

**AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
MAY 11, 2010**

Attachments to the items below can be viewed at the following link:

http://www.dep.state.fl.us/secretary/cab/public_notices.htm

Substitute Page

Item 1 Minutes

Submittal of the Minutes from the March 9, 2010 Cabinet Meeting.

(See Attachment 1, Pages 1-11)

RECOMMEND APPROVAL

Substitute Item 2 Hiers Option Agreement/Conservation Easement/Monitoring Agency Designation/Department of Agriculture and Consumer Services/ Division of Forestry/Goethe State Forest Additions and Inholdings Project

REQUEST: Consideration of (1) an option agreement to acquire a perpetual conservation easement over 1,369.64 acres within the Department of Agriculture and Consumer Services' Division of Forestry's Goethe State Forest Additions and Inholdings project from L.L. Hiers, Jr. and Jodie L. Hiers; and (2) a designation of the Department of Agriculture and Consumer Services' Division of Forestry as the monitoring agency.

COUNTY: Levy

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

LOCATION: Sections 13, 14, 24, 25, and 36; Township 14 South; Range 16 East

CONSIDERATION: \$2,125,000

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u>		<u>MAXIMUM APPROVED VALUE</u>	<u>SELLER'S PURCHASE PRICE</u>	<u>TRUSTEES' PURCHASE PRICE</u>	<u>OPTION DATE</u>
		<u>String (08/26/09)</u>	<u>Goodman (08/26/09)</u>				
Hiers	1,369.64	\$2,400,000	\$2,330,000	\$2,400,000	\$6,162,000*	\$2,125,000** (89%)	120 days after BOT approval

* Seller purchased three parcels totaling 939.84 acres on August 2007, March 2008, and August 2008. The remaining 429.80 acres will be acquired prior to closing.

** \$1,551.50 per acre; Fee value is \$5,480,000; Conservation Easement Purchase Price is 39% of the fee value.

STAFF REMARKS: The Hiers parcel is on the current DOF Additions and Inholdings list to be added to Goethe State Forest (Forest). This acquisition was negotiated by DOF under its Florida Forever Additions and Inholdings Program.

Project Description

The property is triangular in shape and located immediately south of County Road 326. The eastern boundary of the parcel is contiguous to the Forest. The landowners currently own the

Substitute Item 2, cont.

northern 939.84 acres of the property and are under contract with Plum Creek Timberlands, L.P. (Plum Creek), to purchase the southern 429.80 acres. Simultaneous with the landowner's closing with Plum Creek, should this item be approved, Mr. and Mrs. Hiers intend to convey a perpetual conservation easement (Easement) to the Board of Trustees over the entire 1,369.64 acres.

The successful acquisition of the Easement will: accomplish the primary goals of DOF by acquiring certain rights from the landowners, while substantially reducing the acquisition costs that would have been contemplated in a fee transaction; provide a natural fire break to a significant portion of the Forest lands; buffer the Forest from further fragmentation and development; and enable DOF to coordinate management efforts, especially prescribed fire and resource management, with the landowners. The landowners have agreed to work with local DOF staff in developing and coordinating management efforts across boundary lines; additionally, the Hiers are allowing DOF access to the property's water supply for forest fire suppression and the use of their forest roads for DOF management purposes. The Grantor, in conjunction with Grantee, will develop a management plan based upon the baseline documentation report and future goals of the Grantor within two years of the effective date of the Easement.

Prohibited Uses

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 (including sludge), or unsightly, offensive, or hazardous materials, wastes or substances, toxic wastes or substances, pollutants or contaminants will be prohibited;
- exploration for and extraction of oil, gas, minerals, dolostone, peat, muck, marl, limestone, limerock, kaolin, fuller's earth, phosphate, common clays, gravel, shell, sand, and similar substances will be prohibited, except as reasonably necessary to combat erosion or flooding, or except as necessary and lawfully allowed for the conduct of allowed activities;
- activities that will be detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation will be prohibited, unless otherwise provided for in this Easement;
- acts or uses detrimental to the preservation of the structural integrity or physical appearance of any portions of the property having historical or archaeological significance will be prohibited;
- removal, destruction, cutting, trimming, mowing, alteration or spraying with biocides of trees, shrubs or other natural vegetation, including but not limited to cypress trees, will be prohibited except as specifically provided for in the Easement;
- planting of nuisance exotic or non-native plants as listed by the Exotic Pest Plant Council or its successor will be prohibited;
- commercial or industrial activity, or ingress, egress or other passage across or upon the property in conjunction with any commercial or industrial activity including but not limited to swine, dairy and poultry operations and confined animal feed lot operations will be prohibited;

Substitute Item 2, cont.

- new construction or placing of temporary or permanent buildings, mobile homes or other structures in, on or above the ground of the property except as may be necessary by grantor for maintenance or normal operations of the property or during emergency situations will be prohibited or as may otherwise be specifically provided for in the Easement;
- construction or creation of new roads or jeep trails, will be prohibited, except as otherwise provided for in this Easement;
- motorized vehicles will be prohibited except on established trails and roads unless necessary: (i) to protect or enhance the purposes of this Easement, (ii) for emergency purposes, and (iii) for cattle ranching, timber harvesting, preparation and planting of wildlife food plots or in support or agricultural operations, and (iv) to retrieve game that has been hunted legally;
- areas currently improved, currently designated for agricultural activities, or currently designated as wildlife food plots, as established by the baseline documentation may continue to be used for those activities. Areas that are currently in improved pasture as depicted in the baseline documentation as being natural areas shall remain natural areas;
- actions or activities that may reasonably be expected to adversely affect threatened or endangered species shall be prohibited;
- any subdivision of the land except as otherwise provided for in the Easement shall be prohibited;
- no signs, billboards, or outdoor advertising of any kind erected or displayed on the property, except that grantee may erect and maintain signs designating the property as land under the protection of grantee will be prohibited;
- commercial water wells on the property will be prohibited;
- harvesting of cypress trees anywhere on the property will be prohibited; and
- mitigation banks pursuant to section 373.4135, F.S., will be prohibited.

Owner's Rights

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

- the right to observe, maintain, photograph, introduce and stock native fish or wildlife on the property, to use the property for non-commercial hiking, camping, and horseback riding; the right to own the hunting and fishing rights on the property and grantor may lease and sell privileges of such rights;
- the right to conduct controlled or prescribed burning on the property; provided, however, that owner shall obtain and comply with a prescribed fire authorization from the local and state regulatory agencies having jurisdiction over controlled or prescribed burning;
- the right to mortgage the property; provided, however, that the mortgagee's lien shall be inferior to and lower in priority than this Easement;
- the right to contest tax appraisals, assessments, taxes, and other charges on the property;

Substitute Item 2, cont.

- the right to continue to use maintain, repair, and reconstruct, but not to relocate or enlarge, all existing buildings, barns, dog pens, outbuildings, perimeter fences, roads, ponds, drainage ditches, and such other facilities on the property as depicted in the baseline documentation. If any of the now existing facilities on the property requires reconstruction or replacement due to depreciation, obsolescence, destruction or severe damage, the replacement structures may be increased in size no larger than 125 percent of the size of the original structure it replaces as such size is documented in the baseline documentation, and shall be situated at the same site;
- the right to exclusive use of the improvements depicted in the baseline documentation or provided for in this Easement;
- the right to construct one new residential structure on the property, along with an access driveway and appropriate-sized outbuildings such as barns, as more particularly described hereinafter. The residential structure shall be limited to 5,000 square feet and have no more than two related outbuildings limited to 2,000 square feet each. The new residential and outbuilding impacts shall be limited to 2.5 contiguous acres each, including a new access driveway, all of which shall be located at least 150 feet away from any wetland area as defined in the baseline documentation. The new residence shall be located within a 20-acre area, that includes the existing structure as designated in the baseline documentation;
- the right to engage in silviculture activities only within those areas depicted on the baseline documentation as silvicultural or agricultural areas, in accordance with the best management practices of DOF;
- the right to construct, enlarge, and/or maintain firebreaks as depicted on the baseline documentation through disking or mowing, but by no other means, only after consultation with and approval by DOF in order to minimize surface or wetland disturbances;
- the right to exclusive use of the improvements depicted in the baseline documentation report; and
- the right to develop and maintain wildlife openings and wildlife food plots as depicted in the baseline documentation.

Access

The landowners grant to DOF staff the right to enter the property at reasonable times to conduct prescribed fire activities and to draw water from the property's water supply for use during prescribed fire activities and wildfire suppression activities. The Grantor and Grantee may discuss providing public access, such as recreational trails or educational outreach opportunities, in the future.

Mortgages and Liens/Encumbrances

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

Substitute Item 2, cont.

- **Easements**

The property is encumbered by several utility and right-of-way easements, which is characteristic of large tracts of land. In addition, a 100-foot-wide power line easement traverses through the western boundary of the property in a north-south direction, which parallels Old Lebanon Road. The easement is in favor of Florida Power Corporation.

- **Oil, Gas and Mineral Interests**

There are outstanding oil, gas and mineral (OGM) interests on the property in favor of several parties and may include the right of access, ingress, and egress and other surface rights associated with mining and exploration of OGM rights. Additional due diligence will be done, prior to closing, to determine if any rights of entry exist on the property. The Florida Geological Survey (FGS) indicated that there were seven test wells drilled on the property that date back to 1946. According to FGS's assessment, the seven test wells were found to be dry and were subsequently plugged and abandoned. The potential for discovery of hydrocarbons on the property is low.

The appraisers considered these interests in the valuation of the property.

Improvements

Interior dirt trails, a couple of planted food plots, fencing, and several deer hunting stands are on the property. Additionally, the childhood home of Mrs. Hiers, which is a dilapidated log cabin built in the early 1900's, is located on the west-central portion of the property.

Closing Information

A title insurance commitment, environmental site assessment, baseline documentation report, and, if necessary, a survey will be obtained by the Board of Trustees prior to closing.

Management

As an Easement, or less-than-fee interest, the project will be managed by the private landowner with restrictions. The purchase of the development rights, the prohibition of the further conversion of existing natural areas to more intensive uses, and limited public access is the primary focus of the Easement.

Pursuant to section 259.032(9)(e), F.S., DEP recommends that the Board of Trustees designate DOF as the Easement monitor for this site.

Comprehensive Plan

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 2, Pages 1-69)

RECOMMEND APPROVAL

**Item 3 Moore Option Agreement/Department of Agriculture and Consumer Services/
Division of Forestry/Etoniah Creek State Forest Additions and Inholdings Project/
Etoniah/Cross Florida Greenway Florida Forever Project**

REQUEST: Consideration of an option agreement to acquire 106.05 acres of land lying within the Department of Agriculture and Consumer Services' Division of Forestry's Etoniah Creek State Forest Additions and Inholdings project from Luther and Linda Moore.

COUNTY: Putnam

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

LOCATION: Section 20, Township 08 South, Range 25 East

CONSIDERATION: \$405,000

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY Goodman (12/3/09)	APPROVED <u>VALUE</u>	SELLER'S PURCHASE <u>PRICE</u>	TRUSTEES' PURCHASE <u>PRICE</u>	OPTION <u>DATE</u>
Moore	106.05	\$424,000	\$424,000	*	\$405,000** (95%)	120 days after BOT approval

*Property was acquired from family members

**\$3,819 per acre or 95% of appraised value

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

Property Description

The Etoniah Creek State Forest (Forest) has been identified on the DOF approved Florida Forever Additions and Inholdings project list. If acquired, this property will be a part of the Etoniah Creek State Forest, but more importantly, it is a piece that will help to fill in the gap for the Etoniah/Cross Florida Greenway. This parcel is located within the Etoniah/Cross Florida Greenway Florida Forever project, a group "A" Florida Forever Full Fee Project. The project consists of 89,907 acres, of which 22,252 acres have been acquired or are under agreement to be acquired. If the Board of Trustees approves this agreement, 67,655 acres, or 75 percent of the Etoniah/Cross Florida Greenway project, will remain to be acquired.

This acquisition provides many significant benefits to the state in addition to filling in gaps along the Etoniah/Cross Florida Greenway. It will help to reduce development opportunities within the forest, protects valuable forest resources, provides additional public access and further improves the continuous wildlife corridor through public land.

Mortgages and Liens

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 will review, evaluate and implement an appropriate resolution for these and any other title issues that arise prior to closing.

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Item 3, cont.

Closing Information

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

Management

These parcels will be managed by DOF as an addition to the Etoniah Creek State Forest approved management plan.

Comprehensive Plan

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

(See Attachment 3, Pages 1-21)

RECOMMEND APPROVAL

Substitute Item 4 Plum Creek Timberlands, L.P. Option Agreement/Torreya State Park/Division of Recreation and Parks Additions and Inholdings Program/Apalachicola River Florida Forever Project

REQUEST: Consideration of an option agreement to acquire 552 acres within the Apalachicola River Florida Forever project from Plum Creek Timberlands, L.P.

COUNTIES: Gadsden and Liberty

LOCATION: Sections 02, 11 and 12, Township 02 North, Range 07 West; Sections 30 and 31, Township 03 North, Range 06 West; and Sections 25 and 36, Township 03 North, Range 07 West

CONSIDERATION: \$1,418,000

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u>		<u>MAXIMUM APPROVED VALUE</u>	<u>SELLER'S PURCHASE PRICE</u>	<u>TRUSTEES' PURCHASE PRICE</u>	<u>OPTION DATE</u>
		<u>(07/06/09)</u>	<u>(08/03/09)</u>				
Parcel 1	442.6	\$1,314,850	\$1,233,700		\$11,981,200		120 days after
Parcel 2	109.4	\$ 306,300	\$ 340,000		\$ 505,800		BOT approval
	552.0	\$1,621,150	\$1,573,700	\$1,621,150	\$12,487,000*	\$1,418,000** (87%)	

* Seller purchased the property in December 2005. Both Parcel 1 and 2 were part of a larger purchase totaling 15,301 acres.

** \$2,569 per acre.

Substitute Item 4, cont.

STAFF REMARKS: The Plum Creek Timberlands, L.P. (Plum Creek) parcels have been identified on the Department of Environmental Protection's (DEP) Division of Recreation and Parks' (DRP) Additions and Inholdings List. The parcels are also located within the Apalachicola River Florida Forever project, a top 21 full fee and less-than-fee Florida Forever "A" list project, approved by the Board of Trustees on March 9, 2010. The project contains 18,940 acres, of which 5,969 acres have been acquired or are under agreement to be acquired. If the Board of Trustees approves this agreement, 12,971 acres or 68 percent will remain to be acquired. This agreement was negotiated by DEP's Division of State Lands (DSL) on behalf of DRP under the State Parks Additions and Inholdings Florida Forever program.

Project Description

Parcel 1 is located immediately south of Interstate Highway 10 (I-10) and adjacent to Torreya State Park (Park) to the east. Parcel 2 is located approximately two miles southwest of Parcel 1 and provides a critical connection to the Park, linking two tracts of Park property. Both parcels are slightly east of the Apalachicola River.

The high plateaus, steep bluffs and deep ravines make the Park uniquely scenic and ecologically significant to the southeastern Coastal Plain. In addition to the nearly extinct Florida Torreya tree found exclusively along the Apalachicola River, the Park is home to a number of rare animal species, such as the Barbour's map turtle and gopher tortoise, as well as plant species like the uncommon trillium, leatherwood plant, and Florida Yew tree.

The successful acquisition of these properties will protect the water quality of the Apalachicola River, which feeds the productive Apalachicola Bay; serve as a critical link by connecting two tracts of the Park; facilitate better management of the Park; and present a vegetative buffer along the I-10 corridor.

The concept of a trail system over a 3,200-acre portion of the Park is currently being explored.

Mortgages and Liens/Encumbrances

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.

- **Easement**

Parcel 1 is encumbered by a 16.5-foot-wide communications system right-of-way easement. The communications easement is in favor of American Telephone and Telegraph Company, parallels Parcel 1's northerly boundary, and encompasses approximately 2.1 acres. The appraisers considered this interest in the valuation of the property.

Substitute Item 4, cont.

Closing Information

A title insurance commitment, survey and an environmental site assessment will be provided by the purchaser prior to closing.

Management

These properties will be managed by DRP as an addition to the Torreya State Park.

Comprehensive Plan

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 1-27)

RECOMMEND APPROVAL

Substitute Item 5 City of Miami Land Acquisition Priority List/Biscayne Bay/Miami River Land Acquisition Trust Fund

REQUEST: Approval of the City of Miami's priority list of proposed land acquisitions.

COUNTY: Miami-Dade

APPLICANT: City of Miami (City), a municipal corporation of the State of Florida

LOCATION: Section 07, Township 53 South, Range 42 East
Section 35, Township 53 South, Range 41 East

STAFF REMARKS: The Department of Environmental Protection (DEP) received a request from the City for approval of its priority list of proposed land acquisitions located within the corporate City limits and adjacent to Biscayne Bay or the Miami River, as required by the Agreement and Release of Deed Restrictions and Reverter (Agreement) approved by the Board of Trustees on October 1, 1985, to be purchased using monies from the Biscayne Bay/Miami River Land Acquisition Trust Fund (Trust Fund).

Background

In 1949, the Board of Trustees conveyed to the City approximately 1,555 acres adjacent to Bayfront Park as more particularly described in Deed No. 19447. This deed contained certain restrictions that required these lands be used solely for public purposes and provided that any violation of these restrictions would cause title to the property to revert to the Board of Trustees. In July 1985, the City leased a portion of land under this deed, approximately 12.9 acres, to Bayside Center Limited Partnership, on behalf of Rouse-Miami, Incorporated, which provided 200,000 square feet of new commercial and public space for a waterfront specialty center and

Substitute Item 5, cont.

parking garage. So as not to activate the reverter clause contained in the underlying deed as a result of the City's lease to Bayside Center Limited Partnership, the Board of Trustees, on August 20, 1985, released certain deed restrictions on those 12.9 acres at the City's request.

On October 1, 1985, the Board of Trustees approved a request from the City for a 7.4 percent 'stream-of-revenue' from the annual rents received by the City to be placed in the Trust Fund established by the City. The Trust Fund would serve as an ongoing source of funds to purchase real property adjacent to the Miami River and Biscayne Bay in order to provide public access to and public enjoyment of these water bodies. The Agreement was executed on October 21, 1985 and required the City to develop a priority list of proposed land acquisitions within the corporate limits of the City adjacent to Biscayne Bay or the Miami River subject to Board of Trustees' approval. The first acquisition was to be the Barnacle Addition in Coconut Grove, commonly referred to as the "Commodore Bay Tract". The Barnacle Addition was added to the Conservation and Recreation Lands (CARL) list in 1986, however, the City was unsuccessful in acquiring this parcel and it was subsequently developed. The current balance in the Trust Fund, maintained by the City, is approximately \$1.5 million.

Priority List

1. 485 NE 77 Street Road, Miami, FL - Approximately 1.2 acres on Little River consisting of vacant but vegetated land with approximately two dozen mature canopy trees (oaks, gumbo limbos). The site has approximately 250 feet of river frontage and 300 feet of street frontage. The Little River is a significant manatee congregation area and acquisition of this property will afford the public an opportunity to observe manatees from the shore without disrupting their behavior. The current asking price is \$635,000.
2. 109 SW South River Drive, Miami, FL - Approximately 0.21-acre on Miami River consisting of vacant land adjacent to the 1st Street Bridge. The City of Miami owns a small parcel on the north side of the bridge. The current asking price is \$425,000.

The City has expressed that these parcels will be utilized for public parks. The City Commission approved the allocation of funds for these parcels by resolution on March 25, 2010.

In support of the City's efforts, Commissioner T. Spencer Crowley from the Florida Inland Navigation District (FIND) has suggested that the City apply to FIND's Waterways Assistance Program (WAP) for financial assistance. WAP authorizes FIND matching grants of 25 percent for land acquisition and 50 percent for the cost of site improvements such as shoreline stabilization. This would allow the City to leverage the Trust Fund to the fullest extent possible. The City made application to FIND on April 1, 2010.

Recommendation

DEP is recommending that the Board of Trustees approve the priority list submitted by the City. Although parcel one on the priority list is not adjacent to the Miami River or Biscayne Bay, this parcel is located on the Little River and is within the Biscayne Bay Aquatic Preserve. Acquisition of these parcels will increase public access to and public enjoyment of these water

Substitute Item 5, cont.

bodies as contemplated in the October 1985 agenda item and the Agreement. The City shall provide a status report of its progress to DEP within 12 months from the Board of Trustees' approval of the priority land acquisition list. DEP shall present the report to the Board of Trustees in the form of a negative response memo or formal agenda item.

(See Attachment 5, Pages 1-20)

RECOMMEND APPROVAL

Good Cause Item 6 Deepwater Horizon Oil Spill Incident Status Update/Emergency Response Plan/BP/Gulf of Mexico

REQUEST: Presentation of a status update and emergency response plan to protect Florida's shoreline as a result of the Deepwater Horizon oil spill incident in the Gulf of Mexico.

RECOMMEND DISCUSSION