



Agenda Item Summary

File #: 23-00351

Agenda Date: 7/11/2023

Agenda Item Name:

Mill Creek – Rembert Tract Option Contract to Purchase Conservation Easement

Presenter:

Andi Christman - Land Conservation Program Manager (352) 264-6803

Description:

Staff Requests the Board of County Commissioners (BoCC) approve and exercise the attached Option Contract to Purchase a conservation easement over approximately 623 acres from PJDJ, Inc., a Rembert family company, through the Alachua County Forever program. The exercise of this Contract to purchase a Conservation Easement, is the final BoCC action on the acquisition of this project.

Recommended Action:

1. Approve and authorize the Chair to exercise the Mill Creek – Rembert Option Contract to purchase a Conservation Easement, subject to the County's rights to conduct due diligence inspections and notice Seller of Title Defects and Environmental Defects as set forth in the Contract;
2. Approve the acquisition subject to the non-permitted title exceptions #4, #5, #6, #7, #8, #9, #10 and #11, and to the subject to the concurrence of the county attorney and of the closing attorney;
3. Authorize staff to execute additional documents as necessary to close the transaction; and
4. Approve the attached budget amendment authorizing the expenditure of funds for due diligence and associated closing costs.

Prior Board Motions:

1. On January 26, 2021, the BoCC placed the Mill Creek – Rembert property on the Active Acquisition List as a conservation easement (Full Price List).
2. On June 28, 2022, the BoCC adopted Resolution 22-66 amending the process for selecting and acquiring Environmentally Significant Lands purchased using Wild Spaces and Public Places local government infrastructure surtax proceeds. This authorizes the acquisition of lands through fee simple and less-than-fee means and provides the process for such.
3. On March 14, 2023, the BoCC approved and authorized the Chair to execute a grant contract between Alachua County and the Florida Department of Environmental Protection, to receive \$1,000,000.00 in reimbursement funding for the purchase of the Rembert Conservation Easement.

Fiscal Note:

The amount of the option payment is a non-refundable \$1,000.00. However, if the option is exercised, the \$1,000.00 will be applied to the final purchase price of the contract.

Total acquisition cost is \$3,328,511.20 for the land plus \$195,144 for due diligence and closing services. The basis for these estimates is detailed below.

In order to provide sufficient spending authority to cover an unanticipated change in acquisition costs, staff is requesting authorization to expend an amount equal to the estimated acquisition and due diligence costs, plus 10%.

Summary of Estimated Costs

- Purchase price: **\$3,328,511.20** (623.2 ac x \$5,341.00/ac)
- Phase I ESA: **\$7,200**
- Boundary Survey: **\$115,720**
- Baseline Documentation Report: **\$28,000**
- Boundary Posts & Signs: **\$4,000**
- Attorney's fees and closing costs: **\$40,224**
- 10% contingency on purchase price & due diligence: **\$352,365.52**
- TOTAL EXPENDITURE AUTHORITY REQUESTED: **\$3,876,020.72**

The complete cost for acquisition is estimated at \$3,876,020.72. \$1,000,000 has already been budgeted for this project through the Board's approval of the Rembert / Florida Department of Environmental Protection grant contract during the March 14, 2023, BoCC meeting. Therefore, the attached Journal Entry is requesting the remaining \$2,876,021. (Exhibit 7)

WSPP – Land Acquisition (Capital Expense)

Fund#: 021.41.4160.537.61.00 – 6194101 Mill Creek – Rembert

&

Fund #: 021.41.4160.537.31.00 6184160: WSPP - Gen. Op. & Due Diligence (Operating Expense)

Annual Tax & Assessment Revenue of the Parcels: \$8,207.04 (2022 total)

1. \$4,003.22 (03000-001-001) PJDJ Inc.
2. \$359.28 (03000-000-000) PJDJ Inc.
3. \$749.90 (03000-005-000) PJDJ Inc.
4. \$204.43 (03000-005-001) PJDJ Inc.
5. \$639.39 (02971-000-000) PJDJ Inc.
6. \$920.23 (02977-000-000) PJDJ Inc.
7. \$163.12 (02975-004-000) PJDJ Inc.
8. \$578.21 (02975-003-004) PJDJ Inc.
9. \$62.73 (02972-001-000) PJDJ Inc.
10. \$189.96 (02981-000-000) PJDJ Inc.
11. \$119.75 (02980-003-000) PJDJ Inc.
12. \$216.82 (02978-000-000) DMR 239 Estates LLC (to be deeded to PJDJ Inc. prior to closing)

The landowner will continue to pay Alachua County property tax after the conservation easement is conveyed. Under Section 196.26, Florida Statutes, land dedicated in perpetuity for conservation purposes but used for commercial purposes (e.g., silviculture) is eligible for a 50% exemption from ad valorem taxation. Since certain portions of the property are excluded from the conservation easement,

and the assessment may change on the excluded portions, the potential impact of this transaction on the county tax base cannot be accurately estimated at this time.

Annual Alachua County Forever Management Costs (CE Monitoring): \$550

(Exhibit 8)

Strategic Guide:

Environment

Background:

Staff has negotiated the attached Option Contract (Exhibit 1) and Conservation Easement Deed (Exhibit 2), and it was executed by the Manager on June 27, 2023. The Option requires transmittal of a signed Notice of Exercise of Option by the BoCC Chair, to the Sellers by August 31, 2023, the date the option period ends. (Exhibit 3).

During the Inspection Period, the County shall have at least 117 days after the BOCC exercises its Option to conduct all due diligence on the property. The County may exercise its rights to resolve any due diligence matters pursuant to the terms of the contract within those 117 days and to extend the closing date if necessary.

The Rembert property is located within the northern city limits of Alachua, in north-central Alachua County. The property has road frontage on County Road 241, County Road 239, and Northwest 199th Avenue. The property is approximately 623 acres in size, including twelve tax parcels, and about 238 acres of the property fall within the Mill Creek Strategic Ecosystem. The following tax parcels are fully or partially within the conservation easement boundary: 03000-001-001; 03000-000-000; 03000-005-000; 03000-005-001; 02971-000-000; 02977-000-000; 02975-004-000; 02975-003-004; 02972-001-000; 02978-000-000; 02981-000-000; and 02980-003-000.

The Rembert property includes a mosaic of natural communities in excellent to good condition, mixed with hay pasture/row crops and pine plantation. The most outstanding natural feature of the property is the over three miles of winding blackwater stream and seepage stream with the surrounding high quality slope forests which traverse the property. Nine of the twelve parcels contain portions of this creek system, known as Bad Dog Branch, which is a tributary of Mill Creek and feeds into the Mill Creek Sink, approximately 2 miles downstream from the Rembert property. The majority of the uplands above the slope forests were converted to pasture prior to the 1938 aerial imagery, and some were planted in longleaf pine in the 1990's; however, the slope forests along this creek system have remained intact until present.

Acquisition of a conservation easement on this property would further protect the Mill Creek Sink stream-to-sink system and add a key piece of protection in the Springs Protection Zone in this area. Dye tracing studies have shown that Mill Creek Sink is hydrologically connected to Hornsby Springs, which then feeds into the Santa Fe River, an Outstanding Florida Waterway. Protection of the Santa Fe River is one of the highest priorities of the Alachua County Forever Program. In addition, protecting water entering Mill Creek Sinkhole contributes to public drinking water quality, since water from the sinkhole has been found in the Santa Fe Hills Water Association (formerly: Santa Fe Hills Public Water System).

In December 2020, staff submitted a grant application to the Suwannee River Water Management District for a \$1,000,000.00 matching funds grant from the State Springs Grant Program which is administered by the Florida Department of Environmental Protection (FDEP) to partially reimburse the County for the potential cost of acquisition of the Rembert Conservation Easement. The cost-share grant partnership allows the FDEP and Alachua County to share the acquisition costs for this important water resource protection project. Grant Contract LP0067 was approved and executed by the BoCC on March 14, 2023 to allow the grant award to be received by Alachua County.

The family's residential and event spaces located within the Rembert family's ownership, have been removed from the conservation easement footprint, along with two future planned homesites. (Exhibit 5)

The overarching "Conservation Values" outlined in the conservation easement will direct the county's protection of the land into the future. The easements identify approximately 226 acres of sensitive natural areas as Preservation Zones, with an additional approximately 8 acres of Preservation Buffer Zones. The agricultural areas, identified as Timber and Hardwood Forest, Hay, Row Crop, are protected through the compliance with the Florida Department of Agriculture and Consumer Services, "Water Quality/Quantity Best Management Practices for Florida Vegetable and Agronomic Crops", University of Florida's "Nutrient Management of Vegetable and Agronomic Row Crops Handbook, Florida Forest Service's "Best Management Practices for Silviculture" and Florida Wildlife Best Management Practices for Silviculture. The easements permit changes in use so long as the proposed use is less intensive than the use allowed under the initial designation. For example, the timber zones may remain as timber or may be restored to natural vegetation. However, pine plantations may not be converted to row crop, a more intensive land use.

The baseline documentation report will capture the property's current condition and a 10-year Conservation Easement Stewardship Plan will be prepared by the closing date.

The boundary survey, baseline documentation report, phase I environmental survey, and the 10-year Conservation Easement Stewardship Plan are the next steps of due diligence that will be initiated after the Option is Exercised by Alachua County. Closing transactions would occur once there has been a determination by the County Manager that there are no title, survey or environmental defects.

The attached title commitment (Exhibit 6 & 9) lists items that would be exceptions to the County's unencumbered ownership interest in the Property. The non-standard title exceptions listed are:

(# 4) Easement in favor of Clay Electric Cooperative, Inc. recorded in O.R. Book 271, Page 447, Public Records of Alachua County, Florida.

(# 5) Drainage Easement in favor of the State of Florida recorded in O.R. Book 291, Page 209, Public Records of Alachua County, Florida.

(# 6) Oil, Gas and Mineral Lease recorded in O.R. Book 1346, Page 536 and assigned in O.R. Book 1574, Page 2948, Public Records of Alachua County, Florida. No determination has been made as to the current record owner of the interest excepted herein. (To be removed if Requirement B-I (4)(B) satisfied.)

(# 7) Easement in favor of Clay Electric Cooperative, Inc. recorded in O.R. Book 3360, Page 1156 and O.R. Book 3360, Page 1159, Public Records of Alachua County, Florida.

(# 8) Easement for Ingress and Egress as recorded in O.R. Book 2595, Page 468, Public Records of Alachua County, Florida.

(# 9) Ordinance Number 18-10 of the City of Alachua, Florida recorded in O.R. Book 4617, Page 1035, Public Records of Alachua County, Florida.

(# 10) Subject to easement contained in Warranty Deed recorded in O.R. Book 4409, Page 757, Public Records of Alachua County, Florida.

(# 11) Coverage is excepted as to riparian and littoral rights; the possible right of the public to use beach area and/or waterways; and any Land insured herein that was formerly or is currently submerged, including any filled lands, artificially exposed lands, and lands accreted to such lands, for the rights of the United States Government and the State of Florida. If the navigational Servitude Endorsement is attached to this policy and made a part hereof, the coverage afforded thereby shall not extend to any portion of the Land subject to a claim of ownership by the State of Florida by right of sovereignty. This clause replaces Commitment exception #3 (the General Sovereignty Land exception).

Legal access to the Rembert Tract is along NW County Road 241, NW County Road 239, and NW 199th Avenue.

Access to the Eric J. Fields property (parcel 02975-000-000) is through the Rembert's property (parcel 02981-000-000). The Rembert family will formalize an access easement with the Fields family prior to closing on the Conservation Easement with Alachua County.

Comp Plan Reference:

Acquiring the Mill Creek – Rembert Conservation Easement fulfills multiple objectives endorsed within the Alachua County Comprehensive Plan. Specifically, Policy 6.0 Land Conservation Program within the Conservation and Open Space Element, states “Establish and maintain a land conservation program for the purchase, preservation, and management of natural areas and open space to complement the regulatory approaches identified in other section of this element.”