



REAL PROPERTY ACQUISITION POLICY

I. PURPOSE

It is the policy of the Greater Miami Expressway Agency (GMX) for Real Property Acquisition that. GMX may acquire rights, title, and interest in real property as it deems appropriate and as authorized under Chapter 348, Part I (Greater Miami Expressway Agency act of 2023), Florida Statutes (F.S.). All acquisitions of real property shall be made with an appropriate degree of transparency to assure the public and GMX bondholders that funds are being put to their intended use, and that GMX serves as an exceptional steward of toll revenue. GMX will only acquire an interest in real property that its Governing Body deems to be in furtherance of a project within the Agency's approved Five-Year Work Program.

II. EXECUTIVE DIRECTOR'S AUTHORITY AND DISCRETION TO DELEGATE REAL PROPERTY ACQUISITION AND EMINENT DOMAIN LITIGATION RESPONSIBILITIES

- (a) The Executive Director is authorized to implement right of way acquisition programs and to administer right of way acquisition processes in a manner consistent with this policy. Such authority includes, but is not limited to, all aspects of acquiring, condemning, clearing, and preparing real property for any purpose authorized under Section 348.0311, F.S.
- (b) The Executive Director is authorized to appoint designees and assign responsibilities to implement any or all right of way acquisition programs, and to administer any or all right of way acquisition processes. References herein authorizing the Executive Director to act shall provide equivalent authorization to the Executive Director's designees.

III. APPLICATION OF FLORIDA DEPARTMENT OF TRANSPORTATION'S RIGHT OF WAY PROCEDURES MANUAL

GMX shall be guided by, but shall not be bound or limited by, the Florida Department of Transportation Right of Way Procedures Manual, as amended and updated.

IV. ADVANCE ACQUISITION OF REAL PROPERTY

- (a) The Executive Director is authorized to make strategic and prudent use of advance acquisition to acquire real property or property rights that are needed, or which

likely will be needed, for a project within the Agency’s approved Five-Year Work Program as long as such acquisition is done in accordance with either:

- (i) Section 7.1 (“Advance Acquisition”) of the Florida Department of Transportation Right of Way Procedures Manual, as amended and updated; or
 - (ii) comparable procedures adopted and utilized by a state, regional, or local governmental entity to acquire real property or property rights in furtherance of a program to assemble real property for a lawful public purpose.
- (b) Advance acquisition should not, as a general matter, be undertaken until a preferred project alignment has been identified in a project development and environment study, or through a similar long-range planning process. Acquisition of real property prior to funding being programmed and budgeted for a project within the Agency’s approved Five-Year Work Program may be undertaken upon written certification of the Executive Director that “it is likely that at least some portion of the real property to be acquired through advance acquisition will be needed for a GMX project within the next five years.”
- (c) The total amount expended on advance acquisition during any fiscal year may not exceed either (i) the Work Program Contingency amount approved by the Governing Body during that fiscal year, or (ii) the amount funded for right of way acquisition as part of the Agency’s approved Five-Year Work Program, whichever amount is greater.
- (d) Following advance acquisition of real property, the Executive Director shall prepare a report that evaluates each individual real property acquired by addressing the following factors:
- (i) the fiscal justification to accelerate acquisition in lieu of waiting to negotiate under a customary acquisition timeframe;
 - (ii) a comparison of the rights, title, and interest of the real property acquired versus the rights, title, and interest ultimately determined as being necessary for the project, and the resulting value of those differences;
 - (iii) the projected costs that would have been incurred if the real property had been acquired through eminent domain, inclusive of estimated compensation and damages payable to the real property owner, expected fees and costs likely to be incurred by GMX’s attorney and experts, and

expected fees and costs of the real property owner’s attorney and experts likely to be taxed against GMX; and

- (iv) an opinion regarding whether exercise of advance acquisition for real properties acquired during the reported fiscal year resulted in an overall fiscal saving to GMX.

V. OFFER BY GMX TO PURCHASE REAL PROPERTY UNDER CHAPTER 73, F.S.

- (a) The Executive Director is authorized to initiate acquisition of real property by delivering an initial written purchase offer (“Initial Purchase Offer”) to the real property owner. The Initial Purchase Offer must be in an amount that is: (i) based on a certificate of value from a written appraisal report and supported by a review appraiser’s statement, both prepared by independent state certified appraisers retained by GMX; and (ii) within the total budgeted sum for acquisition of real property for a project within the Agency’s approved Five-Year Work Program, unless the proposed acquisition qualifies for advance acquisition as described in Section IV. The Executive Director may determine that two independent state certified appraisers retained by GMX each prepare an appraisal report when an acquisition presents complex appraisal issues and / or the value estimate of the parcel is, or is anticipated to be, in excess of \$1,000,000. Both appraisal reports shall be reviewed by a third independent state certified appraiser who will determine the recommended compensation for inclusion in the Initial Purchase Offer.
- (b) Notwithstanding the limitation in Subsection (a)(i) of Section V above, the Executive Director is authorized to initiate acquisition of real property by delivering an Initial Purchase Offer in an amount that is greater than its appraised value to incentivize a real property owner to voluntarily convey its real property to GMX when:
 - (i) the Executive Director has determined that incentive offers will reduce time, expense, and risk associated with real property acquisition for a project within the Agency’s approved Five-Year Work Program; and
 - (ii) use of incentive offers are consistently and uniformly applied through a written formula for the benefit of all private real property owners affected by a capital project within the Agency’s approved Five-Year Work Program.

Incentive offers may not be utilized: (i) for parcels held in the public domain, (ii) to resolve a claim against GMX under 73.071(3)(b), F.S., for damage to a business, or (iii) to determine relocation benefits.

- (c) The Executive Director is authorized to negotiate resolution of all claims for attorney's fees and costs under Sections 73.015, 73.091, and 73.092, F.S., presented by a real property owner in conjunction with GMX's proposed acquisition of real property under this section.

VI. COUNTER-OFFER IN RESPONSE TO A BUSINESS DAMAGE CLAIM PRESENTED TO GMX UNDER SECTION 73.071(3)(B), F.S.

- (a) The Executive Director is authorized to respond to a qualified business damage claim submitted to GMX under Section 73.071(3)(b) by delivering a written counter-offer ("Business Damage Counter-Offer") to the claimant.
- (b) For any business damage claim that is \$50,000 or less, the Business Damage Counter-Offer shall be in an amount that is: (i) supported by a written memorandum drafted by GMX staff or a GMX consultant explaining the claim and the grounds to support the amount of the Business Damage Counter-Offer, or is supported by documentation prepared by an independent state certified public accountant retained by GMX; and (ii) within the total budgeted sum for acquisition of real property for a project within the Agency's approved Five-Year Work Program.
- (c) For any business damage claim that exceeds \$50,000, the Business Damage Counter-Offer shall be in an amount that is: (i) supported by documentation prepared by an independent state certified public accountant retained by GMX; and (ii) within the total budgeted sum for acquisition of real property for a project within the Agency's approved Five-Year Work Program.

VII. NEGOTIATION PRIOR TO EMINENT DOMAIN LITIGATION

Subsequent to GMX delivering an Initial Purchase Offer, the Executive Director is authorized to acquire real property through negotiated conveyance. Subsequent to GMX delivering a Business Damage Counter-Offer, the Executive Director is authorized to negotiate resolution of a business damage claim. The Executive Director shall negotiate within the following parameters:

- (a) For real property valued in an amount of \$500,000 or less (based on a certificate of value from a written appraisal report prepared by an independent state certified appraiser retained by GMX per Section V(a) above), the Executive Director is authorized to acquire the real property for an amount up to \$125,000 over GMX's appraised value. For real property valued in an amount that exceeds \$500,000 (based on a certificate of value from a written appraisal report prepared by an independent state certified appraiser retained by GMX per Section V(a) above), the Executive Director is authorized to acquire the real property for an amount that is the lesser of: (i) \$2,000,000 more than GMX's appraised value, or (ii) 25% more than GMX's appraised value.
- (b) In defense of a business damage claim submitted to GMX under Section 73.071(3)(b) for which GMX estimates the damage to the claimant's business to be \$500,000 or less (based upon documentation supplied by GMX staff, an GMX consultant, or a state certified public accountant retained by GMX), the Executive Director is authorized to negotiate resolution of the business damage claim for an amount up to \$125,000 more than GMX's estimate of damage to the claimant's business. In defense of a business damage claim submitted under Section 73.071(3)(b) for which GMX estimates the damage to the claimant's business exceeds \$500,000 (based upon documentation supplied by a state certified public accountant retained by GMX), the Executive Director is authorized to negotiate resolution of the claimant's business damage claim for an amount that is the lesser of: (i) \$2,000,000 more than GMX's estimate of the damage to the claimant's business, or (ii) 25% more than GMX's estimate of the damage to the claimant's business.
- (c) Any counter-offers that are not within guidelines set forth in Sections (a) & (b) of this Section will be brought before the Governing Body for final approval.
- (d) The Executive Director is authorized to negotiate resolution of all claims for attorney's fees and costs under Sections 73.015, 73.091, 73.092, F.S., presented by a claimant in defense of GMX's proposed acquisition.

VIII. EMINENT DOMAIN LITIGATION

The Executive Director is authorized to act within the following parameters upon GMX initiating an eminent domain lawsuit:

- (a) After GMX has delivered an Initial Purchase Offer to a real property owner, the Executive Director is authorized to acquire any right, title, or interest in real

property by petitioning for and funding a court order of taking entered under Chapter 74, F.S. For real property valued in an amount of \$500,000 or less (based on a certificate of value from a written appraisal report prepared by an independent state certified appraiser retained by GMX per Section V(a) above), the Executive Director is authorized to fund an order of taking in an amount up to \$125,000 over GMX's appraised value. For real property valued in an amount that exceeds \$500,000 (based on a certificate of value from a written appraisal report prepared by an independent state certified appraiser retained by GMX per Section V(a) above), the Executive Director is authorized to fund an order of taking in an amount that is the lesser of: (i) \$2,000,000 more than GMX's appraised value, or (ii) 25% more than GMX's appraised value.

- (b) In compensation phase litigation concerning real property valued in an amount of \$500,000 or less (based on a certificate of value from a written appraisal report prepared by an independent state certified appraiser retained by GMX per Section V(a) above), the Executive Director is authorized to negotiate settlement of compensation payable in an amount up to \$125,000 over GMX's appraised value. In compensation phase litigation concerning real property valued in an amount that exceeds \$500,000 (based on a certificate of value from a written appraisal report prepared by an independent state certified appraiser retained by GMX per Section V(a) above), the Executive Director is authorized to negotiate settlement of compensation payable for an amount that is the lesser of: (i) \$2,000,000 more than GMX's appraised value, or (ii) 25% more than GMX's appraised value.
- (c) In defense of a business damage claim submitted to GMX under Section 73.071(3)(b) for which GMX estimates the damage to the claimant's business to be \$500,000 or less (based upon documentation supplied by GMX staff, an GMX consultant, or a state certified public accountant retained by GMX), the Executive Director is authorized to negotiate settlement of the business damage claim for an amount up to \$125,000 more than GMX's estimate of damage to the claimant's business. In defense of a business damage claim submitted under Section 73.071(3)(b) for which GMX estimates the damage to the claimant's business exceeds \$500,000 (based upon documentation supplied by a state certified public accountant retained by GMX), the Executive Director is authorized to negotiate settlement of the claimant's business damage claim for an amount that is the lesser of: (i) \$2,000,000 more than GMX's estimate of the damage to the claimant's business, or (ii) 25% more than GMX's estimate of the damage to the claimant's business.

- (d) Any settlements that are not within guidelines set forth in Sections (a), (b) & (c) of this Section will be the subject of a “Shade” meeting with the Governing Body.
- (e) The Executive Director is authorized to negotiate settlement of all claims for attorney’s fees and costs under Sections 73.091 and 73.092, F.S., presented by a claimant in defense of eminent domain litigation initiated by GMX.

IX. ASSET MANAGEMENT – REAL PROPERTY DATABASE

GMX shall develop and maintain a searchable electronic Asset Management – Real Property Database system containing information pertaining to all GMX owned Real Property. The database shall include all data available for each real property including but, not limited to real property acquisition documents, Folio Numbers, legal descriptions, sketches/surveys/maps, title reports, appraisals, appraisal reviews and other pertinent documents. The system will include an interactive map interface and the ability for users to generate customized spreadsheets for specific reports as needed.

X. RELOCATION

The Executive Director is authorized to implement relocation programs, administer relocation efforts, provide relocation advisory services, and process relocation payments and expenses in conjunction with other responsibilities under the terms of this policy.

XI. CONSISTENT INTERPRETATION WITH OTHER GMX POLICIES

This policy shall be construed in a manner that is consistent with other GMX policies that exist upon the adoption date of this policy, and that is consistent with such policies as may be adopted or amended subsequent to adoption of this policy. This policy shall be interpreted and applied in a manner that supplements other GMX policies and avoids, whenever possible, contradiction of another GMX policy.

XII. EFFECTIVE DATE

This policy shall become effective as of the date on which it is adopted by GMX’s Governing Body, and at such time this policy rescinds all prior policies relating to real property acquisition by GMX.

Adopted by the Governing Board on the 28th of March, 2024.