

# SEBASTIAN RIVER IMPROVEMENT DISTRICT

## Revised Guidelines for the Sale, Transfer, or Exchange of Surplus Lands

Adopted July 13, 2022

**A. Authorization and Purpose.** The Board of Supervisors (“Board”) of the Sebastian River Improvement District (“SRID” or “District”) is authorized by Section 4(1)(b) of Chapter 2007-309, Laws of Florida, “to convey and dispose of such real or personal property as may be necessary or convenient to carry out the purposes of” Chapter 2007-309 and Chapter 298, Florida Statutes. The Board will exercise such authorization and dispose of any District land or interest in land determined to be surplus in accordance with the procedure and conditions set forth in these Guidelines. The Board shall take diligent measures to dispose of surplus lands only in the best interest of the public, and for that purpose restricts the sale, transfer, or exchange of such surplus lands to persons and entities who either (i) hold fee title to adjacent land, or (ii) hold the underlying fee title to land encumbered by an SRID easement (each a “Qualified Applicant”). These Guidelines do not apply to the granting of easements, rights-of-way, or leases of District property.

**B. Application and Supporting Materials.** A Qualified Applicant may initiate a request that District lands be declared surplus by submitting a letter to the District Manager including the following information and supporting materials:

1. Name, including the name of the person representing the Qualified Applicant if not an individual, together with an address, telephone number, and other pertinent contact information.

2. A non-refundable application/processing fee in the amount of \$500.00 payable to the SRID.

3. An initial professional fee deposit of \$2,500.00 payable to the SRID, to be applied to the payment of professions fees and costs incurred by the District in reviewing the application, including but not limited to engineering, surveying, and attorneys’ fees. Fees incurred by the District in excess of the initial deposit will be the responsibility of the applicant. Any deposit balance exceeding the actual costs incurred by the District will be refunded to the applicant at the conclusion of any resulting transaction or following any withdrawal or denial of the application.

4. A boundary survey of the District lands requested to be declared surplus meeting minimum technical standards, including an accurate legal description and acreage calculation.

5. Evidence of title that the applicant (a) holds fee title to land adjacent to the District lands requested to be declared surplus, or (b) holds the underlying fee title to land encumbered by an SRID easement.

6. A statement describing the applicant's proposed use or development of the District lands requested to be declared surplus.

7. A statement describing how the proposed sale, transfer, or exchange is in the best interest of the public.

8. An appraisal, obtained by and at the expense of the applicant but certified to the SRID, performed by a person certified as a certified general appraiser under Part II, Chapter 475, Florida Statutes, or by a member of an approved appraisal organization. If the SRID determines that an appraisal review or a second appraisal should be secured, the applicant shall be responsible for the cost of such appraisal review or second appraisal.

9. Any other survey, engineering, or technical information that the applicant deems necessary for the SRID to evaluate the request that District lands be declared surplus, including but not limited to local government, regional water management district, or state agency reports.

**C. Application Review.** The District Manager, together with the District Engineer, shall review each application requesting that District lands be declared surplus for completeness and compliance with these Guidelines, and may require the applicant to provide additional information as necessary to evaluate the request. Upon the District Manager and District Engineer completing review of an application to declare District lands surplus:

1. **Option Agreement.** If preliminarily determining to recommend approval of the application, the District Manager shall negotiate an option agreement for the sale, transfer, or exchange of the District lands that the applicant has requested be declared surplus, which option shall be subject to acceptance, review, and approval by the Board as provided in these Guidelines.

(a) The option agreement shall be in such form and content, and subject to such conditions, as the District Manager, in consultation with the District Engineer and District counsel, determine appropriate in the circumstances.

(b) Any sale, transfer, or exchange of District lands shall be on an "as is," "where is," and "with all faults" basis, with no representation or warranty by the SRID of any kind or nature whatsoever, and with the applicant solely responsible for determining the suitability of such lands for the applicant's intended use.

(c) The applicant shall be responsible for all costs of the sale, transfer, or exchange, including but not limited to title search and title insurance expenses, settlement or closing fees, recording expenses, and documentary stamp taxes.

(d) Each negotiated option agreement shall be presented to the Board at a regular or special meeting to determine whether the District should proceed with an advertised public hearing to consider approval.

(e) If the Board determines to proceed with consideration of the option agreement, it shall schedule and direct notice of a public hearing to be held on not less than thirty (30) days' advertised notice, which notice shall be published at the expense of the applicant. The option agreement, and the SRID's obligation to close, shall be subject to approval of Board following the public hearing.

(f) If the Board determines not to proceed with consideration of the option agreement, the application shall be deemed denied and any unexpended portion of the professional fee deposit shall be refunded to the applicant.'

2. Other Action. If preliminarily determining to recommend denial, the District Manager shall present the application, all supporting information submitted by the applicant, and the recommendations of the District Manager and District Engineer to the Board for action either (a) denying the application or (b) directing the District Manager to negotiate an option agreement as provided in Section C.1 of these guidelines.

***D. Board Hearing and Consideration of Option Agreement.*** At any public hearing to consider an option agreement for the sale, transfer, or exchange of District lands, the Board shall consider the application, all supporting information submitted by the applicant, the recommendations of the District Manager and the District Engineer, and any public comment. Following the public hearing, the Board shall determine:

1. Whether the District lands proposed for sale, transfer, or exchange are surplus as no longer used or useful by the SRID, or may be deemed surplus with appropriate reservations of flowage, drainage, retention, access, or maintenance easements or other rights;

2. Whether the proposed sale, transfer, or exchange is in the best interest of the SRID and the public;

3. Whether the option agreement should be approved; and

4. Whether the Chair and other members of the Board, the District Manager, the officers, attorneys, and other agents and employees of the SRID (a) should be authorized to do all acts and things required of them by the option agreement, or desirable or consistent with the requirements of the option agreement, for the full, punctual, and complete performance of the terms, covenants, and agreements contained within it, and (b)

should be authorized and directed to execute and deliver any and all papers and instruments and to cause to be done any and all acts and things necessary or proper for closing and carrying out the transactions contemplated under the option agreement, including but not limited to terminating, cancelling, or annulling the option agreement upon the failure of any material term, condition, or contingency.

*E. Closing.* If the Board approves an option agreement for the sale, transfer, or exchange of District lands, then upon determining that all material terms, conditions, and contingencies have been satisfied or waived, the Chair and other members of the Board, the District Manager, the officers, attorneys, and other agents and employees of the SRID shall proceed to close the sale, transfer, or exchange in accordance with such terms, conditions, and contingencies.