

RESOLUTION NO. 128 - 2022

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, COMBINING AND REPLACING *RESOLUTION 175-2018*, *RESOLUTION 438-2018*, AND *RESOLUTION 063-2020* WHICH CREATED AND AMENDED THE LESS THAN FEE ACQUISITION PROGRAM FOR THE PURPOSE OF RETIRING RESIDENTIAL DEVELOPMENT RIGHTS ON PROPERTY LOCATED IN THE IS, IS-M AND URM LAND USE DISTRICTS FROM WILLING SELLERS; TO CLARIFY PROGRAM ADMINISTRATION AND TO INCLUDE ADDITIONAL PRIORITIZATION GUIDANCE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Board of County Commissioners of Monroe County, Florida hereinafter "BOCC") adopted *Resolution 175-2018* on June 20, 2018, which created the Less Than Fee Program that is designed to purchase residential development rights from willing sellers that own a vacant parcel that is located immediately adjacent to their homes, and which are located in the Improved Subdivision (IS), Improved Subdivision - Masonry (IS- M), Urban Residential - Mobile Home (URM) land use districts; and

WHEREAS, the goal is to reduce ongoing development pressures on hurricane evacuation clearance times and demands on public facilities and infrastructure while protecting property owner rights and avoiding unnecessary costs associated with defending property rights claims; and

WHEREAS, this program is consistent with Policies 102.4.3 and 102.4.6 of the 2030 Monroe County Comprehensive Plan; and

WHEREAS, in adopting *Resolution 175-2018*, the BOCC found that a less than fee acquisition program was an appropriate alternative to costlier fee simple acquisitions; and

WHEREAS, the BOCC and the Monroe County Land Authority (hereinafter "MCLA") entered into an interlocal agreement on July 21, 2021, and amended the ILA on September 15, 2021 which includes the acquisition of infill property for density reduction, among other government purposes; and

WHEREAS, F.S. 125.355 authorizes the BOCC to exempt any purchase of an interest in realty valued at under \$100,000 from the requirement of obtaining an appraisal; and

WHEREAS, the BOCC agrees to use dollars raised through the local option infrastructure sales surtax as authorized in F.S. 212.055(2)(d) which the County has budgeted in Fund 316 to cover costs associated with this program; and

WHEREAS, the MCLA and County staff have worked together to develop and implement the Less Than Fee Program; and

WHEREAS, due to additional growth limits on Big Pine Key and No Name Key, which are imposed as a result of the Incidental Take Permit, both islands are closer to build out than the rest of the County; and

WHEREAS, the BOCC adopted *Resolution 438-2018* which made adjustments to the program to: prioritize any eligible lots on Big Pine Key and No Name Key regardless of Tier designation; prioritize transactions where the purchase price for the development rights is less than \$100,000; clarify that the County does not waive its right to prosecute code violations on parcels participating in the program; and allow the use of market land values on comparable vacant lots as the basis for making a purchase offer from lots that have already been combined with another lot for tax purposes; and

WHEREAS, the BOCC adopted *Resolution 063-2020* to prioritize purchases where the adjacent vacant parcel contains no accessory uses or structures therefore targeting parcels that may be more likely to require the County to defend a property rights claim; and

WHEREAS, County staff have recommended additional minor adjustments to the Less than Fee program to clarify that the Monroe County Land Authority has assumed administration of the Less than Fee Program from the County Attorney, and to refine the prioritization of Less than Fee applications;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLOIRDA:

Section 1. The recitals set forth above are incorporated herein as findings of fact by the Board.

Section 2. This Resolution combines and replaces *Resolution 175-2018*, *Resolution 438-2018*, and *Resolution 063-2020*. Although the adoption of this resolution rescinds those prior resolutions, all actions taken pursuant to those resolutions are ratified and remain valid.

Section 3. The BOCC authorizes the MCLA to represent the BOCC in these matters.

Section 4. MCLA will identify properties that will be eligible for participation in this program under the parameters set forth below.

Section 5. To be eligible to participate in the program, subject parcels must be:

a) Located within an Improved Subdivision (IS), Improved Subdivision – Masonry (IS-M), or Urban Residential – Mobile Home (URM) Land Use District;

b) Consist of a lot with at least one (1) buildable unit or Transfer of Development Right (TDR). Priority shall be given as follows:

Priority One – Otherwise eligible vacant lots with no accessory structures or uses on Big Pine Key and No Name Key, regardless of Tier designation, in the order of lowest MLV to highest MLV with an agreed upon purchase price of less than \$100,000.

Priority Two – Otherwise eligible vacant lots with accessory structures or uses on Big Pine Key and No Name Key, regardless of Tier designation, in the order of lowest MLV to the highest MLV with an agreed upon purchase price of less than \$100,000.

Priority Three – Otherwise eligible vacant lots with no accessory structures or uses outside of Big Pine Key and No Name Key that are designated Tier III, in the order of lowest MLV to highest MLV, with an agreed upon purchase price of less than \$100,000.

All otherwise eligible vacant lots will be processed after those described in the above priorities in the order of highest Tier designation to lowest Tier designation,

with no accessory structures or uses and in the order of lowest MLV to highest MLV, with an agreed upon purchase price of less than \$100,000.

c) Be held in common ownership with an immediately adjacent parcel that contains a residential structure as its principal structure;

d) Eligible to receive a building permit for construction of a new residential dwelling unit under the current Monroe County Comprehensive Plan and Land Development Code, and not prohibited by deed restriction or other instrument or legal impairment from receiving such a building permit;

e) Free of all code compliance liens and not the subject of a current code compliance case or other enforcement proceeding by the County or other regulatory agency; however, the property owner should be notified that the County does not waive its right to prosecute existing but undiscovered code violations at the time of the transaction; and

f) Owned by a seller who is willing to convey the building rights to the County under the terms and conditions set forth herein.

Section 6. The MCLA is authorized to make offers to purchase the right to build a separate residential unit on the subject property at the most recent "Market Land Value" indicated on the Monroe County Property Appraiser's website in exchange for the retirement of that development right and execution of a title restriction, unity of title instrument, and other documents prepared by the County Attorney and/or MCLA legal counsel which are necessary to implement this program subject to the limitation that no purchase shall be made for more than \$99,999 without an appraisal, in a form that is acceptable to the County, which is paid for by the property owner. In the event an otherwise eligible vacant parcel of property has been combined for tax purposes only by the Property Appraiser into a single parcel with another lot with a residential principal structure on it, MCLA staff is

authorized to use the market land value from a comparable vacant lot in the vicinity as the basis for the offer to purchase the remaining, unused development rights.

Section 7. This resolution shall take effect upon adoption and the additional criteria may be applied to applications already submitted for consideration.

Section 8. Each agreement is subject to final approval by the Board, which retains the discretion to reject each transaction and/or otherwise modify this program.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting held on the 20th day of April, 2022.

Mayor David Rice, District 4	<u>Yes</u>
Mayor Pro Tem Craig Cates, District 1	<u>Yes</u>
Commissioner Michelle Coldiron, District 2	<u>Yes</u>
Commission District 3	<u>Vacant</u>
Commissioner Holly Merrill Raschein, District 5	<u>Yes</u>



KEVIN MADOK, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By: *[Signature]*
As Deputy Clerk

By: *[Signature]*
Mayor

Approved as to form and legal sufficiency
Robert B. Shillinger, Monroe County Attorney

**Robert B.
Shillinger**

Digitally signed by Robert B. Shillinger
DN: cn=Robert B. Shillinger, o=B.O.C.C. of
Monroe County, FL, ou=County Attorney,
email=shillinger-bob@monroecounty-fl.gov,
c=US
Date: 2022.04.26 09:19:24 -04'00'

FILED FOR RECORD
2022 MAY -3 AM 7:14
CLERK CIR. CT.
MONROE COUNTY, FL