

RESOLUTION NO. 09-04-20

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, SUPERSEDING RESOLUTION NO. 09-02-10 AND ADOPTING REVISED LAND ACQUISITION PROCEDURES; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE REVISED POLICY AS APPROVED; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Pursuant to Resolution No. 03-06-29, Islamorada, Village of Islands (the "Village") adopted certain procedures to be followed for the acquisition of all real property by the Village (the 'Land Acquisition Procedures'); and

WHEREAS, Resolution No. 03-06-09 was amended by Resolution No. 09-02-10, to approve revised procedures to allow for staff analysis and recommendation to the Village Council for parcels considered for utility purposes, thereby allowing for expedited review with expert opinion of consultants, as needed; and

WHEREAS, certain real property has been identified by staff and consultants as suitable for wastewater treatment facilities, and the possible acquisition of these sites requires that the Village Manager act expeditiously to secure the sites and enter into purchase option contracts; and

WHEREAS, it would be in the best interests of the Village to works towards expeditiously securing the sites identified and amend the Land Acquisition Procedures to allow the Village Manager, at his discretion, to enter into purchase option contracts with a land owner/agent, subject to the Village subsequently attaining appraisal(s) of the property and final approval of the purchase option contract by the Council.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. Adopting Amended Procedure. The revised Land Acquisition Procedures establishing priorities for land acquisition, including procedures for property considered for utility purposes, which are attached hereto as Exhibit "A," and incorporated herein by reference, are adopted by the Village.

Section 3. Authorization of Village Officials. The Village Manager and/or his designee and the Village Attorney are authorized to take all actions necessary to implement the terms and conditions of the revised Land Acquisition Procedures as set out in Exhibit "A".

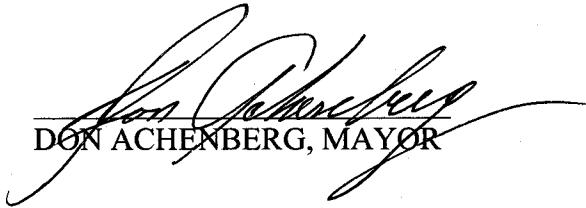
Section 4. Effective Date. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 23rd day of April, 2009.

Motion to adopt by Councilwoman Hill, second by Councilwoman Zima Borski.

FINAL VOTE AT ADOPTION

Mayor Don Achenberg	YES
Vice Mayor Michael Reckwerdt	YES
Councilman Dave Boerner	NO
Councilwoman Jill Zima Borski	YES
Councilwoman Cathi Hill	YES


DON ACHENBERG, MAYOR

ATTEST:


VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY FOR THE
USE AND BENEFIT OF ISLAMORADA, VILLAGE OF ISLANDS:


VILLAGE ATTORNEY

Islamorada, Village of Islands
Land Acquisition Procedures

1. Any individual, property owner, LAAC or staff member submitting property for consideration for Village acquisition will provide to staff a completed *Property Nomination Form* (see attachment) containing the basic site information listed below. If necessary, staff will assist in gathering this information.
 - Aerial map indicating site location
 - Monroe County Property Records
 - Legal Description (RE number)
 - Size
 - Multiple Listing Service Property Data
 - Owner(s) including interest in donating property
 - Contact/Agent
 - General physical description
 - Nature and reason for nomination
 - Proposed use(s)
 - If available, copies of deed, title insurance and survey.

Property to be considered for utility purposes often requires specialized expertise to properly evaluate and expeditious action. Accordingly, if a property is submitted for utility purposes, including without limitation, for wastewater or storm water improvements, in lieu of LAAC action described below, staff will follow steps 2 though 9 below and will develop information and reports as required therein, using professional internal and outside assistance as necessary to provide a detailed recommendation for the Village Manager and Village Council as described up to and through Step 9.

2. Completed *Property Nomination Form* is reviewed at LAAC meeting. Discussion should conclude the key assets of property, how its acquisition furthers goals and policies of adopted Village comprehensive plan and any factors of urgency. Based upon this preliminary assessment, LAAC determines whether property should be further evaluated for placement on the potential acquisition list.
3. With staff assistance as necessary, LAAC develops a detailed report about the property based upon the following general criteria, **and if applicable**, other supplemental criteria (see attached *Criteria Evaluation Form*). This report will also contain a series of recommendations (see Step 4).

General Criteria

- A. Consistency with comprehensive plan goals & policies and Land Development Regulations
- B. Availability
- C. Funding
- D. Potential for multiple benefits
- E. Ecological value

- F. Scenic value
- G. Geologic, historic, archeological value
- H. Accessibility

If one of the following sub-categories applies to site, then appropriate supplemental criteria (I, J, K below) will be evaluated:

I. Affordable Housing Criteria

1. Presence of structure(s)
2. Compatibility with Future Land Use Map (FLUM)
3. Character of existing vegetation
4. Proximity to services (approximate distance to food store, pharmacy, post office, transportation services & public infrastructure)
5. Type of potential occupancy (rental or homeownership)

J. Waste Water & Storm Water Facilities Criteria

1. Adequacy of parcel size to accommodate facility type
2. Compatibility with Future Land Use Map (FLUM)
3. Character of existing vegetation
4. Proximity to designated service area (maximum distance to service area boundary)
5. Capacity for off-site impacts

K. Discretionary Criteria

Unique Characteristics (not evaluated in above criteria) or any *unique* opportunities consistent with intent of Village land acquisition policies.

4. After evaluating the above criteria, LAAC will discuss the items listed below and outline its recommendations for staff use in completing the detailed site report to the Village Manager and Village Council.
 - Acquisition category: conservation, recreation, affordable housing, waste water or storm water facilities;
 - Most appropriate future specific use(s) for site after acquisition;
 - Most appropriate potential funding source; and
 - Level of acquisition urgency (high, medium or low) within acquisition category.

LAAC shall then forward to the Village Manager the legal description of the property and owner/agent information.

5. Village Manager or designee is authorized to execute, and solicit and obtain from the land owner/agent one of the following:
 - An exclusive negotiating rights agreement and letter of intent (followed by step 6);
or
 - A purchase option contract subject to final approval by the Village Council (followed by step steps 11 and 14); or
 - If appropriate, assistance from the Trust for Public Land (TPL) or similar conservation organization in immediately acquiring property, allowing the Village Council to approve the method of funding (followed by step 10).
6. Staff members from appropriate departments and other Village committees as appropriate (parks, CDBG, water quality) provide comments, make recommendations on land acquisition proposal and offer input on key land management activities to LAAC.
7. Guided by LAAC discussion and recommendations from other committees and departments, staff summarizes these comments and produces a conceptual land management plan for the property to be reviewed by LAAC.
8. (Optional) LAAC holds public information meeting on potential acquisition of site and proposed use(s).
9. LAAC submits a written report about the site containing results of its criteria evaluation (Step 3 above), recommendation regarding placement on potential acquisition list and other important elements (listed below) through Village Manager to Village Council and presents this information at a regularly scheduled Village Council meeting.
 - Acquisition category: conservation, recreation, affordable housing, waste water or storm water facilities;
 - Most appropriate future specific use(s) for site after acquisition;
 - Most appropriate potential funding source;
 - Level of acquisition urgency (high, medium or low) within acquisition category;
 - Conceptual land management plan; and
 - All supporting documentation including completed land acquisition forms.
10. Village Council will consider LAAC or staff recommendations, as applicable, and may take the following actions:
 - Not approve property for placement on the potential Village Land Acquisition List; or
 - Approve property for placement on potential Village Land Acquisition List; and

- Approve method of funding the acquisition and direct staff to implement *subsequent steps of land acquisition procedures as appropriate:*

A. If method of funding is through Village operating funds or state grants, then Village Council authorizes expenditures to gather documents required as part of due diligence or by grantor (see items 11A-I listed below).

Acquisition of lands with FCT grant funds shall be performed in accordance with Sec. 253.025, F.S. and Rule Chapter 18-1, F.A.C. This includes provisions that every appraisal, offer, or counteroffer must be in writing; and that such appraisals, offers, and counteroffers are not available for public disclosure or inspection and are exempt from Sec. 119.07(1) until an option contract is executed; if no option contract is executed, until 30 days before a contract or agreement for purchase is considered for approval by the Village Council.

B. If method of funding is through Monroe County Land Authority (MCLA), then resolution is submitted from Village Council requesting MCLA to pursue site acquisition. Staff will coordinate with MCLA to draft suitable conservation easement agreement. Once proposed conservation easement is approved by MCLA, then interlocal agreement and conservation easement is presented to Village Council for acceptance and Monroe County Board of County Commissioners (BOCC) approves purchase and conveyance to Village of conservation easement.

- Establish level of urgency for site acquisition (high, medium or low) based upon acquisition category, specific proposed use(s) and potential funding source;
- *For project sites estimated to be in excess of \$1 million should the level of urgency of acquisition be established as "high" or "medium," the Village Council may at its discretion authorize the Village Manager to request assistance from the Trust for Public Land (TPL) or other similar entity in acquiring the property in a timely manner and a commitment to repurchase the property (from TPL) if the purchase price is approved by the Village Council. Council also may authorize staff to coordinate with TPL or other similar entity in preparing state or federal grant applications to aid the Council in leveraging acquisition funds for the property, if appropriate.*
- Direct staff to negotiate purchase option contract (site control), described in Step 11.

11. Appropriate staff verifies receipt of necessary documents (11 A-I below) and carries out other relevant acquisition activities, including but not limited to referring property acquisition to MCLA or other appropriate organizations and preparing grant applications.

A. Purchase Option Contract – Purchase Option Contract with owner to sell property to Village that includes purchase price, a 90-day minimum contingency to determine acceptability with a right to terminate if unacceptable, and exclusive option to sell to Village; and,

B. Appraisal – ~~An appraisal~~ One or more appraisals of fair market value of the property ~~that shall be or accepted (within one year of request)~~ prepared by a certified appraiser and submitted to staff prior to any offer being made; ~~and provided, however, that the appraisal(s) may be obtained after the purchase option contract is executed by the Village Manager and the land owner/agent, based upon a determination by the Village Manager that acquisition of the property should be on an expedited basis, and the purchase option contract is contingent upon final approval by the Village Council.~~

Nothing in these Land Acquisition Procedures shall prohibit or restrict the Village from utilizing or availing itself of the procedures and exemptions set forth in Section 166.045, Florida Statutes; and,

C. Title Commitment – Written agreement by a Florida licensed title insurer agreeing to issue an owner's policy of title insurance showing marketable title free and clear of all liens and encumbrances; and,

D. Payment of Taxes – Evidence of full payment of all taxes due the County, as well as all outstanding fees owed to the Village, unless specifically waived by the Village Council; and,

E. Certified Survey – (can occur *after* binding contract is produced) A Class 1 survey shall be prepared conforming to minimum standards of FL Board of Professional Land Surveyors. This document shall contain an adequate legal description of the subject property, identify and locate all title exceptions shown in the title commitment, and identify all areas which are to be preserved for open space purposes; and,

F. Environmental/Contamination Assessment – (can occur *after* purchase option contract) A narrative analysis of subject property including soils and groundwater performed by an environmental engineer, licensed in the State of Florida, shall determine any places or areas from or at which a release of petroleum products or hazardous materials has occurred or where a threat of such a release exists. Signs

of contamination indicated in a report may lead to termination of purchase option contract. Upon receipt of a favorable analysis, staff may be required to prepare a Land Management Plan (depends on requirements of funding source); and,

G. Grant Application (if appropriate) – Completed application package including required forms, supporting documentation and resolution of support from the Village Council is prepared and submitted to appropriate funding source; and,

H. Land Management Plan – (can be finalized *after* closing) Narrative statement, including map of property identifying areas proposed for open space acquisition, and a description of proposed activities, provisions for public access to property (if any), responsibility for property maintenance, protection of habitat and any special conditions; and,

I. Other Due Diligence – Any other due diligence inspections deemed necessary prior to implementation of the Land Management Plan.

12. Draft Land Management Plan (if applicable), prepared by staff, is distributed to appropriate committee(s).

13. Appropriate staff negotiates suitable purchase price with seller. A purchase contract is then brought to Village Council for formal approval. All offers or counter offers shall be documented in writing and shall be confidential and exempt from the provisions of Sec. 119.07(1) F.S. until an option contract is executed, or if no option contract is executed, until two weeks before a contract or agreement for purchase is considered for approval by the Village Council. Staff shall maintain complete and accurate records of all offers and counteroffers for all projects.

14. Village Council holds public hearing to consider granting final approval to the following:

- Process for execution of agreements to purchase property
- Purchase Price
- Agreement terms
- Purchase option contract
- Draft Land Management Plan
- Execution of agreements to purchase property.

A final offer shall be in the form of a purchase option contract or agreement for purchase and shall be signed and attested to by the owner and the designated representative of the Village. Before the Village Council executes the purchase option contract or agreement for purchase, the contract or agreement shall be reviewed for form and legality by Village legal staff. Before the Village signs the agreement for purchase or exercises the purchase option contract, the provisions of Sec. 286.23 F.S. (public disclosure in form of a written affidavit of every person having a beneficial interest in the real property) shall be complied with.

15. Upon final approval by Village Council, staff is authorized to execute the property closing process, disburse funding and finalize Land Management Plan if necessary.

ATTACHMENT: Sample Land Acquisition Forms

LAND ACQUISITION FORMS

PROPERTY NOMINATION FORM

			<u>MTG. DATE REVIEWED</u>
Aerial map showing site location (<i>Attached</i>):	Yes	No	_____
Monroe Co. Property Record Sheets (<i>Attached</i>):	Yes	No	_____
Legal Description (<i>RE number</i>):	_____		_____
Size:	_____	Acres	_____
MLS Property Data Sheet (<i>Attached, if any</i>):	Yes	No	_____
Owner Name(s):	_____		_____
Has owner stated interest in donation of land?	Yes	No	_____
Contact/Agent Name:	_____	Phone:	_____
General physical description:	_____		_____
_____			_____
_____			_____
_____			_____
Reason for Nomination:	_____		_____
_____			_____
_____			_____
_____			_____
Proposed Use(s):	_____		_____
_____			_____
_____			_____

CRITERIA EVALUATION FORM

MTG. DATE
REVIEWED

GENERAL CRITERIA

A. Consistency with comprehensive plan and Land Development Regulations

1. Will acquisition of the site further comprehensive plan directives set forth in objectives and policies of the adopted Plan? (for example: managing growth and land use, protecting natural, historic and architectural resources, providing recreation and open space, providing for adequate affordable housing and needed public facilities). Yes No

2. If so, cite reference(s) and briefly discuss how. _____

3. If developed, will site be consistent with adopted Land Development Regulations? Yes No

4. Briefly discuss. _____

MTG. DATE
REVIEWED

B. Availability

1. Is the owner of the property a "willing" seller? Yes No
2. Has the owner provided a statement expressing intent to donate land? Yes No
3. Is the property currently listed by Multiple Listing Service? Yes No
4. What other steps has owner taken toward transfer of property?

5. What is the expected timeframe of its potential development? _____
