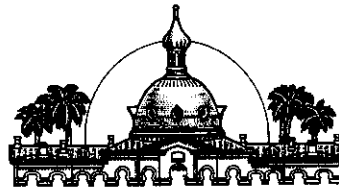


Office of the County Attorney

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Hillsborough County
Florida

November 13, 2009

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Ms. Elizabeth Belcher
617 Penn National Road
Seffner, Florida 33584

Re: Cone Ranch

Dear Ms. Belcher,

It was a pleasure speaking with you earlier this week regarding Cone Ranch. The question you asked me to address is whether it would be lawful under Florida Statute 125.38 for the County to sell land directly to a not-for-profit corporation, where that not-for-profit corporation has been created by a for-profit corporation for the purpose of avoiding the competitive bidding requirements that would otherwise apply.

Under 125.38, F.S., a direct sale to a not-for-profit corporation can only be made if that corporation was “organized for the purposes of promoting community interest and welfare”, and if the conveyance of the land serves the “public or community interest and welfare”. Provided that the newly created not-for-profit corporation meets this criteria, a direct sale can be considered by the County. Furthermore, Florida Statute 125.38 does not preclude the County from entering into a direct sale with a not-for-profit corporation solely on the basis that the not-for-profit corporation was created by a for-profit corporation. The issue for the Board of County Commissioners (BOCC) to consider before authorizing such a sale is not who created the not-for-profit, but whether the creation of the not-for-profit and the transfer of land to it serves the public or community interest and welfare.

If the BOCC were to authorize staff to work with FCEG to more thoroughly evaluate their proposal, one of the first steps would be for FCEG to create the not-for-profit land trust. County staff would closely review all aspects of this process, including but not limited to ensuring that the land trust has a financially feasible business plan, that the composition of the board of directors includes enough individuals from the public sector to protect and enforce the conservation easement(s) that would be granted or retained as part of the transaction, and that the land trust adopts a time-tested set of ethical and technical guidelines for responsible operation, such as the Land Trust Standards and Practices promulgated by the Land Trust Alliance. Any proposed contract between the County and the not-for-profit land trust for the conveyance of the property would need to return to the BOCC for their consideration.

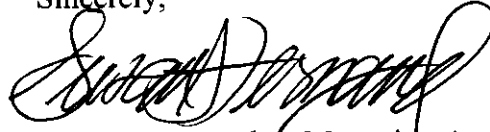
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Ms. Elizabeth Belcher
November 13, 2009
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I hope this addresses your question. Please feel free to call me if you have any other questions or issues you would like to discuss. I can be reached at 272-5670.

Sincerely,



Susan J. Fernandez, Managing Attorney
Real Property & Development Division

SJF/dc

cc: Board of County Commissioners
Renée Francis Lee, County Attorney
Pat Bean, County Administrator
Jim Barnes, Internal Performance Auditor
Mike Merrill, Utilities and Commerce Administrator
Edith Stewart, Public Affairs Administrator
Ed Helvenston, Senior Assistant County Attorney