

## Conservation Easement and Land Acquisition Purchase Programs

### Conservation tools available for rural land protection:

- 1) The sale and/or donation of the full fee. This can be accomplished with or without a reserved life estate or leaseback.
- 2) The sale and/or donation of a conservation easement.
- 3) The phased sale or donation of either of the above.

### Potential Conservation Purchase Programs

**1) Rural and Family Lands Protection Program.** This program is funded through Florida Forever which is the state of Florida's conservation and recreation lands acquisition program. With a total of 3.8 million acres of conservation land purchased in Florida, 2.4 million acres were purchased under the *Florida Forever* and *P2000* programs. Florida Forever is to be funded at \$15 million for 2010 and 2011 fiscal year which is only 5% of the \$300 million that Florida Forever has been funded annually from 1998 to 2008. Florida Forever funding included \$10 million for the Rural and Family Lands Protection applications of 2008 to purchase working land conservation easements. Rural and Family Lands, a competitive program, if funded in the future, can be most appropriated for farm, forest and ranch lands that are not necessarily adjacent to existing conservation lands.

**2) County Conservation Purchase Programs:** Over the past five years alone, twenty counties surveyed by the Trust for Public Land have protected an estimated 169,000 acres with a total county expenditure of \$459.6 million. These counties offer or have offered a local land conservation program which protects environmentally sensitive lands through outright purchase or purchase of conservation easements. County citizens and commissioners can develop a fundable local program to be created through a ballot referendum or citizen initiative. This would require organization, referendum campaign funding and a large commitment of local leadership.

A detailed report written by The Trust for Public Land of Florida's County Land Conservation Programs provides an overview of conservation efforts and suggestions for helping to ensure the success of such efforts in the future.

[http://www.tpl.org/content\\_documents/fl\\_county\\_survey\\_report.pdf](http://www.tpl.org/content_documents/fl_county_survey_report.pdf)

**3) Carbon Banking.** Farmers, ranchers and foresters who follow practices such as no-till, reforestation or even use on-farm methane digesters can earn carbon credits based on the amount of carbon retained by their agricultural practices. These producers can then sell these carbon credits to utilities, companies and governments who want to offset their carbon emissions. Each carbon credit has a monetary value depending on the type and origin of the emission reduction produced. Blue Source (ROI Carbon) <http://www.bluesource.com/> is an example of a broker of carbon credits. Blue Source requires a conservation easement on 1500 acres or greater in order to purchase carbon credits on a property.

#### **4) Voluntary Land Use Regulations**

##### **Transfer of Development Rights (TDR) and Rural Land Stewardship Act (RLSA):**

**Transfer of Development Rights (TDR)** programs enable landowners to transfer the development potential from one parcel of land to another, either on the same site or another site in a designated growth area, thereby shifting development from agricultural and environmentally sensitive areas to locations with full municipal services.

Marion County has a TDR program which is designed to protect farmland where new development is not desired and to encourage denser development in more urban areas. A landowner can sell their density rights to developers to use where higher density is permitted.

Alachua and St Lucie Counties also have active TDR programs.

**The Rural Land Stewardship Act (RLSA)** is an incentive-based system that uses the market economy to encourage preservation and private stewardship of natural resources, retain agriculture, and promote economic growth and diversification in a sustainable rural environment. Established by the Florida Legislature in 2001 (Section 163.3177(11)(d), F.S.), the Rural Land Stewardship Areas enable counties to designate all or portions of lands classified in the future land use element as predominantly agricultural, rural, open, open-rural, or a substantively equivalent land use as a Rural Land Stewardship Area. Currently Collier, St Lucie, Highlands, and Osceola Counties have some form of RLSA.

<http://www.cues.fau.edu/toolbox/subchapter.asp?SubchapterID=34&ChapterID=1>

<http://www.dca.state.fl.us/fdcp/dcp/RuralLandStewardship/>

#### **5) Fish and Wildlife Species Mitigation Program.**

**Federally Endangered Species Mitigation** (Scrub Jay, Sand Skink, Red Cockaded Woodpecker): If land is surveyed to have compatible habitat or potential species on the Federally Endangered Species Mitigation list, landowners may be able to sell conservation easements through dollars from developers which they pay to buy mitigation credits for destruction of the endangered species habitat.

**Gopher Tortoise Habitat:** “Incidental take permit” dollars from developers have been available through the Florida Fish and Wildlife Commission since 2008 for gopher tortoises to be placed on private lands. In general, a conservation easement will be required for these lands which will have a conservation easement. Recipient lands will be required to be permitted to be “recipient sites.” Lands under existing conservation easements with compatible habitat may receive dollars per tortoise for recipient sites before a market is created for lands without current conservation easements. Typically donation of the conservation easement is encouraged followed by enrollment in this easement program.

**6) Wetlands Reserve Program.** This USDA/NRCS program is a grant application that is open all year round. WRP offers technical and financial assistance to protect, restore and enhance wetlands on one’s property. Landowners may voluntarily enroll in WRP through selling a permanent conservation easement; a 30-year term easement or entering a cost-share agreement.

[www.fl.nrcs.usda.gov/programs/flwrp.html](http://www.fl.nrcs.usda.gov/programs/flwrp.html)

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7) **Wetlands Mitigation.** Landowners may participate in creating a wetlands mitigation bank with a developer or third party to protect, restore or enhance existing wetlands. The wetland must be managed as wetlands in perpetuity.

<http://wetlandextension.ifas.ufl.edu/news.htm#mitigation> ,

<http://www.epa.gov/wetlandsmitigation>

<http://www.dep.state.fl.us/water/wetlandnds/mitigation/index.htm>

8) **The Farm and Ranchland Protection Program (FRPP).** This USDA/NRCS program has a grant application window from March to May each year. The state allocation is ~\$1.8 million and applicants must compete for their share of it. The program requires a local match (from water management districts, counties or state funds) of 50%, half of which may be raised through an in-kind contribution from a landowner. The program requires land to be dedicated to farming in perpetuity and currently producing a commodity food crop.

[www.nrcs.usda.gov/programs/frpp](http://www.nrcs.usda.gov/programs/frpp)

### 9) **Foundation Grants.**

The National Fish and Wildlife Foundation – Acres for American Program – requires a match, likely with a Florida Forever project.

Wildlife Forever – currently prioritizes Camp Blanding area for Ocala to Osceola corridor. A 1:1 match is required.

The Doris Duke Foundation invites a small number of organizations to participate in greenway corridor programs annually.

Federal Fish and Wildlife Service also offer habitat acquisition and restoration dollars for lands that protect Neotropical migratory and migratory bird conservation. Matching is required.

### 10) **Other Government Programs.**

The Division of Forestry of Florida Department of Agriculture and Consumer Services coordinates the Florida Legacy Program to protect environmentally sensitive forests. These funds are competitive and have been earmarked through 2008.

Florida Department of Transportation coordinates mitigation funds on a regional basis.

The Federal Highway Administration funds wildlife crossings on new and existing roads.

The Department of Interior offers recovery land and acquisition funds. A 25% match is required.

Florida Water Management Districts Land Acquisition programs purchase conservation easements and land to protect water quality in each district.

Other funded and (non)funded purchase programs can be found at:

<http://www.privatelandownernetwork.org/grantprograms/>

11) **Florida Communities Trust (FCT).** FCT is a competitive grant program that is funded through Florida Forever. It requires a majority of the property of a proposed project **be sold outright instead of as conservation easements.** FCT emphasizes public recreational access on purchase lands. FCT Applicants must be a local government or a not-for-profit organization. The Florida Legislature has allocated \$3.15 million in Florida Forever funds to the Florida Communities Trust Parks and Open Space Program for the 2010-2011 fiscal year. These funds will be available July 1, 2010, provided that the Governor approves the appropriation for Florida Funding Programs 2010

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Forever in the budget. Given the potential amount of available funding, FCT plans to withdraw the notice for the 2010 grant application cycle for the Parks and Open Space Program. Florida Communities Trust will instead use the \$3.15 million and apply it to the list of projects already scored and ranked from the 2008 Florida Forever grant application cycle.

**Purchase/Sale of conservation easement will:**

- a) Reduce the value of the land for the purposes of estate tax burden,
- b) If a bargain sale will produce a charitable contribution which can be deducted from the heirs' annual income tax (up to 50% of the AGI for up to 16 years), as per the current (and expiring) federal tax incentives for donations of a partial interest in real estate,
- c) Support (but not guarantee) the County property tax rate to the Ag exemption rate, and
- d) Create income on which capital gains tax will need to be paid.

**Donation of a conservation easement will:**

- a) Reduce the value of the land for the purposes of the estate tax burden,
- b) Produce a charitable contribution which can be deducted from the heirs' annual income tax (up to 50% or 100% of the AGI for up to 16 years), as per the current (and expiring) federal tax incentives for donations of a partial interest in real estate,
- c) Support (but not guarantee) the County property tax rate to the Ag exemption rate
- d) Greatly reduce the amount of time required to close a purchase transaction, and
- e) Allow the landowner the freedom to choose their own appraiser for the purposes of complying with the IRS rules for filing their return with such a deduction.