

## Memorandum

**TO:** Interested Parties  
**FROM:** Wendy Muzzy, Director, Feasibility Research and Will Abberger, Vice President,  
Director, Conservation Finance  
**DATE:** September 30, 2021  
**RE:** Indian River County conservation finance estimates

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### Introduction

In November 1992, Indian River County voters approved a \$26 million bond backed by a ½-mill property tax increase with 53 percent approval. In November 2004, Indian River County voters approved a renewal of the county's successful land conservation program, approving a \$50 million bond backed by a ½-mill property tax increase with 67 percent voting yes. The Trust for Public Land provided technical assistance to Indian River County to design the ballot measure and worked with local, private citizens to organize and run a successful ballot measure campaign. Indian River County is now interested in exploring the possibility of again renewing county funding for land conservation. In February 2020, Indian River County requested The Trust for Public Land's technical assistance to evaluate potential funding options to continue and sustain the county's land conservation program.

### Background<sup>1</sup>

The primary purpose and objective of the existing Indian River County Conservation Lands Program is to protect, restore and sustain endangered ecosystems and associated rare and endangered species in Indian River County. Secondary objectives of the program include passive public recreation, preservation of open space, groundwater quality protection, flood protection, protection of historic and cultural resources, and general preservation of "quality of life." The Conservation Lands Program is managed by the Conservation Lands Manager through the Parks and Conservation Resources Division and supervised by the Parks Superintendent. The Conservation Lands Manager and Parks Superintendent also work closely with the Community Development Department.

The Parks and Conservation Resources Division enhances and maintains parks, conservation lands, buildings and equipment in order to provide quality recreation, leisure and conservation area.

Indian River County's outstanding debt at the end of FY 2019/ 2020 stands at \$5,997,000. Enterprise Funds support 35.6% of the overall debt (Utilities Department), leaving \$3,865,000 or 64.4% in Spring Training 2001 bonds that are fully funded by the state's annual \$500,000 contribution. The county currently has no general obligation (G.O.) bond outstanding. In Florida, G.O. bonds may only be issued after a voter referendum to approve them is passed at an election.

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<sup>1</sup> Largely excerpted from the Indian River County website at [https://www.irgov.com/Departments/General\\_Services/Parks/Index.htm](https://www.irgov.com/Departments/General_Services/Parks/Index.htm) and Indian River County Annual Budget for FY 2020-2021.

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In 2004, the voters of Indian River County approved a referendum to continue the county's land conservation program and issue an additional \$50 million for land acquisition. Historic and agricultural lands were added to the approved purchases under this referendum, whereas the initial 1992 bond referendum only authorized acquisition of environmental lands. In June 2006, Indian River County issued the 2006 Series Limited General Obligation Bonds in the principal amount of \$48,600,000 at an average interest rate of 4.22% (true interest cost) for land conservation. On February 17, 2015 the Board of County Commissioners approved refunding the bonds using a bank loan in order to save approximately \$1.1 million dollars, or 6.05% of the refunded amount. The bank loan provided a lower borrowing cost at 1.84%, reduced the annual debt service by \$170,000, and allowed for a modest reduction in the ad valorem millage rate. On May 12, 2020, the Board of County Commissioners approved the early payoff of the outstanding principal totaling \$2,970,000. The early payoff of this debt removed the need to levy a millage to fund the remaining year of debt service, thus creating a reduction in taxes paid by Indian River taxpayers.

### Florida History of Conservation Finance

The State of Florida authorizes local communities to use various revenue sources for parks and recreation purposes including property taxes, sales and use taxes, general obligation bonds, and the creation of special districts. Voters approved 82 percent of local conservation finance measures (75 of 92) on the ballot in Florida between 1996 and 2019. General obligation bonds are the most popular public

<b>Local Conservation Finance Mechanisms in Florida</b>				
Summary of local ballot measures from 1996 - 2020				
	#	#		%
<b>Mechanism</b>	<b>Passed</b>	<b>Failed</b>	<b>Total</b>	<b>Passed</b>
Bond	52	7	59	88%
Sales Tax	14	8	22	64%
Property Tax	11	2	13	85%
Other*	2	0	2	100%
<b>Total</b>	<b>79</b>	<b>17</b>	<b>96</b>	<b>82%</b>
<i>*Budget allocations</i>				
Source: TPL LandVote Database (measures that include \$ for land conservation.)				

finance mechanism in Florida for parks and conservation. The table above illustrates the number and type of conservation finance measures that have gone before voters over the past 24 years. For recent park and land conservation measures on the ballot in Florida, the passage rate is 82 percent. Five of the six city and county park and land conservation measures on the ballot in 2018 were approved. Four county land conservation ballot measures were approved in November 2020: Collier County (renewal of a 0.25 mill property tax), Manatee County (a 0.15 mill ad valorem tax and issue general obligation bonds), and two measures in Volusia County (a 20-year, 1/5th mill levy for the continuation of Volusia Echo, and a 20-year, 1/5th mill levy for the continuation of the Volusia Forever).

### General Obligation Bonds

Florida counties and municipalities are authorized to issue debt for capital projects including parks and open space in the form of general obligation bonds.<sup>2</sup> The state statutes do not place specific limits on the amount of debt that can be incurred by a community, but do limit the duration of the bonds to a period not exceeding 40 years. When bonds have been issued, the

<sup>2</sup> Florida Constitution, Article VII, Section 12(a) and Florida Statutes, Section 125.013.

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governing body must levy annually a tax upon taxable property in the jurisdiction sufficient to pay the debt service and interest on the bonds.<sup>3</sup>

### Issuing Bonds for Land Conservaiton

The tables below illustrate the debt service and millage required for bond amounts that could potentially be issued for land conservation in Indian River County with a 15-year and 20-year maturity. For instance, a countywide bond issue for \$50 million payable over 15 years would add roughly \$4 million to the county’s annual debt service and cost the typical homeowner an average of \$46 per year in additional property taxes.

<b>Bond Financing Costs for Indian River County</b>			
15-year Bond Issues at 2.5% Interest Rate			
2021 Total Taxable Value = \$20.5 billion			
Bond Issue Size	Annual Debt Svce	Mill Levy Increase	Cost/ Year/ Avg. Residential
\$40,000,000	\$3,230,658	0.157	\$36
\$50,000,000	\$4,038,323	0.196	\$46
\$55,000,000	\$4,442,155	0.216	\$50
\$60,000,000	\$4,845,987	0.235	\$55
\$65,000,000	\$5,249,820	0.255	\$59
\$70,000,000	\$5,653,652	0.275	\$64
<i>Source: Florida Dept. of Revenue Ad Valorem &amp; Tax Data Book</i>			
<i>Average residential property taxable value \$232,400.</i>			

<b>Bond Financing Costs for Indian River County</b>			
20-year Bond Issues at 2.5% Interest Rate			
2021 Total Taxable Value = \$20.5 billion			
Bond Issue Size	Annual Debt Svce	Mill Levy Increase	Cost/ Year/ Avg. Residential
\$40,000,000	\$2,565,885	0.125	\$29
\$50,000,000	\$3,207,356	0.156	\$36
\$55,000,000	\$3,528,092	0.171	\$40
\$60,000,000	\$3,848,828	0.187	\$43
\$65,000,000	\$4,169,563	0.203	\$47
\$70,000,000	\$4,490,299	0.218	\$51
<i>Source: Florida Dept. of Revenue Ad Valorem &amp; Tax Data Book</i>			
<i>Average residential property taxable value \$232,400.</i>			

TPL’s bond cost calculations provide a basic estimate of debt service, tax increase, and cost to the average homeowner in the community of potential bond issuances for parks and land conservation. Assumptions include the following: the entire debt amount is issued in the first year and payments are equal until maturity; 15/20-year maturity; and 2.5 percent interest rate. The property tax estimates assume that the jurisdiction would raise property taxes to pay the debt service on bonds, however other revenue streams may be used. The cost for the average residential property represents the estimated annual impact of increased property taxes levied to pay the debt service. The estimates do not take into account growth in the tax base due to new construction and annexation over the life of the bonds. The jurisdiction’s officials, financial advisors, bond counsel and underwriters would establish the actual terms of any bond.

### Enactment procedures

The County Commission must call a referendum election prior to the issuance of bonds.<sup>4</sup> There must be at least 30 days’ notice published in the local newspaper of general circulation.<sup>5</sup> Bond elections may be held concurrently with any general or primary election or concurrently on the day of any election of a county, district, or municipality for any purpose other than the purpose of voting on such bonds.<sup>6</sup> General elections are held on the first Tuesday after the first Monday in

<sup>3</sup> Chapters 100 and 130, and Section 200.181, *Florida Statutes*.

<sup>4</sup> Section 100.211, F.S.

<sup>5</sup> Section 100.342, F.S.

<sup>6</sup> Section 100.261, F.S.

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November of each even numbered year.<sup>7</sup> The next general election will be Tuesday, November 8, 2022. Indian River County voters will elect two county commissioners at this election.

Special elections may also be called after the supervisor of elections consents.<sup>8</sup> In any special election or referendum not otherwise provided for there shall be at least 30 days' notice of the election or referendum by publication in a newspaper of general circulation in the county. The publication shall be made at least twice, once in the fifth week and once in the third week prior to the week in which the election or referendum is to be held.

### Ballot Language

For public measures submitted to voters, a summary must be printed in clear and unambiguous language on the ballot following the list of candidates. The summary shall be an explanatory statement of the chief purpose of the measure, not exceeding 75 words in length, and must be followed by the word "yes" (to indicate approval) and the word "no" (to indicate rejection). The ballot title shall consist of a caption, not exceeding 15 words in length, by which the measure is commonly referred to or spoken of.<sup>9</sup>

In addition, county and municipal bond measures in Florida must abide by the "single subject" rule, such that funding for distinct purposes must appear as separate questions on the ballot unless they are sufficiently related.<sup>10</sup> As such, it may be advisable for the County Commissioners to seek legal counsel regarding a bond that could fund a variety of potential projects.

Finally, bond expenditures are limited to capital projects and may not be used for operations and maintenance purposes. Federal regulations governing the issuance of tax-exempt bonds limit the use of proceeds to capital purposes such that only a small fraction (up to 5 percent) of bond funds may be used for maintenance or operations directly related to the funded facilities. Treas Reg 1.148-6(d)(3)(ii)(A)(5).<sup>11</sup> State and local laws may further limit the use of bond proceeds.

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<sup>7</sup> Section 100.031, F.S.

<sup>8</sup> Section 100.151, F.S.

<sup>9</sup> F.S. § 101.161.

<sup>10</sup> State v. Dade County, 39 So.2d 807 (1949); Winterfield v. Town of Palm Beach, 455 So.2d 359 (1984); State v. City of St. Augustine, 235 So.2d 1 (1970); Grapeland Heights Civic Ass'n v. City of Miami, 267 So.2d 321 (1972). The single-purpose rule was adopted by the Florida Supreme Court in Antuono v. City of Tampa, 87 Fla. 82, 99 So. 324 (1924). The rule was stated as follows: If there are two or more separate and distinct propositions to be voted on, each proposition should be stated separately and distinctly so that a voter may declare his opinion as to each matter separately, since several propositions cannot be united in one submission to the voters so as to call for one assenting or dissenting vote upon all the propositions; and elections are invalid where held under such restrictions as to prevent the voter from casting his individual and intelligent vote upon the object or objects sought to be obtained.

<sup>11</sup> (A) *General de minimis exception.* Paragraph (d)(3)(i) of this section does not apply to expenditures to pay -

(1) Any issuance costs of the issue or any qualified administrative costs within the meaning of §§ 1.148-5(e)(2) (i) or (ii), or § 1.148-5(e)(3)(ii)(A);

(2) Fees for qualified guarantees of the issue or payments for a qualified hedge for the issue;

(3) Interest on the issue for a period commencing on the issue date and ending on the date that is the later of three years from the issue date or one year after the date on which the project is placed in service;

(4) Amounts paid to the United States under §§ 1.148-3, 1.148-5(c), or 1.148-7 for the issue;

(5) Costs, other than those described in paragraphs (d)(3)(ii)(A) (1) through (4) of this section, that do not exceed 5 percent of the sale proceeds of an issue and that are directly related to capital expenditures financed by the issue (e.g., initial operating expenses for a new capital project);

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### **Bonds with Additional Property Tax Authority for Operations**

A single ballot question may authorize bonding authority and a millage levy, the excess of which can be used for operations and maintenance. The portion of the voted millage necessary to pay debt service must be treated as debt service millage and the excess portion must be treated as general millage. The portion treated as general millage must be included within the millage levied under the county or municipal 10-mill limitation.”

The statutory authority comes from F.S. 200.18:

*“200.18 Bond payments; tax levies; restrictions.—*

*(1) None of the provisions of this chapter or of any other law, whether general, special or local or of the charter of any municipality or county, shall limit or restrict the rate or the amount of the ad valorem taxes levied for the payment of the principal of and the interest on any debt service whether secured by revenue certificates or by bonds for which the full faith and credit of any county, municipality or taxing district may be pledged, and such taxes shall be in addition to all other taxes authorized or limited by law.*

*(2) Nothing in this section shall prevent any municipality, county or school board from levying at least 5 mills of ad valorem tax during any fiscal year.*

*(3) A county or municipality may levy voted millage at the maximum millage rate approved by referendum even if the levy would raise revenue in excess of that necessary for debt service as authorized by a vote of the electors pursuant to s. 12, Art. VII of the State Constitution. The county or municipality may use the surplus revenue for any lawful purpose solely related to the capital project for which the voted millage was approved, including operations and maintenance. For purposes of this chapter, the portion of the voted millage necessary to pay debt service must be treated as debt service millage and the excess portion must be treated as general millage. The portion treated as general millage must be included within the millage levied under the county or municipal 10-mill limitation.”*

### **Examples of bonds and operations backed by property tax**

Voters in Miami-Dade County used this authority and approved an ad valorem tax of 0.075 mills for a two-year period from 1990 to 1992 to fund the acquisition, protection and maintenance of environmentally endangered lands. A total of \$90 million was raised for land acquisition. The county established an Environmentally Endangered Lands (EEL) program to administer the funds and set aside \$10 million of the \$90 million to pay for site management. Each year, the interest from this \$10 million is used to secure, restore, and care for the sites acquired by the EEL program.

Additional examples include:

#### ***1. November, 2006 bond in Collier County, Florida***

***CONSERVATION COLLIER: ACQUISITION AND MANAGEMENT OF ENVIRONMENTALLY SENSITIVE LANDS, WATER RESOURCES LANDS, PUBLIC OPEN SPACE SHALL COLLIER COUNTY CONTINUE TO ACQUIRE, PRESERVE AND MANAGE ENVIRONMENTALLY SENSITIVE LANDS FOR THE PROTECTION OF WATER RESOURCES, WILDLIFE HABITAT, AND PUBLIC OPEN SPACE BY CONTINUING TO LEVY ONE QUARTER OF ONE MIL IN AD VALOREM TAXES THROUGH THE YEAR 2013, AFTER THE \$75 MILLION***



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**DOLLAR BOND ISSUE AUTHORIZED BY REFERENDUM IN NOVEMBER 2002 FOR SUCH ACQUISITION AND MANAGEMENT HAS BEEN SPENT?** Passed with 82%

This was fundamentally a straw ballot to assess whether voters would support the Commission using its budgetary authority to raise the property tax by 0.25 mills to continue to purchase and manage land.

*2. November, 2008 Bond in Flagler County*

Flagler County, Florida Clean Water and Environmentally Sensitive Land Preservation Clean Water and Environmentally Sensitive Land Preservation

*To continue to acquire and improve land to protect drinking water sources, preserve wildlife habitat and environmentally sensitive lands, reduce risk of wildfires, improve water quality of lakes, streams and the Intracoastal Waterway, and seek matching funds, shall Flagler County be authorized to levy 0.25 mill ad valorem tax for twenty years and issue bonds not exceeding \$40 Million at interest rates not exceeding the legal maximum, subject to an annual independent audit?* Passed with 65%.

**Imposing a mill levy with bond authority in Indian River County**

The table to the right illustrates the revenue potential from levies ranging from 0.20 mills to 0.30 mills. A 0.22 mill levy, for example, would generate approximately \$4.5 million annually at a cost of roughly \$51 a year to the average homeowner in the county. A \$50 million with a 15-year maturity would require roughly \$4 million of this annual revenue stream, leaving approximately \$527,000 per year to support restoration and maintenance.

<b>Estimated Revenue &amp; Costs of Property Tax Increase Indian River County</b>			
<b>Mill Levy Increase</b>	<b>Total County Taxable Valuation</b>	<b>Annual Revenue</b>	<b>Cost/Avg. Homeowner</b>
0.20	\$20,577,735,527	\$4,115,547	\$46
0.22	\$20,577,735,527	\$4,527,102	\$51
0.25	\$20,577,735,527	\$5,144,434	\$58
0.30	\$20,577,735,527	\$6,173,321	\$70
<i>Source: Florida Dept. of Revenue Ad Valorem &amp; Tax Data Book</i>			
<i>Average residential property taxable value \$232,400.</i>			
<i>Assumes 100% collection rate.</i>			

*November 2, 2004 bond in Indian River County, Florida*

**WATER RESOURCES PROTECTION, ENVIRONMENTALLY SIGNIFICANT LANDS, OPEN SPACE AND WILDLIFE HABITAT PRESERVATION**  
Approved with 67% yes

To acquire and preserve land to protect water resources, drinking water resources, environmentally significant lands, historic sites, agricultural lands, open spaces, and/or wildlife habitat, shall Indian River County be authorized to issue general obligation bonds with maturities not exceeding 15 years at interest rates not exceeding the legal maximum in an amount not exceeding \$50 million payable from ad valorem taxes not exceeding 1/2 mill, with project spending subject to annual independent audit?

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### *November 1, 1992 bond in Indian River County, Florida*

Approved with 53% yes

Shall Indian River County be authorized to acquire environmentally significant land to protect water quality, open spaces, and wildlife habitat, by issuing general obligation bonds not exceeding \$26,000,000 to be repaid in not-to-exceed 15 years and structured so that at the time of issuance the rate necessary to fund the maximum annual payments on the bonds shall not exceed ½ mill?

### **2022 General Election Calendar**

Ballot Language Deadline: August 12<sup>12</sup>  
 Voting Registration Deadline: October 11  
 Early Voting: October 24 - November 5  
 Mail Ballot Request Deadline: October 29 by 5 p.m.  
 Election Day: November 8 - 7 a.m. - 7 p.m.

### **County Voter Registration & Turnout<sup>13</sup>**

<b>Indian River County Voter Registration</b>		
<b>Party</b>	<b>Percentage</b>	<b># Voters</b>
Republican	47%	56,067
Democrat	27%	31,884
Unaffil/Other	26%	30,816
<b>Total</b>	<b>100%</b>	<b>118,767</b>

<b>Indian River County Voter Turnout</b>			
<b>Election</b>	<b>Registered Voters</b>	<b>Ballots Cast</b>	<b>% Turnout</b>
Nov-20	124,586	98,198	79%
Nov-18	113,426	74,999	66%
Nov-16	106,641	81,716	77%
Nov-14	97,944	53,495	55%
Nov-12	93,569	72,117	77%

<b>Indian River County 2020 Turnout Method</b>		
Mail Ballots	45,729	47%
Early Voting	36,363	37%
Election Day	15,949	16%
<b>Total</b>	<b>98,041</b>	

<sup>12</sup> Wording for the measure must be submitted in English and Spanish to the Indian River County Supervisor of Elections by August 12, 2022. Personal conversation with Supervisor Swan, 9/24/21.

<sup>13</sup> Source: <https://www.voteindianriver.com/electionresultsarchive>



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## County Governance

Indian River County is governed by a five member Board of County Commissioners (the “Commission”). Each member represents one of five districts, elected at large (Countywide) for staggered terms of four years. The Commission elects the Chairman and the Vice-Chairman. A County Administrator is appointed by the Board and is responsible for implementing the policies set forth by the Commission. The Administrator is charged with the fiscal control of the resources of the County as well. Shown below is a listing of the Commissioners by district and the expiration of their respective terms. Two seats will be on the ballot in 2022—Districts 2 and 4.

Board of County Commissioners		
Name	District	Term Expires
Susan Adams	District 1	2024
Joseph Flescher	District 2, Chair	2022
Joe Earman	District 3	2024
Peter O'Bryan	District 4, Vice Chair	2022
Laura Moss	District 5	2024

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