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MEMORANDUM

**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:** February 6, 2020

**RE:** **Consent Agenda Item for the Board Meeting on February 25, 2020 Proposed Revised Administrative Regulation, No.: 11.07.01, titled "Environmentally Sensitive Lands Acquisition" and New Administrative Regulation, No.: 11.07.02 titled, "Policy Regarding Use of TM/Econ Mitigation Bank Phase IV Credits"**

**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.

It is our intent to place the proposed new regulation on the February 25, 2020. Consent Agenda for approval by the Board of County Commissioners.

**II. ACTION REQUESTED:**


Approval of proposed revisions to Administrative Regulation, No.: 11.07.01, titled "Environmentally Sensitive Lands Acquisition" and New Administrative Regulation, titled No.: 11.07.02, "Policy Regarding Use of TM/Econ Mitigation Bank Phase IV Credits"

AMC  
Attachment

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

# DRAFT REVISIONS

## 01/17/2020

 <p style="text-align: center;"><b>ORANGE COUNTY ADMINISTRATIVE REGULATIONS</b></p>	No.: 11.07.01
	Date: 11/10/92 Approved By: BCC Revised: 6/22/99; 6/27/06
	Title: <b>ENVIRONMENTALLY SENSITIVE LANDS ACQUISITION</b>
	Page 1 of 2

### 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 of the citizens and the natural environment.
- B. The Board deems it necessary to re-evaluate, as necessary, these environmentally sensitive lands ~~pursuant to~~ based on certain ecological criteria, ~~evaluate~~ newly proposed land acquisitions, and if necessary, and evaluate the results of purchase negotiations, to ensure that acquisition of environmentally sensitive property complies with certain standards.
- C. ~~A portion of the~~ Whether a Public Service Tax (PST) or other funding source, has been dedicated towards environmentally sensitive lands and it is necessary to ensure that proceeds from the Public Service Tax Bond issue the expenditures of County funds are applied solely appropriately toward the acquisition of land and construction improvements thereto for environmental, ecological, and 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 PST or other funding source, proceeds from the Public Service Tax Bond Issue are effectively and efficiently expended for 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:



**ORANGE COUNTY  
ADMINISTRATIVE REGULATIONS**

No.: 11.07.01

Page 2 of 5

1. Identify environmentally sensitive lands based on the criteria set forth in Section II.B.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 equally for purposes of acquisition in order to create competition among sellers for scarce funds.
2. Based on the results of purchase negotiations and the due diligence conducted by the Orange County Real Estate Management Division, Risk Management Division, Environmental Protection Division, or other appropriate County or 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. ~~Application Process for New Properties:~~**

~~Persons or organizations who wish the County to consider new lands for acquisition shall submit a 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.~~

**CB. Evaluation and Selection Criteria:**



**ORANGE COUNTY  
ADMINISTRATIVE REGULATIONS**

No.: 11.07.01

Page 3 of 5

1. The County funds provided by the sale of Public Service Tax Bonds shall only be used to purchase environmentally sensitive lands that generally fit the following criteria:
  - (a) Are identified as such by Orange County Environmental Protection Division.
  - (b) 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 species listed as ~~endangered, threatened, rare or of special concern~~ imperiled, by the U.S. Fish and Wildlife Service, Florida Fish and Wildlife Conservation Commission, Florida Committee on Rare and Endangered Plants and Animals, Florida Department of Agriculture & Consumer Services, 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 which might degrade or destroy the site; ~~and~~
    - (8) Amount of protection afforded by existing County regulations or other regulation or law;



**ORANGE COUNTY  
ADMINISTRATIVE REGULATIONS**

No.: 11.07.01

Page 4 of 5

- (9) Provides water resource protection, aquifer recharge, or floodplain storage;
  - (10) Closes gaps between other publically-owned lands (or lands with conservation easements) or establishes or enhances an existing wildlife corridor;
  - (11) Ability to provide opportunities for quality nature-based recreation for residents and visitors; and
  - (12) Opportunities to enhance eco-tourism (e.g., ability to be incorporated into Florida National Scenic Trail).
- 2. Lands considered to be in the public interest for which no public entity is willing to participate; or
  - 3. Lands considered to be in the public interest where 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, and the private partner is willing to pay all or a portion of the closing costs.
  - 4. Lands offered for donation to the County by private donors, especially when the donor is willing to pay a one-time per acre land management fee as part of the transfer process.

**DC.** Acquisition Criteria and Process

- 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 pPartial 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 project shall



**ORANGE COUNTY  
ADMINISTRATIVE REGULATIONS**

No.: 11.07.01

Page 5 of 5

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 ensure its preservation.
2. The acquisition process shall follow County procedure and regulations.


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**FOR MORE INFORMATION CONTACT:**

Environmental Protection Division,  
Planning, Community and Environmental,  
and Development Services Department

**REFERENCE:** None

# NEW ADMIN REG 01/17/2020

 <b><u>ORANGE COUNTY</u></b> <b><u>ADMINISTRATIVE REGULATIONS</u></b>	No.: 11.07.02 <b>NEW</b>
	Date: Approved By:
Title: <b><u>POLICY REGARDING USE OF TM/ECON MITIGATION BANK PHASE IV CREDITS</u></b>	Page 1 of 1

## I. POLICY

- A. Projects (including roadways) being conducted by County Departments or Divisions that require wetland mitigation and that lie within the TM/Econ Phase IV Mitigation Bank Service Area, shall use the TM/Econ Phase IV Mitigation Bank. Proceeds from purchase of mitigation credits shall be deposited in the conservation Trust Fund and available for use for acquisition and management of County-owned environmentally sensitive lands.
- B. The price for mitigation credits from the County-owned and managed TM/Econ Mitigation Bank shall be established and updated by fees Resolution by the Board of County Commissioners. However, the Manager of the Environmental Protection division or their designee will have authority to negotiate a discounted sale price per credit in order to achieve market competitiveness.

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**FOR MORE INFORMATION CONTACT:** Environmental Protection Division,  
Planning, Environmental, and Development  
Services Department

**REFERENCE:** None