



Office of  
**INDIAN RIVER COUNTY  
ATTORNEY**

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Dylan Reingold, County Attorney  
William K. DeBaal, Deputy County Attorney  
Susan J. Prado, Assistant County Attorney

**MEMORANDUM**

**TO:** Board of County Commissioners

**FROM:** Dylan Reingold, County Attorney

**DATE:** October 5, 2021

**SUBJECT:** Deed of Conservation Easement – First Negotiation Rights

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**BACKGROUND.**

In December 2007, the Indian River County Board of County Commissioners (“Board”) acquired conservation easements over two adjacent ranches in western Indian River County under the County's environmental lands program: the Triple S Ranch (±702 acres) and the Padgett Creek Ranch (±885 acres). Since that time, County staff has conducted periodic monitoring visits to both ranches and has confirmed that the ranches are being maintained in accordance with the County's easements. Under the Deed of Conservation Easement from Triple S Land Company (a.k.a. Triple S Ranch), the County has no maintenance or improvements obligations and the owner has the obligation to " ... preserve and protect in perpetuity the conservation values of the property ... "

In 2016, the County was notified by Mr. Varley Grantham, president of the Triple S Land Company, of his intent to sell the Triple S Ranch. The Deed of Conservation Easement states that "if Grantor intends to sell the Property ... Grantor shall deliver to Grantee [County] notice of such intent, and shall, in good faith, afford Grantee an opportunity to negotiate the acquisition of the Property or such portion thereof or interest that Grantor intends to sell (herein ‘Grantee's First Negotiation Rights’)." On October 4, 2016, the Board voted to unanimously not to exercise its first negotiation rights and the property was acquired by Padgett Creek, LLC.

On September 17, 2021, Charles Garris, on behalf of Padgett Creek, LLC, sent a letter to the County Attorney’s Office, notifying the County of the current property owner’s intent to sell the property.

Like in 2016, County staff's position is that the conservation easement is serving the public interest and resulting in the conservation and management of natural resources in a regional corridor warranting protection. Additionally, because the site is remote from the vast majority of County citizens, the public access benefits that could accrue from fee simple acquisition are minimal. Finally, County staff believes that fee simple acquisition of the property would result in acquisition and management costs that are unneeded to meet County objectives that are already being accomplished under the easement.

On October 5, 2021, the Board requested information about 1) conservation easement restrictions, 2) Florida Wildlife Corridor purchases, and 3) a possible price for the County to purchase the property.

Under the Deed of Conservation Easement, the use of the property is greatly restricted. The property owner maintains the right to have native fish and wildlife on the property, and to have non-commercial hiking, camping, and horseback riding. The property owner also has the right to continue to use, reconstruct and relocate existing buildings and structures on the property such as barns, dog pens and fences. Additionally, the property owner has the right to continue existing agricultural practices, including grazing of cattle, sheep, horses, and other livestock. Of note, as discussed at the October 5, 2021 Board meeting, the property owner has the right to construct two new residences. The Deed of Conservation Easement also allows for utilities to be provided to the new or relocated residences. The Deed of Conservation Easement also contains a long list of prohibited uses. These include, but are not limited to; new construction of temporary or permanent buildings (other than the two residences provided above), commercial or industrial activity, exploration or mining of oil, gas, minerals and other materials, subdivision (aside from the two residential parcels), commercial timber harvesting, billboards, or activities detrimental to the fish and native wildlife habitat or that may reasonably be expected to adversely affect threatened or endangered species.

Earlier this year, Governor Ron DeSantis signed Senate Bill 976, The Florida Wildlife Corridor Act. The legislation directs the Florida Department of Environmental Protection to encourage and promote investments in areas that protect and enhance the Florida Wildlife Corridor. On September 21, 2021, the Governor and Cabinet serving as the Board of Trustees of the Internal Improvement Trust Fund approved purchase of a conservation easement over 6,665 acres located in Indian River County and Okeechobee County within the Kissimmee-St. Johns Connector Florida Forever project. The conservation easement purchase for \$15 million had similar restrictions as those in the Deed of Conservation Easement, including the right to construct three additional residential areas, with each area limited to three residential buildings.

The property owner is selling the roughly 701 acres for \$5 million. I would anticipate that the property owner would expect at least that amount from the County.

### **FUNDING.**

No funding is necessary at this time. If the County were to move forward with and offer to purchase the fee simple ownership of this property, staff would recommend the use of Local Option Sales Tax. No funds are budgeted for this purchase currently, so a budget amendment would be necessary to allocate this funding from Reserves. Staff would also pursue matching grant dollars for the purchase.

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**RECOMMENDATION.**

The County Attorney's Office recommends Indian River County Board of County Commissioners refrain from exercising its first negotiation rights and authorize staff to notify Mr. Garris that the County is not interested in fee simple acquisition of the Triple S Ranch property.

**ATTACHMENTS.**

Deed of Conservation Easement