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MEMORANDUM

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TO: Mayor Jerry L. Demings
-AND-
County Commissioners

FROM: Jeffrey J. Newton, County Attorney *JJN*
Georgiana Holmes, Assistant County Attorney *GH*
Contact: (407) 836-7320

DATE: October 25, 2021

SUBJECT: **Consent Agenda Item for November 9, 2021, Revised**
Administrative Regulation 11.07.01, titled
"Environmentally Sensitive Lands Acquisition"

I. EXPLANATION & SUMMARY OF PROPOSED REGULATION:

The regulation was reviewed in depth and revisions were made to ensure that the regulation is consistent with current practices and procedures.

II. ACTION REQUESTED:

Approval of proposed revisions to Administrative Regulation 11.07.01, titled "Environmentally Sensitive Lands Acquisition"

AMC
Attachment

c: Byron Brooks, County Administrator
Joel D. Prinsell, Deputy County Attorney



OFFICE OF COMPTROLLER

**ORANGE
COUNTY
FLORIDA**

Phil Diamond, CPA
County Comptroller as
Clerk of the Board of County Commissioners
201 South Rosalind Avenue
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Telephone: (407) 836-7300
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DATE: November 9, 2021

TO: Anna Caban, Legal Administrative Supervisor
County Attorney's Office, BCC

FROM: Katie Smith, Deputy Clerk *AP for KS*
Comptroller Clerk of the BCC

SUBJECT: Administrative Regulation 11.07.01, Environmentally Sensitive Lands
Acquisition

The above-referenced item was approved by the BCC on November 9, 2021. The Comptroller Clerk's Office will need a copy of the Administrative Regulation to complete the documentation for the file.


Upon forwarding the document to the Comptroller Clerk's Office, attach a transmittal slip or cover memo to the attention of the Assistant Deputy Clerk, identifying the document by name, agenda item number, and date of BCC approval.

Your assistance in accounting for Board-approved documents is very much appreciated.

ks:np

c: Jeffrey J. Newton, County Attorney, BCC
Kate Latorre, County Attorney's Office, BCC
Nicholas Gonzalez, Executive Assistant, County Administrator's Office, BCC
Pending File

DRAFT
10/19/2021

	ORANGE COUNTY ADMINISTRATIVE REGULATIONS	No.: 11.07.01
		Date: 11/10/92
Title: ENVIRONMENTALLY SENSITIVE LANDS ACQUISITION	Page 1 of 5	Approved By: BCC Revised: 6/22/99; 6/27/06

I. POLICY

- A. Since 1992, it has been the policy of Orange County that the acquisition of environmentally sensitive lands is an important and appropriate role for government to assume and that environmentally sensitive lands are important to the health and ~~well-being~~ well-being of the citizens and the natural environment.
- B. The Board of County Commissioners deems it necessary to re-evaluate, as necessary, these environmentally sensitive lands ~~pursuant to~~ based on certain ecological criteria, ~~evaluate~~ evaluate newly proposed land acquisitions, and if necessary, ~~and evaluate~~ the results of purchase negotiations, to ensure the ~~that~~ acquisition ~~of environmentally sensitive property~~ complies with certain standards.
- C. ~~A portion of the Public Service Tax has been dedicated towards environmentally sensitive lands and~~ Regardless of the funding source, it is necessary to ensure that ~~proceeds from the Public Service Tax Bond issue~~ the expenditure of County funds is applied appropriately ~~are applied solely toward~~ the acquisition of land ~~and construction improvements thereto~~ for environmental, ~~ecological,~~ and ecological recreational purposes, including but not limited to, associated appraisal, survey, title and due diligence investigation costs of these environmentally sensitive lands.
- D. It is necessary to ensure that whether a sales tax or other funding source, ~~the expenditures proceeds from the Public Service Tax Bond Issue~~ are effectively and efficiently used ~~expended~~ for the acquisition of environmentally sensitive lands such that the greatest public benefit is obtained for the least cost.

II. PROCEDURES

- A. The County Administrator or designee shall have the following responsibilities:
1. Identify environmentally sensitive lands based on the criteria set forth in Section II.C. below. Purchase negotiations and due diligence investigations shall be conducted for sites so identified. For the purpose of this Regulation, due diligence shall mean but not be limited to independently conducted appraisals, surveys, title search, environmental audits and any other items deemed necessary for acquisition. All properties identified shall be ~~treated~~



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~~equally for purposes of acquisition~~ evaluated using the criteria listed in Section II.C. in order to create competition among sellers for scarce funds.

2. Based on the results of purchase negotiations and the due diligence ~~investigations, conducted by the~~ Orange County's Real Estate Management Division, Risk Management Division, Environmental Protection Division, or other appropriate County or state agencies, ~~State agencies~~ may comment to the Board of County Commissioners in connection with each specific property purchase to be made with County funds from the Public Service Tax Bond proceeds.
3. Evaluate new lands proposed for acquisition by property owners or other entities.
4. Prepare an annual report for the Board of County Commissioners on the status of the environmentally sensitive lands acquisition program. The annual report shall also include an evaluation of the program.

B. Process to Nominate Parcels for Consideration ~~Application Process for New Properties:~~

Persons or organizations who wish the County to consider ~~new~~ lands for donation or acquisition shall submit a request to the Manager of the Orange County Environmental Protection Division or a designee, ~~completed application to the County Administrator or his designee~~. Application forms may be obtained from the Environmental Protection Division. The County Administrator or designee shall review each application for completeness. If the application is incomplete, the applicant shall submit the required information within thirty (30) days of request by the County or the application shall be considered withdrawn. Once the application is complete, the County Administrator or his designee shall complete evaluation of the new lands within six (6) months pursuant to Section II.C. of this regulation. The applicant shall be notified in writing of the decision. The Manager or designee shall review each request and complete an evaluation within six months of receipt. The Manager or designee shall notify the requestor of the evaluation results in writing.

C. Evaluation and Selection Criteria:

1. ~~The funds provided by the sale of Public Service Tax Bonds shall only be used to purchase environmentally sensitive lands that:~~ The following criteria will be used to evaluate the potential acquisition of environmentally sensitive land with County funds:

- (a) Is the land ~~Are~~ identified as environmentally sensitive ~~such~~ by Orange County Environmental Protection Division.



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- (b) Does the land have ~~Have~~ public benefits, as determined by application of one or more of the following criteria:
- (1) Rarity in Orange County of the native ecosystems present;
 - (2) Diversity of the native ecosystems, plants, and animals present;
 - (3) Presence or likelihood of non-imperiled and imperiled species or species listed as endangered, threatened, rare, or of special concern by the U.S. Fish and Wildlife Service, Florida Fish and Wildlife Conservation Commission, Florida Department of Agricultural and Consumer Service's Committee on Rare and Endangered Plants and Animals, Florida Department of Agriculture, or the Florida Natural Areas Inventory, their successors, or other commonly acknowledged conservation entities;
 - (4) Contiguity with other publicly owned lands or property interests (i.e., conservation easement);
 - (5) Manageability (opportunities for operation/management) of the project site;
 - (6) Availability of funding from other government agencies or non-profit organizations;
 - (7) Likelihood of events that which might degrade or destroy the site; ~~and~~
 - (8) Amount of protection afforded by existing County regulations or other regulation or law;:
 - (9) Provides water resource protection, aquifer recharge, or floodplain storage;
 - (10) Closes gaps between other publicly owned lands (or lands with conservation easements) or establishes or enhances a wildlife corridor;
 - (11) Ability to provide opportunities for quality nature-based recreation for residents and visitors; and
 - (12) Opportunity to enhance eco-tourism.
2. ~~Lands considered to be in the public interest for which no public entity is willing to participate; or~~ Opportunities for acquisition of environmentally sensitive land can be presented to the County in a variety of ways, including



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fee simple acquisition with or without a funding partner. In cases where fee simple acquisition is not possible, but natural resource protection is desired, a private landowner who is willing to pay all or a portion of the related costs can dedicate the development rights or grant a conservation easement in favor of Orange County.

3. Lands considered to be in the public interest and for which a private partner is willing to pay all, or a portion of the costs, and will dedicate to Orange County all development rights and convey a permanent conservation easement to Orange County. A private landowner who is willing to pay all of the related costs (i.e., title search, title insurance, environmental assessment(s) and boundary survey) may donate environmentally sensitive land to Orange County. Lands offered for donation require a one-time per acre land management fee as part of the transfer process.
4. The County may acquire environmentally sensitive lands through the escheated or tax deed sales process.

D. Acquisition Criteria and Process Considerations

1. To ensure flexibility that monies for the acquisition of environmentally sensitive lands are expended for the greatest public benefit at the least cost, the following items shall be considered during the acquisition process:
 - (a) Full or partial donations, ~~Partial donation~~, conservation easements, property exchanges, and bargain sales shall be pursued to the greatest extent practicable;
 - (b) Projects facing imminent threat of development activities that will degrade, destroy, or increase the market value of the ~~land project~~ shall be brought back to the County Administrator or designee for re-evaluation;
 - (c) A proposal or recommendation for purchase may be submitted to the Board wherein the purchase price of the site exceeds its average appraised value as established by appraisals paid for by the County if it is deemed that the property is of sufficient value and importance to ~~justify ensure~~ its preservation.
 - (d) Timing can be an important factor in acquiring real estate. Therefore, the Manager of the Orange County Environmental Protection Division or a designee may consider the availability of land on the market and its potential for development in the near-term in a recommendation on whether or not to pursue acquisition at a given point in time, along with the other criteria noted above.



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2. The acquisition process shall follow normal County procedure and regulations for the acquisition of real estate once a parcel(s) has been determined to be desirable for preservation as environmentally sensitive lands. Recommendations to the Board of County Commissioners for approval of the purchase of parcels will include a summary of the conclusions reached from evaluating the criteria in Section II.C.1.(b).

E. Evaluation Process

1. Environmental Protection Division staff will evaluate and prioritize parcels within the wildlife corridors established by the sunsetted 2007 Green PLACE Advisory Board.
2. The reestablished Green PLACE Advisory Board will assist the Environmental Protection Division in identifying parcels that may be suitable for acquisition and preservation as environmentally sensitive lands to expand the wildlife corridors referenced above or consider other properties noted above using the criteria referenced in Section II.C.1.(b) and available data sources.
3. Environmental Protection Division staff will coordinate with Real Estate Management Division to send letters to the property owner(s) that are considered the highest priority for acquisition to determine whether they are interested in selling their property.
4. Where potential willing sellers have been identified, Environmental Protection Division staff will request a visit to the property to complete a more detailed assessment of its ecological value and land management requirements. This may result in a rescoring and potential reprioritization of the site based on a more complete understanding of the property characteristics.

FOR MORE INFORMATION CONTACT:

Environmental Protection Division,
Community and Environmental Services
Department

REFERENCE: None