For acquisitions, sales, or dispositions in which the estimated value of the real property does not exceed $500,000, or for leases of real property in which the estimated annual expenditure or receipt of funds does not exceed $50,000, an independent state-certified appraiser shall be retained to prepare an appraisal report with an estimate of the fair market value of the real property at its highest and best use.

2. For acquisitions, sales, or dispositions in which the estimated value of the real property exceeds $500,000, or for leases of real property in which the estimated annual expenditure or receipt of funds exceeds $50,000, two independent state-certified appraisers shall be retained to each prepare an appraisal report with an estimate of the fair market value of the real property at its highest and best use.

3. For any conveyance of any leasehold interest or other right of possession of any part of the BOA or Huntington Oaks, the procedures set forth in Sections 4(A)(1) ~~.a.i~~ and 4(A)(2)~~.a.ii~~ shall not apply. In any such conveyances, the Property Manager shall estimate the Fair Market Rent.

B. The County Attorney or his designee shall determine the scope of the appraisal assignment and the form of the appraisal report to be prepared, unless otherwise established by the Board as follows:

1. For any acquisition of real property authorized under Board Policy 03-10, Flooded Property Acquisition Program, as may be amended from time to time, the real property shall be appraised retrospectively with the effective date of value being the day immediately before the most recent flood event affecting the real property being appraised. For purposes of the retrospective appraisal, the fair market value shall reflect any facts about the physical, legal, or economic characteristics of the real property known as of the effective date of value.

C. For all real property acquisitions under the threat of condemnation in which an owner is legally entitled to damages to a business caused by the denial of the use of the real property acquired, the County shall obtain from a certified public accountant an estimate of such business damages. For purposes of this Policy, the estimate of business damages shall be considered a part of the County's estimate of full compensation.

D. For all real property acquisitions under the threat of condemnation in which an owner is legally entitled to full compensation for reasonable attorney's fees and costs, the Department shall prepare an estimate of the reasonable attorney's fees and costs incurred by the owner in the defense of the proceedings for which the owner is legally entitled to compensation. The County's estimate may be based on input from the County Attorney or his designee provided, however, that in contested cases involving a court determination of the reasonable fees and costs the County shall retain a qualified expert to prepare the estimate. For purposes of this Policy, the estimate of reasonable attorney's fees and costs shall be considered a part of the County's estimate of full compensation.

V. Real Property Owned By Others; Acquisition or Lease by County

A. Acquisition of Real Property Under the Threat of Condemnation

1. Any real property that has been identified on a Right-of-Way Map as being necessary to implement a Capital Improvements Project shall be acquired under the threat of condemnation pursuant to the guidelines provided in Section 73.015, *Florida Statutes*, and pursuant to the following authority and procedure:

2. The County Administrator shall have the authority to approve and to execute any and all documents necessary to complete the acquisition of any parcel of real property necessary to implement a Capital Improvements Project for which the full compensation to a property owner is either:

a. An amount no greater than the County's estimate of full compensation, inclusive of attorney's fees and costs, for that parcel;

b. An amount no greater than $25,000, inclusive of attorney's fees and costs, regardless of the amount of the County's estimate of full compensation for that parcel; or

c. An amount no greater than $125,000, inclusive of attorney's fees and costs, provided, however, that such amount of full compensation does not exceed the County's estimate of full compensation for that parcel by more than 25 percent.

3. In the absence of the County Administrator, the Assistant County Administrator may execute any and all documents necessary to complete such acquisitions, which have been approved by the County Administrator.

4. Any offers of full compensation ~~to or from property owners~~ for which the amount exceeds the County Administrator's authority, or which include any nonmonetary terms, shall be presented to the Board pursuant to the following procedure:

a. The Department shall review and evaluate the terms and conditions of the offer and present to the Board for consideration an agenda item summarizing the offer.

b. An offer may be placed on the Board's consent agenda if all of the following conditions are met. If any such condition is not met, such offers shall be presented to the Board on its general business agenda for discussion:

(1) If the amount of the offer does not exceed $250,000; and

(2) The amount of the offer does not exceed the County's estimate of full compensation for that parcel by more than 50 percent; and

(3) The offer does not include any nonmonetary terms.

B. Acquisition of Real Property Not Under the Threat of Condemnation

1. Unless otherwise provided herein, the County Administrator shall have the authority to approve and to execute any and all documents necessary to complete the acquisition of any real property not under the threat of condemnation but which is needed for County purposes and for which the acquisition price is either:

a. An amount no greater than $10,000 regardless of the County's appraisal of the fair market value for the real property; or

b. An amount no greater than $50,000 provided, however, that such acquisition price does not exceed the County's appraisal of the fair market value for the real property by more than 10 percent.

2. In the absence of the County Administrator, the Assistant County Administrator may execute any and all documents necessary to complete such acquisitions, which have been approved by the County Administrator.

3. Any acquisition offers ~~to or from property owners~~ for which the amount exceeds the County Administrator's authority, or which include any nonmonetary terms, shall be presented to the Board pursuant to the following procedure:

a. The Department shall review and evaluate the terms and conditions of the offer and present to the Board for consideration an agenda item summarizing the offer.

b. Any such offer amount which exceeds $250,000 shall be considered by the Board at a public hearing no earlier than 30 days after notice of such public hearing is advertised in a newspaper of general circulation published in the County. All other offers shall be placed on the Board's general business agenda for consideration.

C. Acquisitions Pursuant to Policy 03-10, Flooded Property Acquisition Program

1. Definitions: As used in this Section, the following terms shall be defined as follows:

a. Duplication of Benefits: the total amount of any disaster-related repair assistance paid to the property owner reduced by any amounts documented by receipts showing that the repair assistance funds were used for their intended purposes. The types of disaster-related repair assistance which would be considered in determining whether there is a Duplication of Benefits include, but are not limited to, private flood insurance proceeds, federally assisted grants and loans, and any state assisted grants and loans.

b. Flooded Property Acquisitions: any reference to an acquisition of flooded property refers to an acquisition of real property authorized under Board Policy 03-10, "Flooded Property Acquisition Program", as may be amended from time to time.

2. The County Administrator shall have the authority to approve and to execute any and all documents necessary to complete a Flooded Property Acquisition for which the acquisition price is an amount no greater than:

a. The County's appraisal of the fair market value for the real property. estimated in accordance with the scope of appraisal set forth in Section 4(B)(1)~~.b.i~~, less;

b. the amount of any Duplication of Benefits.

3. In the absence of the County Administrator, the Assistant County Administrator may execute any and all documents necessary to complete such Flooded Property Acquisitions that have been approved by the County Administrator.

4. Any Flooded Property Acquisition offers ~~to or from property owners~~ for which the amount exceeds the County Administrator's authority shall be presented to the Board for consideration on the Board's general business agenda.

D. Receipt by County of Offers to Sell or Donate Real Property

1. Any owner desiring to sell or donate real property to the County should deliver a written offer to the Department. In the event another County department is directly contacted with an offer to sell or donate real property, the Department shall be so notified by such other County department.

2. Upon receipt of such offers, the Department shall circulate the offer to the appropriate departments for their review and comment as to any interest in the property for planned or future County projects.

3. If a County need for the real property is identified, the Department shall prepare a written report to the County Administrator with the following information included:

a. The estimated costs to the County if the offer is accepted;

b. Comments received from County departments identifying the existing and future need for the real property;

c. Recommendations on whether or not to pursue the offer, and on the potential funding source(s).

4. If the County Administrator concurs with the Department's recommendation to pursue the offer, the Department shall then proceed with the acquisition in accordance with the procedure in Section 5(B) ~~b~~, "Acquisition of Real Property Not Under the Threat of Condemnation."

E. Lease to County of Real Property

1. Any lease or lease-purchase agreement entered into by the County relating to real property owned by others and needed for County purposes shall be for a period not to exceed 30 years at a stipulated rental amount to be paid from current or other legally available funds.

2. The County Administrator shall have the authority to approve and to execute any and all documents necessary to complete a lease to the County of any real property owned by others and needed for County purposes and for which the annual rental amount is either:

a. No greater than $1,000 regardless of the County's appraisal of the fair market value for leasehold of the real property; or

b. No greater than $5,000 provided, however, that such annual rental amount does not exceed the County's appraisal of the fair market value for the real property by more than 10 percent.

3. In the absence of the County Administrator, the Assistant County Administrator may execute any and all documents necessary to complete such leases, which have been approved by the County Administrator.

4. Any such lease for which the amount exceeds the County Administrator's authority shall be presented to the Board pursuant to the following procedure:

a. The Department shall review and evaluate the terms and conditions of the lease agreement and present to the Board for consideration an agenda item summarizing the lease agreement.

b. Any such lease agreement with an annual rental amount which exceeds $25,000 shall be considered by the Board at a public hearing no earlier than 30 days after notice of such public hearing is advertised in a newspaper of general circulation published in the County. All other lease agreements shall be placed on the Board's general business agenda for consideration.

VI. Real Property Owned by County; Sale, Disposition, Exchange, or Lease to Others

A. Sale or Disposition of Any Real Property

1. The sale or disposition of any real property owned by the County shall be transacted in accordance with Section 125.35, *Florida Statutes*, as may be amended from time to time, unless the sale or disposition is exempted therefrom pursuant to either Section 125.38 or Section 125.39, *Florida Statutes*, or unless the sale or disposition is part of an exchange of real property.

2. In the event that the County Administrator deems that it may be in the best interest of the County to sell or dispose of any real property owned by the County, the County Administrator or his designee shall present the matter to the Board for consideration. Upon the Board's approval, the County Administrator shall be authorized to sale or dispose of the real property in accordance with the following procedure:

a. Published Notice Calling for Bids

(1) The County Administrator or his designee shall prepare a notice (the Notice) calling for bids for the acquisition of the real property so advertised to be sold to the highest and best bidder for the particular use of the real property that the Board deems to be the highest and best, and under such conditions that the Board may in its discretion determine. The Notice shall be published once a week for at least 2 weeks in a newspaper of general circulation published in the County.

(2) Upon receipt of any bids responsive thereto, the County Administrator or his designee shall compile and summarize the bid information and present it to the Board with a recommendation of which of the bids should be considered the highest and best. The bid of the highest bidder complying with the terms and conditions set forth in the Notice shall be accepted unless the Board rejects all bids because they are too low. The Board may require a deposit to be made or a surety bond to be given, in such form and under such terms as the Board determines, with each bid submitted.

b. Private Sale; No Published Notice for Bids

(1) The County Administrator shall be authorized to proceed with a private sale of real property if:

(a) the Board determines that a parcel of real property is of insufficient size and shape to be issued a building permit for any type of development to be constructed on the real property, or the Board finds that the County's estimated fair market value of the real property is $15,000 or less; and

(b) it is determined by the Board that, due to the size, shape, location, and value of the real property, the real property is of use only to one or more adjacent property owners.

(2) In such instance that the above conditions are met, the County Administrator or his designee may, after sending notice of the intended action to owners of adjacent property by certified mail, may proceed with a sale and conveyance of the real property at private sale without receiving bids or publishing notice.

(3) If, however, within ten working days after receiving such mailed notice, two or more owners of adjacent property notify the County of their desire to acquire the real property, the County Administrator or his designee shall accept sealed bids for the real property from such property owners and, upon presentation of the bids to the Board, the Board may convey such real property to the highest bidder complying with the terms and conditions set forth in the notice, or the Board may reject all offers and bids.

B. Sale or Disposition of Real Property Deemed Surplus

1. If an individual or entity is interested in purchasing or acquiring any real property owned by the County, such individual or entity shall express such interest in the form of a written offer to the County.

2. The written offer shall be delivered to the Department and, upon receipt, the Department shall prepare a written summary containing the following information about the real property:

a. When the property was acquired by the County and the cost of acquisition;

b. The original reason for acquisition by the County;

c. The site location and description including any improvements and zoning classification;

d. The size of the property; and

e. Current estimate of fair market value.

3. The Department shall circulate the written summary for comments from the County department(s) maintaining the real property or to all County departments if the real property is not actively used by the County.

4. Upon the Department's receipt of any responses to the written summary, the Department shall prepare a written report to the County Administrator which summarizes the responses and recommends whether or not the real property should be declared surplus. Real property may be considered surplus only if there is no potential future County use of the real property.

5. Upon the County Administrator's concurrence of a recommendation that the real property should be declared surplus, the real property shall be sold or disposed of in accordance with Section 6(A)~~.a~~, "Sale or Disposition of Any Real Property."

6. In addition to the above procedures, the Department shall annually review all County owned real property that is not currently being used by any County department and which may be considered surplus property.

C. Exchange of Real Property

1. The exchange of any real property owned by the County for other real property shall be transacted in accordance with Section 125.37, *Florida Statutes*, as may be amended from time to time, unless the exchange is exempted therefrom pursuant to either Section 125.38 or Section 125.39, *Florida Statutes*.

2. In the event the County Administrator deems that the County holds and possesses any real property not needed for County purposes and such property may be, in the best interest of the County, exchanged for other real property which the County may desire to acquire for County purposes, the County Administrator or his designee shall present the matter to the Board for its consideration in accordance with the following procedure:

a. The County Administrator or his designee shall present to the Board on its general business agenda a request for the adoption of a resolution authorizing the exchange of real property;

b. Before such resolution is adopted, however, the County Administrator or his designee shall prepare a notice setting forth the terms and conditions of the exchange of real property and arrange for the notice to be published once a week for at least two weeks in a newspaper of general circulation published in the County.

3. Upon the Board's adoption of the resolution authorizing the exchange of real property, the County Administrator or, in his absence, the Assistant County Administrator shall be authorized to execute any and all documents necessary to complete the exchange.

D. Lease from County of Real Property

1. The conveyance of any leasehold interest or other right of possession of any real property owned by the County shall be transacted in accordance with Section 125.35, *Florida Statutes*, as may be amended from time to time, unless the conveyance is exempted therefrom pursuant to either Section 125.38 or Section 125.39, *Florida Statutes*.

2. The conveyance of any leasehold interest or other right of possession of any part of the BOA or Huntington Oaks shall be completed in accordance with and subject to the limitations of Section 6(E)~~.e.~~, "BOA Real Property and Huntington Oaks Real Property."

3. In the event that the County Administrator deems that it may be in the best interest of the County to convey a leasehold interest or other right of possession of any real property owned by the County, the County Administrator or his designee shall present the matter to the Board for consideration. Upon the Board's approval, the County Administrator shall be authorized to convey the leasehold interest or other right of possession in accordance with Section 6(A)~~.a~~, "Sale or Disposition of Any Real Property."

4. In any acquisition under the threat of condemnation in which the full compensation to the owner includes an agreement by the County for the owner to remain in possession of the real property for a time certain after the closing date, such agreement for possession shall be exempt from Section 6(D)~~.d~~, "Lease from County of Real Property." In such acquisitions, the agreement for possession shall be included as part of full compensation and transacted in accordance with Section 5(A)~~.a.~~, "Acquisition of Real Property Under the Threat of Condemnation."

E. BOA Real Property

1. The County Administrator or designee shall have the authority to approve and execute any and all documents necessary to complete the conveyance, modification, or termination of any leasehold interest or other right of possession of any part of the BOA and Huntington Oaks subject to the following limitations:

a. The agreement for any such conveyance shall include~~:(1)~~ a rental rate of no less than 90 percent of the Fair Market Rent; and

b. Any such modification or termination shall be limited to the following:

(1) increases or decreases in the size of the space;

(2) month-to-month extensions;

(3) decreases in the length of the term; or

(4) any other modifications that result in a financial impact to the County of no more than ~~$5,000~~25 percent of the lease amount.

c. The County Administrator shall develop written procedures which shall govern the conveyance of any leasehold or other right of possession of any BOA or Huntington Oaks real property.

2. The County Administrator or designee shall have the authority to reject any offer to lease BOA real property or Huntington Oaks real property at a rental rate that is less than 90 percent of the Fair Market Rent.

3. The County Administrator or designee shall have the authority to reject any offer to lease BOA real property or Huntington Oaks real property for an intended use or term of use deemed incompatible, by the County Administrator or designee, with the County's use or intended use of the BOA or Huntington Oaks.

VII. Management of Real Property Owned by County

A. All County departments charged with the responsibility of operating a program or activity involving real property owned by the County shall have primary responsibility to maintain and manage that real estate.

B. The County Administrator or his designee shall be responsible for the management of all real property owned by the County that is not assigned to other County departments. This management responsibility shall include, but not be limited to, annual inventory, arrangement for insurance, security, maintenance, interim use, demolition of unsafe structures and the administration of contracts with outside property management entities.