



Agenda Item Summary

File #: 23-00724

Agenda Date: 12/12/2023

Agenda Item Name:

Lochloosa Slough Flatwoods – Jackson Heirs Tract Option Contract to Purchase Real Property

Presenter:

Andi Christman, Environmental Program Manager – Environmental Protection Dept., (352) 264-6803

Description:

Staff Requests the Board of County Commissioners (BoCC) approve and exercise the attached Option Contract to Purchase the 116-acre Lochloosa Slough Flatwoods – Jackson Heirs property from Sarah Vera Jackson Heirs through the Alachua County Forever (ACF) program.

The execution of this Contract to purchase Real Property, is the final BoCC action on the acquisition of this project.

Recommended Action:

1. Approve and authorize the Chair to exercise the Lochloosa Slough – Jackson Heirs Option Contract to purchase Real Property, 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, #5, 6, #7, #8, #9, #10, #11, #12, #13, #14, #15, and #16, as listed in the attached Title Commitment, and subject to the concurrence of the county attorney and the closing attorney;
3. Authorize staff to execute additional documents as necessary to close the transaction including the pursuit of a non-public access easement over tax parcel # 20079-000-000; and
4. Approve the attached budget amendment authorizing the expenditure of funds for due diligence and associated closing costs.

Prior Board Motions:

On October 26, 2021, the BoCC placed Lochloosa Slough Flatwoods – Jackson Heirs property on the Active Acquisition List (Full Price List).

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 (WSPP) 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.

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 \$307,052 for the land plus \$49,000 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: **\$307,052** (116-ac x \$2,647.00/ac)
- Phase I Environmental Site Assessment (ESA): **\$6,700**
- Boundary Survey: **\$27,000**
- Boundary Posts & Signs: **\$600**
- Attorney's fees and closing costs: **\$14,700**
- 10% contingency on purchase price & due diligence: **\$35,606**
- TOTAL EXPENDITURE AUTHORITY REQUESTED: **\$391,658**

The attached Journal Entry requests **\$391,658**. (Exhibit 6)

WSPP – Land Acquisition (Capital Expense)

Fund#: 021.41.4160.537.61.00 – 6194101 Lochloosa Slough Flatwoods – Jackson Heirs

&

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

Annual Tax & Assessment Revenue of the Parcels: \$664.04 (2022 total)

1. \$348.96 (20069-000-000) Jackson, Sarah Vera Heirs
2. \$315.08 (20078-000-000) Jackson, Sarah Vera Heirs

There are two buildings included in this acquisition – a historic home and historic tobacco barn. The house, in particular, is in very poor condition. Once these structures are properly documented in the State of Florida Division of Historical Resources, Florida Master Site File, the County will pursue management strategies depending on safety and other considerations, which may include removing one or both structures, if appropriate.

Estimated Annual Alachua County Forever Management Costs: \$2,713

Estimated Alachua County Initial 10-year Improvements: \$2,460

(Exhibit 7)

Strategic Guide:

Environment

Background:

Staff has negotiated the attached Lochloosa Slough Flatwoods – Jackson Heirs Option Contract to

Purchase Real Property (Option), Exhibit 1, and it was executed by the Manager on **November XX, 2023**. The Option requires transmittal of a signed Notice of Exercise of Option by the BoCC Chair, to the Sellers by December 31, 2023, the date the option period ends. (Exhibit 2)

During the Inspection Period, the County shall have 120 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 120 days and to extend the closing date if necessary.

The Jackson Heirs property consists of two parcels (20069-000-000 & 20078-000-000) totaling approximately 116-acres. It is located east of the Lochloosa community across US HWY 301, south of Hawthorne. The Jackson Heirs Property is adjacent to the 3,936-acre Lochloosa Slough - Fox Pen Connector (LSL - Fox Pen Connector) property, which the County acquired on January 13, 2022. The Jackson Heirs property expands the LSL - Fox Pen Connector acquisition footprint and connects a landlocked 40-acre parcel of LSL - Fox Pen Connector that lacks legal access. Staff would incorporate the 116-acre Jackson Heirs property to the management of Lochloosa Slough Preserve.

The Jackson Heirs property is within the ACF Lochloosa Slough Flatwoods project area, and within the East Lochloosa Forest Strategic Ecosystem. The Jackson Heirs parcels support a variety of habitats including basin swamp, mesic flatwoods, depression marsh, baygall and successional hardwood forest ranging from fair to excellent condition. There is an old 1,350 square foot home and improved pasture on the property as well. Invasive exotic plants are in very low density across the site. Wildlife species observed include, pygmy rattlesnake, red shouldered hawks, blue headed vireos, ruby throated hummingbird, and several active gopher tortoise burrows

Additional information can be found in the attached property evaluation.

(Exhibit 3 & 4)

There are no Permitted Exceptions in the Jackson Heirs Option Contract, but these non-standard Title Exceptions are noted: (#5, #6, #7, #8, #9, #10, #11, #12, #13, #14, #15, #16):

Schedule B-II Exceptions:

- #5. Mineral Deed as recorded in O.R. Book 909, Page 99, Public Records of Alachua County, Florida.
- #6. Notice of Claim by Daleo Oil Company as recorded in O.R. Book 943, Page 477, Public Records of Alachua County, Florida.
- #7. Quit Claim Deed from Elise B. Herndon, a widow to A.K. Guthrie conveying all right, title, and interest in and to the minerals as recorded in O.R. Book 1748, Page 753, Public Records of Alachua County, Florida.
- #8. General Conveyance, Assignment and Bill of Sale from Pacific Enterprises Oil Company (USA), a California corporation to Pacific Enterprises ABC Corporation, a California corporation, conveying, assigning and bill of sale in and to all right, title and interest for oil, gas and mineral leases et al, as recorded in O.R. Book 1882, Page 2035, Public Records of Alachua County, Florida.
- #9. Mineral Deed from J. Keith Miller to Miller Oil Properties, L.L.C., an Oklahoma limited liability company, all interest in and to all of the oil, gas and other minerals, together with right of ingress and

egress as recorded in O.R. Book 2234, Page 2627, Public Records of Alachua County, Florida.

- #10. Affidavit and Notice of Change of Address by J. Keith Miller, aka John Keith Miller as recorded in O.R. Book 3484, Page 1446, Public Records of Alachua County, Florida.
- #11. Grant, Assignment and Conveyance from The Estate of Mr. John Keith Miller, and/or the wholly owned limited liability company, Miller Oil Properties, LLC via the executor of the Estate, Andrea Miller to L.S. Williams Enterprises, LLC; K. Miller Huffman, LLC; Divine Scavenger, LLC in and to the mineral estate underlying the lands as recorded in O.R. Book 4106, Page 2388, Public Records of Alachua County, Florida.
- #12. Affidavit and Notice of Change of Name and Address from Kristin Miller Huffman, aka K. Miller Huffman, LLC to K. Miller Huffman, LLC as recorded in O.R. Book 4654, Page I 097, Public Records of Alachua County, Florida.
- #13. Title to Oil, Gas and Minerals are neither insured nor guaranteed.
- #14. 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).
- #15. Lack of access because the above-described property does not abut, and there is no private easement to, a dedicated road, street or highway. Accordingly, notwithstanding Covered Risk number 4 of the jacket of this policy, this policy does not insure any right of access to and from said land.
- #16. Rights of the lessees under unrecorded leases.

Some of the title exceptions may be deleted prior to closing based on additional title examination or the survey. (Exhibit 5)

The Title Exception Memo, Exhibit 9, from Salter Feiber addresses exceptions #5, #6, #7, #8, #9, and #11 which relate to oil, gas and mineral rights; and provides a general opinion that while these rights appear active, current County permitting requirements for mining or excavation and fill activities would require a Special Use Permit issued by the Board of County Commissioners and approval of a development plan by the Development Review Committee. Under the County's current permitting requirements, consideration of Special Use Permit applications occur at a public, quasi-judicial hearing and the Board's decisions must be based on competent substantial evidence. Of course, any such determination must also be based on a site-specific application, and no such application has been submitted nor is one expected as of the date of this agenda item. Therefore, in the absence of a pending application and based solely on staff's general understanding of the property, the surrounding properties and the County's current regulations, staff believes there is a low probability that the property would qualify for a Special Use Permit due to: wetlands onsite, groundwater, soil types and minimum setbacks required for adjacent conservation lands.

Current legal access to the Jackson Heirs Tract exists via Alachua County's ownership of the adjacent Lochloosa Sough Preserve – Fox Pen Connector Tract (tax parcel # 20062-000-000), east of the subject parcels. This access will support land management activities. Public access as may be appropriate will be assessed as part of the development of a management plan. ACF staff intend to pursue a non-public access easement from SE 162 Ave. over tax parcel # 20079-000-000 to further facilitate access for land management activities.

A boundary survey and phase I environmental assessment 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.

Comp Plan Reference:

Acquiring the Lochloosa Slough – Jackson Heirs Tract 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.”