

**AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
AUGUST 10, 2004**

Item 1 BOT Delegations Reaffirmation

DEFERRED FROM THE JUNE 24, 2004 AGENDA

REQUEST: Reaffirm existing delegations granted by the Board of Trustees.

COUNTY: Statewide

STAFF REMARKS: Understanding the benefits that may be reaped when the functions of government are streamlined, the Board of Trustees has delegated several of its functions to the Secretary of the Department of Environmental Protection (DEP). Delegations are vital to the protection of Florida's resources, as it allows government to be more proactive as well as responsive when addressing issues that affect the environment.

Over the years, DEP has carefully created policies and procedures to ensure that delegations granted to the Department are exercised in accordance with the laws, rules and intent of the Board of Trustees. The end result has been a success. Due to the delegations granted to DEP by the Board of Trustees, the Department has been able to handle the day-to-day operations of the Board of Trustees in a business climate that increases in complexity as it's reliance on technology expands. Additionally, as the state's population has grown, the pressure to use the Board of Trustees' lands has increased. With the delegations in place and the dedication of the staff to providing quality customer service, organizations from all over the state have become more interested in working closely with the state in an effort to preserve Florida's resources.

Delegations are an avenue for removing some of the obstacles that can be created when the functions of government become overly cumbersome.

RECOMMEND DEFERRAL TO THE SEPTEMBER 21, 2004 CABINET MEETING

Item 2 Seven Option Agreements/Conservation Easements/Pinhook Swamp Florida Forever Project

DEFERRED FROM THE MAY 11, 2004 CABINET MEETING

REQUEST: Consideration of seven option agreements to acquire perpetual conservation easements over 11,585.90 acres within the Pinhook Swamp Florida Forever project from seven landowners.

COUNTY: Columbia

LOCATION: Sections 01 and 13, Township 01 North, Range 16 East; Sections 17 and 18, Township 02 North, Range 17 East; Sections 05 through 09, 16 and 17, Township 01 North, Range 17 East; Sections 12 through 14, 23 through 26, 35 and 36, Township 02 North, Range 16 East

Item 2, cont.

CONSIDERATION: \$4,711,000

| PARCEL | ACRES | APPRAISED BY Candler (07/11/03) | APPROVED VALUE | SELLER'S PURCHASE PRICE | TRUSTEES' PURCHASE PRICE | OPTION DATE |
|----------------|-----------|---------------------------------------|-------------------|-------------------------------|--------------------------------|--------------------------------|
| Keen | 1,620.43 | \$486,000 | \$486,000 | \$ *** | \$427,680**** (88%) | 120 days after BOT Approval |
| Carter/Nowicki | 2,383.17 | \$715,000 | \$715,000 | \$308,400* | \$657,800**** (92%) | 120 days after BOT Approval |
| Carter Jr. | 1,622.69 | \$988,000 | \$988,000 | \$194,200** | \$908,960**** (92%) | 120 days after BOT Approval |
| Griffin | 1,620.45 | \$729,000 | \$729,000 | \$ *** | \$670,680**** (92%) | 120 days after BOT Approval |
| Grant/Lord | 1,620.47 | \$810,000 | \$810,000 | \$ *** | \$745,000**** (92%) | 120 days after BOT Approval |
| Espenship | 1,620.45 | \$810,000 | \$810,000 | \$ *** | \$745,200**** (92%) | 120 days after BOT Approval |
| Espenship, III | 1,098.24 | \$604,000 | \$604,000 | \$ *** | \$555,680**** (92%) | 120 days after BOT Approval |
| TOTALS | 11,585.90 | | \$5,142,000 | | \$4,711,000 | |

- * On 2/25/02 240.50 acres were purchased at \$1,282 an acre
- ** On 7/14/99 501.81 acres were purchased at \$281 an acre; On 2/25/02 36.60 acres were purchased for \$53,200
- *** Inherited Property over 5 years ago
- **** Keen \$263.93 per acre; Fee Value is \$1,215,000; Conservation Easement Value is 40% of the fee value
- **** Carter/Nowicki \$276.02 per acre; Fee Value is \$1,787,000; Conservation Easement Value is 40% of the fee value
- **** Carter Jr. \$560.16 per acre; Fee Value is \$2,448,000; Conservation Easement Value is 41% of the fee value
- **** Griffin \$413.89 per acre; Fee Value is \$1,539,000; Conservation Easement Value is 48% of the fee value
- **** Grant/Lord \$459.74 per acre; Fee Value is \$1,620,000; Conservation Easement Value is 50% of the fee value
- **** Espenship \$459.87 per acre; Fee Value is \$1,620,000; Conservation Easement Value is 50% of the fee value
- **** Espenship III \$505.97 per acre; Fee Value is \$1,208,000; Conservation Easement Value is 50% of the fee value

STAFF REMARKS: Pinhook Swamp project is an “A” group project on the Florida Forever Full Fee Project List approved by the Board of Trustees on February 26, 2004. The project contains 183,991 acres, of which 111,361 acres have been acquired, are protected by conservation easements or are under agreement to be acquired or protected by conservation easements. After the Board of Trustees approves this agreement, 61,044.10 acres, or 33 percent of the project, will remain to be acquired.

Under the proposed conservation easements, the properties will be restricted in perpetuity by the provisions of the easements, summaries of which include, but are not limited to, the following:

- Commercial or industrial activity, or ingress, egress or other passage in conjunction with any such activity across or upon the property will be prohibited;
- Actions or activities that may reasonably be expected to adversely affect threatened or endangered species will be prohibited;
- Acts or uses detrimental to the retention of land or water areas, or to the use of the property as a water recharge area will be prohibited;
- Dumping of trash, waste, hazardous materials and soil will be prohibited;
- New construction or placing of temporary buildings, mobile homes or other structures in, on or above the ground will be prohibited, except as may be necessary for maintenance and normal operations of the property or during emergency situations;
- Any subdivision of the land except as may otherwise be provided in this easement will be prohibited; however, division to Lineal Descendent will be permitted;
- The construction or creation of new roads or jeep trails will be prohibited; and
- The Board of Trustees will have the right of notice of the owner’s intent to sell, in the event the owner intends to sell the property.

Item 2, cont.

The proposed conservation easements will allow the owners to retain certain rights. The summary of owners' rights include, but are not limited to, the following:

- The right to observe, maintain, photograph, introduce and stock native fish or wildlife;
- The right to conduct controlled or prescribed burning;
- The right to mortgage the property;
- The right to exclusive use of the improvements depicted in the Baseline Documentation;
- The right to use, maintain, repair, and reconstruct, but not to relocate or enlarge, all existing buildings;
- The right to construct two new residential structures on the property, along with access driveways and two appropriately-sized outbuildings, such as barns.
- The right to engage in silviculture except in herbaceous wetlands and open water areas;
- The right to contest tax appraisals, assessments, taxes and other charges on the property; and
- Michael Carter, Jr. has the right to continue operations for the commercial deer farm.

All mortgages and liens will be satisfied or subordinated at the time of closing. Department of Environmental Protection (DEP) staff will review, evaluate and implement an appropriate resolution for any title issues that arise prior to closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to DEP the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately.

Title insurance policies, surveys, environmental site evaluations and, if necessary, environmental site assessments will be provided by the purchasers prior to closing.

The pine flatwoods and swamps between the Osceola National Forest and the Okefenokee National Wildlife Refuge have been logged, but are otherwise undisturbed. Public acquisition of the Pinhook Swamp project will protect and restore a natural area linking these two conservation areas and the Suwannee River, providing a huge unpopulated tract of land for such wildlife as the Florida black bear and sandhill crane; maintaining the water flows from this area to the Okefenokee Swamp, Suwannee River and St. Mary's River; and giving the public a large, near-wilderness tract in which to enjoy various recreational activities, from simple nature appreciation to active hunting and fishing.

The properties will be monitored by DEP's Office of Environmental Services.

These acquisitions are consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands section of the State Comprehensive Plan.

RECOMMEND DEFERRAL

Item 3 **Rooster Crossing Plantation, LLC Option Agreement/DACS/DOF/Lake Talquin State Forest Additions and Inholdings Project**

DEFERRED FROM THE JUNE 24, 2004 CABINET MEETING

REQUEST: Consideration of an option agreement to acquire 1,775 acres within the Department of Agriculture and Consumer Services, Division of Forestry's Lake Talquin State

Item 3, cont.

Forest Additions and Inholdings project from Rooster Crossing Plantation, LLC, a Florida Corporation.

COUNTY: Gadsden

APPLICANT: Department of Agriculture and Consumer Services, Division of Forestry (DOF)

LOCATION: Sections 06 and 07, Township 01 North, Range 02 West; Sections 01, 02 and 12, Township 01 North, Range 03 West; Sections 34 through 36, Township 02 North, Range 03 West

CONSIDERATION: \$3,658,292

| PARCEL | ACRES | APPRAISED BY | | APPROVED VALUE | SELLER'S PURCHASE PRICE | TRUSTEES' PURCHASE PRICE | CLOSING DATE |
|-----------------------------------|--------|-----------------------|-----------------------|-------------------|-------------------------------|--------------------------------|-----------------|
| | | Candler (01/13/04) | Carroll (01/13/04) | | | | |
| Rooster Crossing Plantation | 1,775* | \$3,728,000 | \$3,200,000 | \$3,728,000 | \$3,016,500** | \$3,658,292*** (98%) | 09/01/04 |

* Rooster Crossing is retaining 25 acres of the 1,800-acre parent tract purchased in August, 2003.
** 3 acres were purchased in April, 2003 for \$11,500 and 1,800 acres were purchased in August, 2003 for \$3,012,000.
The 1,800-acre sale was a 45-day cash closing and there was no legal access to the property.
*** \$2,061 per acre

STAFF REMARKS: This acquisition was negotiated by DOF under its Florida Forever Additions and Inholdings Program.

All mortgages and liens will be satisfied at the time of closing. There is a partially completed pole barn on the property. There is a gas pipeline right-of way owned by Florida Gas Transmission Company in varying widths up to 90' that travels east/west through the property with an ingress/egress easement over the entire pipeline. CSX railroad runs through the southwest boundary of the property. A portion (7.05 acres) of the property on the northwest boundary has physical access but does not have legal access due to the CSX corridor. Additionally there are 37.41 acres that do not have legal access, however legal access will be obtained from adjoining Lake Talquin State Forest. Approximately 1,000 acres of the property are encumbered by two outstanding oil, gas and mineral reservations. Both these reservations are for an undivided one-half interest in an undivided one-half interest in the oil, gas and minerals and preliminary due diligence has determined that the right of entry has been barred. The appraisers considered the pole barn, 50-foot wide gas pipeline right-of-way, the CSX railroad corridor, the lack of legal access to small portion of the property, and the outstanding oil, gas and mineral reservations in their final reconciliation of value. DOF, the future managing agency, has determined that the property can be managed with the pole barn, 50-foot wide gas pipeline right-of-way, the CSX railroad corridor, the outstanding oil, gas and mineral reservations, and the lack of legal access to small portion of the property. Because these issues were discovered during preliminary due diligence, further research may change the facts and scope of each issue and, therefore, the Department of Environmental Protection (DEP) staff will review, evaluate and implement an appropriate resolution for these and any other title issues that arise prior to closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to DEP the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately.

A title insurance policy, a survey and an environmental site assessment of the property will be provided by the DOF prior to closing.

Item 3, cont.

This property fulfills an important outdoor recreational need that has been identified in chapter 261.02, F.S., in providing Florida residents with areas to ride off highway vehicles (OHV) through a system of designated trails. By developing an OHV trail system on the parcel, OHV riders would have a safe and legal area to ride which would reduce the number of illegal riders on more sensitive public lands in the region. OHV riding has been identified as a growing outdoor recreational activity and is compatible with the State Comprehensive Outdoor Recreation Plan and the underlying goal of multiple uses on public lands. This property also provides additional natural resources and expands other recreational opportunities under the DOF multiple-use management regime.

The parcel will be managed by DOF as an addition to the Lake Talquin State Forest.

This acquisition is consistent with section 187.201(22), F.S., the Agriculture section of the State Comprehensive Plan.

RECOMMEND WITHDRAWAL

Substitute Item 4 Flanagan Option Agreement/Cayo Costa Florida Forever Project

REQUEST: Consideration of an option agreement to acquire 9.41 acres within the Cayo Costa Florida Forever project from Eric M. Flanagan.

COUNTY: Lee

LOCATION: Section 15, Township 45 South, Range 21 East

CONSIDERATION: \$1,927,200

| | | APPRAISED BY: | | APPROVED VALUE | SELLER'S PURCHASE PRICE | TRUSTEES' PURCHASE PRICE | OPTION DATE |
|----------|-------|--------------------|----------------------|-------------------|-------------------------------|--------------------------------|--------------------------------|
| PARCEL | ACRES | Marr (01/27/04) | String (04/16/04) | | | | |
| Flanagan | 9.41 | \$2,145,000 | \$2,270,000 | \$2,270,000 | \$342,000* | \$1,927,200** (85%) | 120 days after BOT approval |

* The seller purchased the property on July 17, 1995.
** \$204,803 per acre

STAFF REMARKS: The Cayo Costa project is a 90 percent complete project. The project contains 2,002 acres, of which 1,988.9 acres have been acquired or are under agreement to be acquired. After the Board of Trustees approves this agreement, 3.69 acres, or less than one percent of the project, will remain to be acquired.

All mortgages and liens will be satisfied at the time of closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to Department of Environmental Protection (DEP) the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately. Therefore, DEP staff will review, evaluate and implement an appropriate resolution for any title issues that arise prior to closing.

A title insurance policy, a survey, an environmental site evaluation and, if necessary, an environmental site assessment will be provided by the purchaser prior to closing.

Substitute Item 4, cont.

A chain of sandy barrier islands, including Cayo Costa and North Captiva, protects the entrance to Charlotte Harbor, one of the largest and most productive estuaries in Florida. Public acquisition of the Cayo Costa Island project will protect the beaches, dunes and hammocks of these islands, the largest barrier island in natural condition in southwest Florida- while giving residents and tourists a beautiful natural shore to enjoy for years to come.

This property will be managed by DEP’s Division of Recreation and Parks as an addition to the Cayo Costa State Park.

This acquisition is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands section of the State Comprehensive Plan.

(See Attachment 4, Pages 1-40)

RECOMMEND WITHDRAWAL

**Item 5 Monroe County Comprehensive Plan Land Authority Option Agreement/
Florida Keys Ecosystem Florida Forever Project**

REQUEST: Consideration of an option agreement to acquire 9.16 acres within the Florida Keys Ecosystem Florida Forever project from Monroe County Comprehensive Plan Land Authority.

COUNTY: Monroe

LOCATION: Section 06, Township 66 South, Range 33 East

CONSIDERATION: \$385,000

| <u>PARCEL</u> | <u>ACRES</u> | APPRAISED BY: | <u>APPROVED</u> <u>VALUE</u> | <u>SELLER’S</u> <u>PURCHASE</u> <u>PRICE</u> | <u>TRUSTEES’</u> <u>PURCHASE</u> <u>PRICE</u> | <u>OPTION</u> <u>DATE</u> |
|---------------|--------------|--------------------|---------------------------------|--|---|--------------------------------|
| | | Marr (03/24/03) | | | | |
| Melfa | 9.16 | \$385,000 | \$385,000 | \$400,012* | \$385,000** (100%) | 120 days after BOT Approval |

* Purchased 12/12/03. Purchase price was \$380,000 plus acquisition and closing costs.
** Price per acre \$42,031

STAFF REMARKS: Florida Keys Ecosystem project is an “A” group project on the Florida Forever Full Fee Project List approved by the Board of Trustees on February 26, 2004. The project contains 11,641 acres, of which 3,043.46 acres have been acquired or are under agreement to be acquired. After the Board of Trustees approves this agreement, 8,588.38 acres, or 74 percent of the project, will remain to be acquired.

Pursuant to a multi-party agreement entered into between the Department of Environmental Protection’s (DEP) Division of State Lands (DSL) and Monroe County Comprehensive Plan Land Authority (Authority), the Authority acquired 9.16 acres on December 10, 2003, from Anthony Melfa, Trustee of the Ann F. Melfa Revocable Trust dated July 14, 1994 for \$380,000 plus closing costs. Once the item is approved, the Board of Trustees will reimburse the Authority its total purchase price plus closing costs up to the DSL approved value. In no event will the reimbursed purchase price exceed the approved value of the property.

Item 5, cont.

All mortgages and liens will be satisfied at the time of closing. There is an oil, gas and mineral reservation in favor of the State of Florida dated July, 1957. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to DEP the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S. acquisitions and to resolve them appropriately. Therefore, DEP staff will review, evaluate and implement an appropriate resolution for any title issues that arise prior to closing.

A title insurance policy, a survey, an environmental site observation and, if necessary, an environmental site assessment will be provided by the purchaser prior to closing.

The unique pine rocklands and hardwood hammocks of the Florida Keys, forests of West Indian plants that shelter several extremely rare animals, are being lost to the rapid development of the islands. Public acquisition of the Florida Keys Ecosystem project will protect all the significant unprotected hardwood hammocks left in the Keys and many rare plants and animals, including the Lower Keys marsh rabbit and Key deer. It will also help protect the Outstanding Florida Waters of the Keys, the recreational and commercial fisheries, and the reefs around the islands, and also give residents and visitors more areas for enjoying the natural beauty of the Keys.

The property will be managed by the Florida Fish and Wildlife Conservation Commission as an addition to the Florida Keys Wildlife and Environmental Area.

This acquisition is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands section of the State Comprehensive Plan.

(See Attachment 5, Pages 1-16)

RECOMMEND APPROVAL

Item 6 TNC/Assignment of Option Agreement/Terra Ceia Florida Forever Project

REQUEST: Consideration of the acceptance of an assignment of an option agreement to acquire 23.5 acres within the Terra Ceia Florida Forever project from The Nature Conservancy.

COUNTY: Manatee

LOCATION: Section 24, Township 33 South, Range 17 East

CONSIDERATION: \$360,500 (\$350,000 for the acquisition; \$10,500 for the purchase of the option agreement)

| | | APPRAISED BY | | SELLER'S | TRUSTEES' | |
|-------------------|-------|--------------|------------|----------|----------------------|-----------------------------|
| | | Catlett | APPROVED | PURCHASE | PURCHASE | OPTION |
| PARCEL | ACRES | (12/31/03) | VALUE | PRICE | PRICE | DATE |
| Diocese of Venice | 23.5 | \$437,000 | \$424,000* | ** | \$360,500** (85%) | 120 days after BOT Approval |

* Revised value due to reduction in gross acreage.
** The property was a bequest to the Diocese
*** \$15,340 per acre

Item 6, cont.

STAFF REMARKS: The Terra Ceia Florida Forever project is an "A" group project on the Florida Forever Full Fee Project List approved by the Board of Trustees on February 26, 2004. The project contains 4,187 acres, of which 1,371 acres have been acquired or are under agreement to be acquired. After the Board of Trustees approves this agreement, 2,792.5 acres or 67 percent of the project will remain to be acquired.

Pursuant to a multi-party acquisition agreement entered into between the Department of Environmental Protections' (DEP) Division of State Lands (DSL) and The Nature Conservancy (TNC), TNC has acquired an option to purchase this 23.5-acre parcel from the Diocese of Venice. After this acquisition is approved, the Board of Trustees will acquire the option from TNC for \$10,500, which represents agreed upon compensation to TNC for overhead associated with acquiring the option. The Board of Trustees may then exercise the option and purchase the property. The assignment of option agreement provides that payment to TNC is contingent upon the Board of Trustees successfully acquiring the property from the owner. In no event will the Board of Trustees' purchase price exceed the approved value.

All mortgages and liens will be satisfied at the time of closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to DEP the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately. Therefore, DEP staff will review, evaluate and implement an appropriate resolution for any title issues that arise prior to closing.

A title insurance policy, a survey, an environmental site evaluation and, if necessary, an environmental site assessment will be provided by the purchaser prior to closing.

The mangrove swamps and flatwoods on the islands and mainland around Terra Ceia Bay are some of the last natural lands left on the southeast shore of Tampa Bay. Public acquisition of the Terra Ceia project will protect and restore this natural area, helping to preserve the fishery and manatee feeding grounds in the Terra Ceia Aquatic Preserve and giving the public an area in which to fish, boat, and enjoy the original landscape of Tampa Bay.

The property will be managed by DEP's Division of Recreation and Parks as an addition to the Terra Ceia Preserve State Park.

This acquisition is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands section of the State Comprehensive Plan.

(See Attachment 6, Pages 1-20)

RECOMMEND APPROVAL

Substitute Item 7 TNC/Assignment of Option Agreement/Apalachicola River Florida Forever Project

REQUEST: Consideration of the acceptance of an assignment of an option agreement to acquire a perpetual conservation easement over 2,124.5 acres within the Apalachicola River Florida Forever project from The Nature Conservancy.

COUNTY: Calhoun

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Substitute Item 7, cont.

LOCATION: Sections 04 through 09 and 17 through 20, Township 02 South, Range 08 West

CONSIDERATION: \$2,160,745 (\$2,124,500 for the acquisition; \$36,245 for the purchase of the option agreement)

| APPRAISED BY: | | | | | | | |
|-------------------|---------|----------------------|--------------------|-------------------|-------------------------------|--------------------------------|--------------------------------|
| PARCEL | ACRES | Rogers (01/06/03) | Ryan (01/06/03) | APPROVED VALUE | SELLER'S PURCHASE PRICE | TRUSTEES' PURCHASE PRICE | OPTION DATE |
| Corbin/ Tucker | 2,124.5 | \$1,850,000 | \$2,170,000 | \$2,170,000 | * | \$2,160,745** (99%) | 120 days after BOT approval |

* The property has been in the family for over 60 years.
** \$1,017 per acre; Fee Value is \$3,930,000; Conservation Easement Value is 55 % of the Fee Value

STAFF REMARKS: The Apalachicola River project is an “A” group project on the Florida Forever Less Than Fee Project List approved by the Board of Trustees on February 26, 2004. The project contains 27,155 acres, of which 2,294.21 acres have been acquired or are under agreement to be acquired. After the Board of Trustees approves this agreement 22,736.29 acres, or 84 percent of the Apalachicola River Florida Forever project, will remain to be acquired.

Pursuant to a multi-party acquisition agreement entered into between the Department of Environmental Protection’s (DEP) Division of State Lands (DSL) and The Nature Conservancy (TNC), TNC has acquired an option to purchase an easement over this 2,124.5-acre parcel from David Finlay Corbin, John Kendrick Tucker and Thomas Michael Tucker. There are approximately 1.5 miles of river frontage. After this acquisition is approved, the Board of Trustees will acquire the option from TNC for \$36,245, which represents agreed upon compensation to TNC for overhead associated with acquiring the option. The Board of Trustees may then exercise the option and purchase the easement. The assignment of option agreement provides that payment to TNC is contingent upon the Board of Trustees successfully acquiring the easement from the owner. In no event will the Board of Trustees’ purchase price exceed the approved value.

Under the proposed conservation easement, the property will be restricted in perpetuity by the provisions of the easement, a summary of which includes, but is not limited to, the following prohibited uses:

- Dumping of soil, trash, liquid or solid waste, hazardous materials will be prohibited;
- Exploration for and extraction of oil, gas, minerals, peat, muck, limestone, etc. will be prohibited, except as reasonably necessary to combat erosion or flooding and except for directional drilling conducted from the Disturbed Uplands;
- Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation or fish and wildlife preservation will be prohibited;
- Acts or uses detrimental to the retention of land or water areas in their natural, scenic and wooded condition will be prohibited;
- Commercial water wells will be prohibited;
- Acts or uses detrimental to the preservation of the structural integrity or physical appearance of any portion of the property having historical, archaeological or cultural significance will be prohibited;
- The removal, destruction, cutting, trimming, mowing, alteration or spraying of biocides of trees, shrubs, or other natural vegetation except as specifically provided in the easement will be prohibited;
- The planting of nuisance exotic or non-native plants will be prohibited;

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Substitute Item 7, cont.

- Commercial and industrial activities will be prohibited;
- Except as allowed in the owner's reserved rights, new construction or placing of temporary or permanent buildings, mobile homes, or other structures in, on or above ground will be prohibited;
- Placement of signs, billboards, or outdoor advertising will be prohibited;
- Construction of new roads or jeep trails will be prohibited;
- The operation of dune buggies, motorcycles, all terrain vehicles or other loud, destructive or offensive recreation or motorized vehicles will be prohibited, except on allowed access roads and except for emergency vehicles, farm equipment, timber equipment, and vehicles used in connection with prescribed burns;
- Except for the agricultural uses allowed in the Disturbed Uplands pursuant to the owner's reserved rights, there shall be no more intense agricultural use of the property than currently exists and there shall be no conversion of non-agricultural areas to agriculture use;
- Actions or activities that adversely impact threatened or endangered species will be prohibited;
- New food plots will be prohibited in the Special Natural Area;
- Timber harvesting or other silviculture activities will be prohibited in the Special Natural Area;
- The cutting of cypress anywhere on the property will be prohibited; and
- The Board of Trustees will have the right of notice of the owner's intent to sell; in the event the owners wish to sell the property.

The proposed conservation easement will allow the owner to retain certain rights. The summary of owner's rights includes, but is not limited to, the following:

- The rights to observe, maintain, photograph, fish, hunt and introduce and stock native fish or wildlife;
- The right to utilize the property for non-commercial hiking, camping and horseback riding;
- The right to maintain existing food plots and create new food plots for game and other wildlife in the Disturbed Uplands, provided the total food plot acreage does not exceed five percent of the total acreage at any point in time;
- The right to conduct prescribed burning within the Disturbed Uplands;
- The right to mortgage the property;
- The right to contest tax appraisals, assessments and taxes;
- The right to continue to use, maintain, repair and reconstruct, but not relocate or enlarge, all existing buildings and structures;
- The right to utilize sand from the existing sandpit for road maintenance on the property;
- The right to construct three residential structures within the Disturbed Uplands limited to two contiguous acres for each structure;
- The right to subdivide the property for sale or other disposition into up to four units;
- The right to engage in silviculture practices within the Disturbed Uplands; and
- The right to produce row crops in Area 1 (approximately 261 acres) of the Disturbed Uplands.

All mortgages and liens will be satisfied or subordinated at the time of closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to DEP the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions

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Substitute Item 7, cont.

and to resolve them appropriately. Therefore, DEP staff will review, evaluate and implement an appropriate resolution for any title issues that arise prior to closing.

A title insurance policy, a survey, an environmental site evaluation and, if necessary, an environmental site assessment will be provided by the purchaser prior to closing.

The Apalachicola River ecosystem contains tremendous conservation significance in terms of biological diversity and economic importance. The Apalachicola River is 21st in magnitude of flow volume among the rivers of the coterminous United States and is the largest and longest river system in the southeastern United States. The rich floodplain forest/floodplain swamp mosaic found on the lands comprising the Corbin/Tucker tract and protected in perpetuity under the terms of the conservation easement contribute to the overall effort to protect the Apalachicola River watershed and the wildlife that inhabit the river's drainage basin.

The property will be monitored by DEP's Office of Environmental Services.

This acquisition is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands section of the State Comprehensive Plan.

(See Attachment 7, Pages 1-79)

RECOMMEND DEFERRAL

Substitute Item 8 Flagler County Sales Contract/Determination

REQUEST: Consideration of (1) a determination that a 1.86-acre parcel, more or less, of state-owned land in Flagler County is no longer needed for conservation purposes, pursuant to Article X, section 18, Florida Constitution and section 253.034(6), F.S., and that the property no longer needs to be preserved in furtherance of the P2000 Act pursuant to section 259.101(6)(b), F.S.; (2) a determination that the property is surplus; and (3) a sales contract to convey 1.86 acres, more or less, to Flagler County.

COUNTY: Flagler

APPLICANT: Flagler County

LOCATION: Sections 04 and 05, Township 12 South, Range 31 East

CONSIDERATION: \$33,000 (as well as improvements such as: a 12-foot-wide pedestrian trail; a FDOT approved overpass; trail landscaping; physical barriers under I-95 to protect pedestrians; and the construction of 3,600 linear feet of trails as part of the Town Center Project)

STAFF REMARKS:

History of Lehigh Greenway Rail Trail purchase by The Board of Trustees

The Board of Trustees purchased a 194.95-acre parcel from Florida Landmark Communities, Inc. (FLCI) (formerly known as Palm Coast Holdings, Inc.) on December 28, 2000, for \$282,800, with Preservation 2000 funds. The property is managed by Flagler County

Substitute Item 8, cont.

(County) through a sublease with the Department of Environmental Protection (DEP), Office of Greenways and Trails (OGT). At the time of purchase, the seller retained an access easement on the trail with the intention of facilitating later road construction; however, the interest is not adequate and the easement is improperly located to serve that purpose.

Surplus Request by Flagler County

DEP's Division of State Lands (DSL) received a request from the County to purchase a 1.86-acre, more or less, portion of the 194.95-acre Lehigh Greenway Rail Trail in Flagler County. This surplus is being requested in order to extend a roadway that will provide a connection to a new urban center, which will be known as Town Center at Palm Coast (Town Center) being developed by FLCI. This surplus request represents approximately 1,800 linear feet within the 6.8 mile-long Lehigh Greenway Rail Trail.

In conjunction with the planning of the Town Center, FLCI laid out a roadway network, a segment of which will provide ingress and egress between portions of FLCI's land and also provide important road connections (extensions of Royal Palms and Seminole Woods Parkway) between the Town Center and Old Kings Road. A portion of these roadways, approximately 1,800 linear feet, would be constructed on the proposed surplus property. Part of the subject parcel crosses underneath an I-95 overpass. In order to maintain an intact trail corridor, the Board of Trustees will retain title to at least a 16-foot-wide strip adjacent to the surplus parcel along the southern boundary. A road easement will be granted to the County at closing to allow Seminole Woods Parkway to cross the retained section of the trail in accordance with section 253.034(3), F.S.

The County has advised that the roadway extensions are necessary for the regional transportation network and the economic development of the county. The County's Rails to Trails Advisory Committee supports this surplus declaration as long as all of the County engineer's concerns in his August 8, 2003, letter are addressed. In addition, the City of Palm Coast (City) indicated it supports the proposed roadway extension underneath I-95 and considers the roadway improvements to be regionally significant and a critical component of the community's overall transportation network.

The initial phase of roadway development is a two-lane extension of Seminole Woods Parkway that will cross the Lehigh Rail Trail just west of I-95. For this phase, an easement to cross the trail will be granted at closing to the County. The second phase, which will be several years later, will add an additional two lanes to this roadway and result in a four-lane Seminole Woods Parkway which will cross the trail as well, but will present additional traffic and safety concerns.

Acquisition and Restoration Council (ARC) recommendation

The Acquisition and Restoration Council (ARC) voted to recommend this property for surplus on February 6, 2004. On the subject of the trail crossing the roadway, ARC's recommendation was:

“to construct the crossing in whatever manner the Florida Department of Transportation (FDOT) determines to be most appropriate, taking into consideration safety for all users, ease of crossing and compatibility with the purposes for which the trail was acquired with a preference for the use of an overpass or underpass to the greatest extent feasible and practical.”

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This recommendation is consistent with section 253.034 (3), F.S., which states:

“when the necessity arises to serve public needs, after balancing the need to protect trail users from collisions with automobiles and a preference for the use of overpasses and underpasses to the greatest extent feasible and practical, transportation uses shall be allowed to cross recreational trails...”

Recommendation by FDOT in consultation with the County and City

Subsequent to the ARC meeting, it was determined in a meeting with OGT, FDOT, the City and the County that the above parties would participate in an evaluation of preferred alternatives for provision of a safe crossing for the Lehigh Greenway Rail Trail at the proposed Seminole Woods Parkway. Based on an evaluation of engineering, fatal flaw, no-build, optimum and preferred alternatives, the resulting recommendation of FDOT, the County and the City can be divided into three phrases.

Phase I: (Two-lane Seminole Woods Parkway is completed and crosses the trail)

- The initial trail crossing should be constructed employing high trail safety criteria as an at-grade crossing (ground level crossing).

Phase II: (Four-Lane Seminole Woods Parkway is completed and crosses the Trail)

- The trail alignment should be routed north off of Board of Trustees' property to create a safer crossing, which will still be an at-grade crossing.
- At-grade crossing with this alignment is acceptable until traffic counts reach 16,000 cars per day or more than one pedestrian or bicycle crash is noted within a six-month period. If either of these events occurs, Phase III must be implemented.
- The decision as to crossing type should be based primarily on the safety of trail users.

Phase III: (final build out—four-laneSeminole Woods Parkway and four-lane Royal Palms Parkway intersect)

- When the Seminole Woods Parkway/Royal Palms Parkway intersection is reconstructed to its ultimate configuration (final build out of the roadway system), the trail should be realigned to the original straight east-west path and a grade-separated crossing (overpass) should be provided.
- The design of the Lehigh Trail Overpass should encourage ease of use.

Conditions agreed to by the County

In addition to purchasing the surplus parcel at appraised value, the County has agreed to:

- Pay for, construct and pave a 12-foot-wide pedestrian trail with a two-foot buffer on each side along the full 1,800 linear feet of the trail right-of-way within the strip retained in ownership by the Board of Trustees;
- Construct the crossing of Seminole Woods Parkway based on the FDOT recommendation stated above;
- *Landscape the trail and roadway sections in the affected area;
- *Construct physical barriers between the pedestrian trail and the roadway where they pass under I-95; and

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- Construct 3,600 linear feet of trails as part of the Town Center Project and implement the safety recommendations identified by the County Engineer in his letter of August 8, 2003.

* will be listed as deed restrictions on the surplus land

DEP recommendation, deed restrictions and conditions of sale

Staff recommends approval of this surplus request with the following conditions:

1. At closing the Board of Trustees will grant a non-exclusive easement for public right-of-way purposes to the buyer for the trail crossing. The easement will require that the County construct the FDOT recommended grade-separated crossing (overpass) **concurrently with construction of the future four-lane roadway**;
2. The County will:
 - a. Pay for, construct and pave a 12-foot-wide pedestrian trail with a two-foot buffer on each side along the full 1,800 linear feet of the trail right-of-way;
 - b. *Landscape the trail and roadway sections in the affected areas;
 - c. *Construct physical barriers between the pedestrian trail and the roadway where it passes under I-95; and
 - d. Construct 3,600 linear feet of trails within the Town Center at Palm Coast project and implement the safety recommendations identified by the Flagler County engineer in his letter dated August 8, 2003.

* will be listed as deed restrictions on the surplus land

Final approval of the sale of this property to the County would also be conditioned upon:

1. The County receiving final approval from FDOT for the roadway and trail design and construction, including the section that passes under I-95; and
2. The County's agreement to construct the overpass concurrently with the four-laning of Seminole Woods Parkway. FDOT recommended waiting until the roadway was constructed and either traffic counts reached 16,000 cars per day or more than one pedestrian or bicycle crash is noted within a six-month period. However, in order to ensure both public safety and the completion of the overpass, DEP staff is requiring that the overpass be constructed concurrently with the four-laning of Seminole Woods Parkway.

The County agrees that the deed restrictions and all other conditions listed above must be completed to the satisfaction of OGT.

Constitutional and Statutory Required Determinations

ARTICLE X, SECTION 18, FLORIDA CONSTITUTION - The fee interest in real property...may be disposed of only if the members of the governing board of the entity holding title determine the property is no longer needed for conservation purposes and only upon a vote of two-thirds of the governing board.

FLORIDA STATUTE, 259.101(6)(b) - Before land may be surplus as required by s. 253.034(6), or determined to be no longer required for its purposes under s. 373.056(4), there shall first be a determination by the Board of Trustees...that such land no longer needs to be preserved in furtherance of the intent of the Florida Preservation 2000 Act.

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OGT indicates that there are no natural resources or communities on the proposed surplus parcel. The property contains a former rail bed adjacent to a canal, and has a dirt roadway on it that runs under the I-95 overpass bridges. In view of the fact that the corridor will still be used for a recreational trail, the purpose for which it was purchased remains. The local governments have determined the roadway to be a critical component of the community's overall transportation network. Moreover, pursuant to section 253.034(6), F.S., and Article X, section 18, Florida Constitution, staff is respectfully requesting that the Board of Trustees declare this 1.86 acres, more or less, as no longer needed for conservation purposes because although the property was purchased with P2000 funds, the benefit bequeathed to the state was recreational in nature. Therefore, the Board of Trustees may hereby declare the property in question as surplus as it is not needed for conservation purposes. To that end, DEP is recommending that the Board of Trustees convey the subject property to Flagler County with deed restrictions as noted previously.

Other

C. Lee Lobban, MAI, and State-Certified General Appraiser, appraised the property on May 25, 2004, and estimated the market value to be \$33,000.

A consideration of the status of the local government comprehensive plan was not made for this item. DEP has determined that surplus land sales are not subject to the local government planning process.

(See Attachment 8, Pages 1-47)

RECOMMEND APPROVAL