



Compliance Review of the Land Preservation Bond Program

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Office of the County Auditor
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EXECUTIVE SUMMARY

At the request of the Biological Resources Division (BRD), we reviewed the land acquisition process of the Land Preservation Bond Program for compliance with the land preservation program requirements. Based on our testing of supporting documentation for acquired sites and due diligence activities for active and/or failed sites, the BRD is administering the Land Preservation Bond Program in accordance with program requirements.

However, we noted that a complete accounting of program expenditures and income (sources and uses) of the Land Preservation Program has not been reported to the Board of County Commissioners (BOCC) and the Land Preservation Advisory Board (LPAB) since the inception of the program.

We recommend that the Board of County Commissioners direct the County Administrator to provide quarterly reports to the BOCC and LPAB reflecting all sources and uses of Land Preservation Bond Funds, including interest earned, grants received, and all costs associated with the Land Preservation Program.

PURPOSE AND SCOPE

The purpose of this review was to determine whether the land acquisition process activities complied with the requirements of the County's Land Preservation Bond Program. Our review included sampling land acquisition activities from program inception in 2000 through September 30, 2006.

METHODOLOGY

To achieve our objectives we reconciled costs reported in the Safe Parks and Land Preservation Land Acquisition Analysis as of September 30, 2006 to the County's financial accounting system, and reviewed:

- a sample of 25 percent of acquired sites,
- a sample of 25 percent of due diligence activities for active and/or failed sites,
- Grant agreements and proceeds from Florida Communities Trust (FCT)
- County resolutions¹, Section 6.8 of the Administrative Code, and Program Guide²

We also interviewed staff in the BRD and Real Property Section of the Public Works and Transportation Department.

¹ County resolutions 2000-063, 2000-1230, 2002-823, 2002-824, 2002-949, 2003-874

² Open Space Grant Program Funding and Acquisition Guide

BACKGROUND

On November 7, 2000, Broward County voters passed a referendum to issue \$400 million in general obligation bonds. The purpose of the bond program is to finance the cost to acquire, preserve, reclaim, construct, and improve neighborhood and regional park facilities, lands and open spaces, to make parks safer, and protect clean water, air and wildlife for the County.

Two programs were established pursuant to the bond issuance; one, the Land Preservation Bond Program administered by the BRD and the other, the Safe Parks Program administered by the Parks and Recreation Division. The bond proceeds were initially allocated equally to the two programs. Subsequent Board action transferred \$4.2 million from the Land Preservation Bond Program to the Safe Parks Program.

The Land Preservation Bond Program includes the purchase of parcels for:

- **conservation land**³ - land consisting of South Florida vegetative communities that are relatively intact and are considered restorable with a reasonable amount of effort,
- **green space**³ – land consisting of valuable ecologically sensitive vegetation that has been impacted to a greater extent than conservation land and as a result would be more difficult to restore,
- **open space sites**³ – includes vacant land, agricultural land, a developed site, or even contaminated land that can be cost-effectively reclaimed as a park in perpetuity, and
- **purchase of development rights**³ – this open space category allocates funds for the purchase of development rights on agricultural land.

Grant Reimbursement by Florida Communities Trust (FCT)

Once a site is purchased under the Land Preservation Program, BRD reviews the acquisition and FCT grant criteria and, if it is determined that the project will rank well in this competitive process, BRD applies for grant reimbursement from FCT.

During the period 2002 through 2006 FCT reimbursed the County approximately \$16.8 million in grant funds for acquisition and closing costs related to 15 sites purchased under the Bond program.

The Acquisition Process

The acquisition process includes parcels purchased directly by the County or through reimbursement to cities as described below:

³ Source: Safe Parks and Land Preservation 5th Anniversary Bond Program 2005 Annual Report

Properties Acquired by the County

Biological Resources Division (BRD) develops a list of potential conservation land and green space sites. In addition, cities submit applications to BRD to add open space sites to be considered for acquisition. BRD performs the following:

- Conducts a field visit of potential conservation land and green space sites to confirm that they meet the criteria for the inventory category and performs site visits to confirm information in the open space applications from the cities.
- Provides the list of potential acquisition sites to the Land Preservation and Acquisition Advisory Board ⁴(LPAB) for review and approval. The LPAB reviews the inventory of potential sites based on the ecological and planning criteria in resolution 2000-1230.
- Presents the inventory list approved by the LPAB to the Board of County Commissioners (BOCC) for review and approval for funding. If approved by BOCC, funds are allocated to purchase the sites based on an estimate of the property value. Approval by BOCC authorizes Broward County Real Property Section to proceed with negotiations of conservation land and green space sites, and for those open space sites estimated at \$2 million or less. Open space sites estimated above \$2 million are acquired by the cities.

Real Property Section and BRD coordinate the exploration, due diligence and negotiation phases described below:

Exploration Phase

- County acquisition consultants solicit property owners and request them to sign a willing seller's letter which justifies further consideration by the County. If there is an unwilling seller, the project is dropped and the funds allocated by BOCC will be available for future funding phases.
- If there are unwilling sellers within a multiple parcel project, BRD will determine the feasibility of a partial project. If the acquisition involves a city, the city is notified. If this results in a substantial change in the project boundary, the modified proposal is brought back to the LPAB for review.
- BRD reviews the properties for which willing seller letters were obtained.

Due Diligence Phase

- Once a willing seller and a feasible project are determined, BRD authorizes Real Property to proceed with the due diligence requirements including appraisals, surveys, and environmental audits. The County requires two appraisals for

⁴ The Land Preservation Acquisition and Advisory Board (LPAB), a thirteen member County Commission appointed board responsible for reviewing: proposals to add parcels to the inventory, approving management plans for sites managed by cities, and recommending parcels to the BOCC for funding.

properties valued at \$500,000 or more and a single appraisal for properties valued below \$500,000.

- Real Property staff reviews the appraisals to ensure compliance with Uniform Standards of Professional Appraisal Practice (USPAP).
- BRD reviews the environmental site assessment to confirm whether further review is necessary. If contamination exists, BRD recommends whether cleanup should be performed prior to or after purchase, or if the site should be eliminated from further consideration.

Negotiation Phase

- The acquisition consultant or Real Property Staff makes an offer to the owners based on the appraised values of the property. If an agreement can be reached, the acquisition consultant drafts and delivers to the County a contract signed by the property owner.
- A public hearing is held for discussion and approval of the contract by the BOCC (if the property will be transferred to a city, an interlocal agreement signed by the city must be presented to the BOCC along with the contract). Contracts for more than 110 percent of the appraised values require an extraordinary vote⁵ (two-thirds vote) by the BOCC.

If the contract is approved by the BOCC, Real Property coordinates the purchase and closing of the property. If the purchase involves land to be transferred to a city, a Declaration of Restrictive Covenants or Conservation Easement is approved by BOCC and recorded in the public records database.

Properties Acquired by Cities

Under the open space program the cities coordinate purchases of parcels for over \$2 million. An application for a site is submitted to BRD who forwards the application to the LPAB for review and approval. If approved, the parcel is recommended for inclusion in the open space inventory.

The site is presented to the BOCC for review and approval for funding. If approved by the BOCC, funds are allocated to reimburse the city for purchase of the site and the city initiates the acquisition process. During the process Real Property Section and BRD perform the following steps:

- Real Property Section reviews appraisals for compliance with USPAP standards (two required for purchases of \$500,000 or more).

⁵ An extraordinary vote of the Board is also required at public hearing to approve a Bond Contract for Purchase and Sale when the price is negotiated under confidentiality, is valued over \$500,000, and is above the average of the property appraisals.

- BRD processes reimbursements for the lowest of the appraised value, the purchase price for the property, or the grant amount.

In addition to the items above, the city must also provide the following items for review by BRD:

- A Declaration of Restrictive Covenants.
- A Conservation Easement for conservation land and selected green space sites.
- Documentation for surveys and environmental audits.
- An inter-local agreement, including a conceptual park management plan, which sets the framework, guidelines, and restrictions for the site including monitoring and reporting requirements

FINDINGS AND RECOMMENDATIONS

Finding 1 - BRD complied with Land Preservation Bond program requirements.

Our review of supporting documentation for the sites acquired and due diligence activities for failed sites disclosed no instances of noncompliance. Based on our testing, BRD administered the Land Preservation Bond Program in accordance with the County resolutions, the Open Space Grant Program Funding and Acquisition Guide and Administrative Code requirements for the Land Preservation Bond Program.

Recommendation:

None.

Finding 2 - Complete Financial Reports for the Land Preservation Bond Program should be prepared and submitted to the Board of County Commissioners and the LPAB.

BRD periodically provides program status reports to the LPAB and the BOCC. These reports generally include bond proceeds and program costs, including operating expenses and the amount of program funds available for allocation. A complete reporting of all program revenues, reimbursements, costs, and expenses (Sources and Uses) has not been prepared or submitted to the Board of County Commissioners or the LPAB and is essential for proper financial management of program funds. Frequent and complete financial reporting is of increasing importance as the program nears completion.

The financial summary of the Land Preservation Bond Program as of September 30, 2006 on Exhibit A, prepared by our office (page 8) reflects a balance of uncommitted funds of \$18,163,286. This balance does not agree with the amount of funds

remaining previously reported to the Board and LPAB because the following items were not included in the status reports prepared by BRD:

1. Interest earned by the bond fund since inception. The financial summary includes an allocation of total bond interest income to the Land Preservation Program of approximately \$6.6 million.
2. FCT grant funds totaling approximately \$16.8 million for fifteen sites acquired with bond funds.
3. Certain program related personnel and operating costs incurred by the Real Property Section.
4. Costs of bond issuance. The financial summary includes an allocation of total bond issuance costs to the Land Preservation Program of approximately \$1.0 million.

It should be noted that interest earnings on bond proceeds total approximately \$13.41 million through September 30, 2006, and bond issuance costs totaling \$2.03 million for the Land Preservation and Safe Parks Bond Programs were not accounted for in a manner to facilitate separate financial reporting for each of the two separate programs. As a result, we were unable to determine the actual interest income and issuance costs attributable to the Land Preservation Program. In preparing the financial summary, we allocated bond issuance costs and interest income based on the ratio of gross bond proceeds allocated to each program.

Recommendations:

We recommend that the Board of County Commissioners (BOCC) direct the County Administrator to:

1. provide quarterly reports beginning with the quarter ended March 31, 2007 to the BOCC and LPAB reflecting all sources and uses of Land Preservation Bond Funds, including interest earned, grants received, and all costs of the Land Preservation Program, and
2. ensure that appropriate financial and accounting assistance is provided to operating agencies responsible for programs with significant financial reporting and accounting requirements.

EXHIBIT A - Status of the Program

The following is a financial summary of the Land Preservation Bond Program as of September 30, 2006:

Financial Summary Land Preservation Program Funds As of September 30, 2006		Amount
SOURCES:		
Gross Bond Proceeds		\$200,000,000
Less: Bond Issuance Costs		(996,772)
Net Bond Proceeds		199,003,228
Grant from Florida Communities Trust⁶		16,845,413
Interest Income⁷		6,572,516
Total Funds from all Sources		222,421,157
USES:		
Program Costs and Transfers Out		
Land Acquisition Cost ⁸	(\$141,817,227)	
Transfer to Safe Parks Program	(4,200,000)	
Personnel & Operating costs FY 01 - FY 06	(3,342,093)	
Acquisition consulting and other program costs	(461,186)	
Transfer to Parks & Recreation Division for development, master plan improvements, and ecological restoration	(4,782,539)	
Total Program Costs⁹ and Transfers Out		(\$154,603,045)
Unused Funds as of September 30, 2006		67,818,112
ENCUMBRANCES, ALLOCATIONS AND APPROPRIATIONS:		
Encumbered for sites under contract and reimbursements to municipalities		(8,791,320)
Allocations:		
Conservation land and green space sites	(16,993,000)	
Open space sites	(11,636,084)	
Parks ecological restoration	(4,000,910)	
District Commissioner discretionary funds	(3,117,535)	
Future program personnel and operating costs	(1,169,730)	
Future acquisition consulting	(250,000)	
Public Art Design	(276,000)	(37,443,259)
Appropriations:		
For allocation to reimburse partnering municipalities for development of bond acquired sites		(2,410,450)
Uncommitted Funds		\$19,173,083

Source: Prepared by the County Auditor's Office

⁶ Florida Communities Trust grants for acquisition and closing costs for 15 sites. The amount excludes one grant for \$1,656,394 which was paid to the closing agent for the Richardson Property.

⁷ 49% of Interest income & bond issuance cost allocated to Land Preservation Program (**Finding 2**)

⁸ Amount includes purchase price, purchase of development rights, closing costs, exotic removal & cleanup, fencing and due diligence costs

⁹ Program Costs are from LGFS and Advantage