

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
AUGUST 20, 2013

Attachments to the items below can be viewed at the following link:
http://www.dep.state.fl.us/secretary/cab/public_notices.htm

Item 1 TPL Option Agreement (Davis)/Conservation Easement/Seven Runs Creek Florida Forever Project

REQUEST: Consideration of an option agreement to acquire a conservation easement over 20,800 acres within the Seven Runs Creek Florida Forever project from The Trust for Public Land.

VOTING REQUIREMENT FOR APPROVAL: Two members, one of whom is the Governor, when four members are voting; or any two members, when three members are voting.

COUNTY: Walton

LOCATION: Sections 12 through 14, 23, and 24, Township 01 North, Range 19 West; Sections 01, 07, 08, 10 through 29, and 32 through 36, Township 01 North, Range 18 West; Sections 02 and 12, Township 01 South, Range 18 West; Sections 07, 17 through 20, 22, and 29 through 32, Township 02 North, Range 17 West; and Sections 04 through 06 and 08 through 10, Township 01 North, Range 17 West.

CONSIDERATION: \$12,500,000 (If approved, the Board of Trustees' consideration may be reduced by \$2,300,000, or 18 percent, by the Department of Defense. The Board of Trustees' portion would then be \$10,200,000 or 82 percent.)

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY:</u>		<u>APPROVED VALUE</u>	<u>SELLER'S PURCHASE PRICE</u>	<u>TRUSTEES' PURCHASE PRICE</u>	<u>OPTION DATE</u>
		<u>Rogers (03/27/13)</u>	<u>Ryan (07/08/13)</u>				
TPL/Davis	20,800	\$19,500,000	\$22,256,000	\$22,256,000	\$12,500,000*	\$12,500,000** (56%)	120 days after BOT approval

* TPL has the property under contract and will close prior to the Board of Trustees' closing. Mr. Davis assembled this property from 2002 to 2012.

** Price per acre is \$600. Fee Value is \$31,720,000. Conservation Easement Value is 70% of the Fee Value.

STAFF REMARKS: The parcel is located within the Seven Runs Creek Florida Forever project, ranked third in the Florida Forever Less-Than-Fee project category, approved by the Board of Trustees on December 11, 2012. The project contains approximately 26,042 acres. If the Board of Trustees approves this agreement, approximately 951 acres, or four (4%) percent of the project, will remain to be acquired.

This acquisition includes 1,070 acres outside the project area that are adjacent to other conservation lands and meet the criteria of the de minimis lands pursuant to rule 18-24.001(2)(f), F.A.C.

Project Description

North Nokuse Plantation and the Seven Runs Creek Florida Forever projects were combined to facilitate restoration efforts and overall management of the property as one management unit. The combined project meets the Florida Forever goals of creating contiguous conservation areas,

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protecting groundwater resources, using alternatives to fee-simple acquisition to protect open lands, conserving significant Strategic Habitat Conservation areas for rare species, and ecological restoration of lands that were changed by tree-farming and other activities, as well as offers an important expansion to the existing connection between Eglin Air Force Base (AFB) and the Choctawhatchee Wildlife Management Area (WMA). Additionally, several listed species could potentially benefit from ongoing restoration of historic and current sandhill habitats on the property.

Military Agreement

A portion of the 20,800 acres may be funded with federal funds in the amount of \$550,000 made available through a cooperative agreement between the Department of Environmental Protection (DEP) and the Air Armament Center, pursuant to Section 2684a, Title 10, United States Code. In addition, a portion of the property will be funded with federal funds in the amount of \$1,750,000, also known as the 2013 REPI (Readiness and Environmental Protection Integration) Challenge, made available through a more recent cooperative agreement between DEP and Eglin AFB, pursuant to Section 2684a, Title 10, United States Code. The purpose of the federal funding is to purchase lands, in fee simple or less-than-fee interest, that limit development in the vicinity of the AFB in order to ensure the continuing military value of Eglin's test and training ranges. The federal money will be applied to an agreed upon portion of the property for which the seller will issue a separate deed of conservation easement in favor of the Board of Trustees but subject to federal reconveyance if conditions under the cooperative agreement are not met. The need for this procedure arises from the authority granted to the Secretary of the Air Force to demand conveyance of property acquired with such federal funds, apparently without compensation. Therefore, Florida Forever funds will not be commingled with the federal funds, nor will title to the conservation easements purchased with these two sources of funding be commingled.

In addition to training on Eglin AFB, the Sikes Act applies. The Sikes Act (16 USC 670a-670o, 74 Stat. 1052), was enacted into United States law on September 15, 1960. It provides for cooperation by the Department of the Interior and Department of Defense with State agencies in planning, development and maintenance of fish and wildlife resources on military reservations throughout the United States. Eglin AFB's integrated natural resource management plan, for flora and fauna, requires U. S. Fish and Wildlife Service (USFWS) and Florida Fish and Wildlife Conservation Commission (FWC) to work in concert with the installation to manage resources on the property. These partnerships include a black bear tracking study with FWC, USFWS Fisheries Resource Program for monitoring and management of rivers and streams for the protection of imperiled aquatic species, and the Gopher Tortoise Candidate Conservation Agreement program.

Acquisition of a conservation easement over the subject property will provide an additional natural buffer to Eglin AFB and allow training maneuvers with limited disturbance to civilian neighbors, which is critical to Eglin AFB's mission sustainment.

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Public Access

No public access is planned under the terms of the easement. Controlled public access may be provided through the E. O. Wilson Biophilia Center which is located south of the subject property on the south side of Highway 20 surrounded by the Seven Runs Creek project in that area. It opened in 2009, and provides educational opportunities for 3rd and 7th grade students as well as opportunities for researchers to investigate and document the diverse aspects of the ecosystems on the surrounding lands. The center's site, as well as several residences for managers and staff, and office space, are not within the project boundary.

Prohibited Uses

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 trash, waste, hazardous materials and soil will be prohibited;
- Exploration by the grantor for and extraction of oil, gas, minerals, peat, muck, limestone, etc., by means of surface exploratory and extractors operations will be prohibited, except as reasonably necessary to combat erosion or flooding or except as necessary and lawfully permitted for the conduct of permitted activities.
- Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation or fish and wildlife preservation will be prohibited, unless needed for maintenance as provided in the easement under Article V. A., E., and H.;
- Acts or uses detrimental to the preservation of any historical or archaeological area will be prohibited;
- The removal, destruction, cutting, trimming, mowing, alteration or spraying with biocides of trees, shrubs or other natural vegetation will be prohibited, unless needed for conservation silviculture, as provided in the easement under Article V. G. and H.;
- There shall be no planting of nuisance exotic or non-native plants;
- Commercial and industrial activities will be prohibited, except as may be incidental to the exercise of grantor's reserved rights, as specifically provided for in Article V.;
- New construction or placing of temporary or permanent structures or buildings on the property will be prohibited except as may be necessary for maintenance, normal operation or emergency situations or as permitted in Article V.;
- Construction of new roads or jeep trails will be prohibited except as associated with restoration activities allowed under the provisions of Article V. of the easement;
- The operation of motorized vehicles will be prohibited except on established trails and roads unless (1) necessary to protect or enhance the conservation values of the property; and (2) for emergency purposes;
- Actions or activities that may be expected to adversely affect threatened or endangered species is prohibited;
- Subdivision of the property is prohibited;

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- Signs, billboards or outdoor advertising is prohibited except signs designating the property as conservation lands protected by the State of Florida;
- Commercial water wells on the property are prohibited;
- There shall be no mitigation bank established on the property;
- Any lighting must be angled 15 degrees below the horizon;
- No operations of any type that produce visual hazards or encourage large concentrations of birds that may be dangerous to aircraft operations except prescribed burns as depicted in Article V. B.; and
- No structure may exceed 125 feet above ground level.

Owner's Rights Retained

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 right to observe, maintain, photograph, fish, hunt and introduce and stock native fish or wildlife, to use the property for non-commercial, passive, resource-based recreation not inconsistent with the purpose of the easement. In addition, the owner reserves hunting and fishing rights related to the property and may lease and sell privileges of such rights;
- The right to conduct controlled and prescribed burns with proper authorization;
- The right to mortgage the property;
- The right to contest property taxes, appraisals and assessments;
- The right to continue to use, maintain, repair, and reconstruct, but not relocate or enlarge, all existing buildings as depicted on the Baseline Documentation Report (BDR);
- The right to exclusive use of improvements depicted on the BDR;
- The right to engage in silviculture in accordance with the best management practices of the Florida Forest Service until such time that the area has been cut to an approximate natural condition. As each tract regains its approximate natural condition, there will be no more silviculture and harvesting of trees shall cease forever except as needed for restoration and maintenance for trees that are damaged, diseased or dangerous and the Property will forever be a natural forest;
- Longleaf pine will not be harvested to less than 200 trees per acre unless its needed for conservation or restoration purpose that has no commercial benefit;
- The right to engage in management and ecological restoration activities to foster, preserve, protect and restore the natural, ecological, scenic, historical, archaeological, wildlife, and plant features and values of the property in consultation with qualified public or private land management agencies; and
- The right to use the property for scientific, environmental resource and educational programs provided the programs are conducted by a non-profit organization for the benefit of the public.

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Right of First Refusal

The Board of Trustees will have the right of first refusal to purchase the property or any interest therein, in fee if the grantor proposes to sell the property or any interest therein to a third party other than a lineal descendant, an entity in which grantor owns a controlling interest or a non-profit conservation organization regionally or nationally recognized and acceptable to grantee.

Mortgages, Liens and 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.

Preliminary title work indicates there are 25 outstanding oil, gas and mineral reservations owned by third parties over 20,800 acres. No determination has been made as to the current record owner for this interest. DEP's Florida Geological Survey (FGS) has stated all oil and gas wells in the area have been dry and abandoned and current data does not suggest the presence of hydrocarbons. FGS also stated there have been 25 mines within ten miles of the subject property, but only one is currently active. The active mine is a sand mine and resides within an out parcel in the northeast corner of the project boundary. FGS concluded that there is a potential for sand or clay mining, however most reservations do not include them. Additionally, the property is affected by 46 easements for access, utilities, water, sewer and regulatory. The appraisers were aware of the outstanding reservations and considered them in determining the final value. Because these issues were discovered during preliminary due diligence, further research may change the facts and scope of each issue and, therefore, DEP will review, evaluate and implement an appropriate resolution for these and any other title issues that arise prior to closing.

There are thirteen 23-acre outparcels that are well sites, located within the acquisition area. Florida Community Services Corporation of Walton County owns four well sites on the east side of the project area surrounded by the current conservation easement acquisition. South Walton Utility Company, Inc., owns nine well sites on the west side of the project area surrounded by the current conservation easement acquisition. These well sites provide water to the coastal area. Mr. Davis sold some of the well sites and some were sold prior to his acquisition of the surrounding property.

Closing Information

A title insurance policy will be provided by the buyer and a baseline documentation/environmental site assessment report will be provided by the seller prior to closing. The survey will be waived pursuant to rule 18-1.005, F.A.C.

Monitoring Agency

Pursuant to section 259.032(9)(e), F.S., DEP recommends that the Board of Trustees designate DEP's Office of Environmental Services as the monitoring agency for this site.

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Comprehensive Statement

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 1, Pages 1-116)

RECOMMEND APPROVAL

Item 2 Moore Acceptance of Bid and Offer/Sale and Purchase Contract/Determinations

REQUEST: Consideration of (1) a determination, pursuant to Article X, section 11, of the Florida Constitution and rule 18-21.004(1)(a), F.A.C., that it is in the public interest to convey approximately 4,508 square feet (0.10 acre) of filled, formerly submerged, sovereignty lands in Monroe County; (2) a determination that a 3,217-square-foot (0.07 acre) parcel of state-owned, non-conservation land is surplus and is no longer needed, pursuant to section 253.034(6), F.S.; (3) acceptance of a bid and offer in the amount of \$61,165 submitted by John Christopher Moore for the purchase of the two parcels; and (4) approval of a contract for sale and purchase to convey the two parcels to John Christopher Moore.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Monroe

APPLICANT: John Christopher Moore

LOCATION: Section 31, Township 60 South, Range 40 East

CONSIDERATION: \$61,165 to be deposited in the Internal Improvement Trust Fund

<u>PARCELS</u>	<u>ACRE</u>	APPRAISED BY	<u>COMBINED BID AMOUNT</u>	<u>CLOSING</u>
		Trent Marr <u>(05/16/13)</u>		<u>DATE</u>
BOT (filled)	0.10	\$22,540*		120 days after
BOT (upland)	0.07	\$16,085	\$61,165	BOT approval

* Pursuant to rule 18-21.013(3)(c)1., F.A.C., the recommended sale price of submerged lands filled by the applicant's predecessor in title after June 10, 1957, is two times the present appraised value which is \$45,080.

STAFF REMARKS:

Background

Pursuant to a 1990 settlement agreement between Monroe County and Wainwright Enterprises, Inc., et al., the Board of Trustees acquired title to a 0.07-acre parcel of uplands at the end of Summerland Road in Key Largo. The settlement agreement also affirmed the Board of Trustees'

Item 2, cont.

title in a 0.10-acre parcel of illegally filled, formerly submerged, sovereignty lands that abut the upland parcel adjacent to Lake Surprise Estates. The sovereignty submerged lands were filled by the applicant's predecessor in title in the mid to late 1960s. However, the Board of Trustees was not divested of title to the filled lands by subsection 253.12(9), F.S., because the parcel is not tidally influenced and subsection (10) of the statute contains an exception for parcels where title was adjudicated.

The applicant is the owner of the adjoining lands to the south and has applied to purchase both the upland and filled parcels. The two parcels have been problematic because of illegal dumping and other unauthorized use. The applicant has been independently trying to maintain the two parcels for many years by removing trash. The two parcels are currently under Use Agreement No. U-0342 to Monroe County (County), but the two parcels are not actively managed for public use and the County is in support of this sale.

Statutory Requirement

Pursuant to section 253.034(6), F.S., in order to surplus state-owned, non-conservation land, the Board of Trustees must make a determination that the land is no longer needed. Pursuant to section 253.034(6)(c), F.S., non-conservation lands shall be reviewed by the Department of Environmental Protection's (DEP) Division of State Lands (DSL) for recommendation as to whether such lands should be retained in public ownership or disposed of by the Board of Trustees. DEP offers the following to assist the Board of Trustees in making an affirmative determination that the 0.07-acre upland parcel is no longer needed:

- the size and isolated location of the parcel would make it difficult to effectively manage;
- the parcel has been the site of illegal dumping and unauthorized use, therefore it would not be compatible for public use; and
- the sale of the parcel will eliminate liability for the Board of Trustees.

Constitutional Requirement/Public Interest

Pursuant to Article X, section 11, of the Florida Constitution and rule 18-21.004(1)(a), F.A.C., the Board of Trustees may convey sovereignty lands if determined by the Board of Trustees to be in the public interest. DEP offers the following to assist the Board of Trustees in making an affirmative determination that conveyance of the 0.10-acre parcel of filled, formerly submerged sovereignty lands is in the public interest:

- it would not be feasible to restore the land to its previous state;
- the size and isolated location of the parcel would make it difficult to effectively manage;
- the parcel has been the site of illegal dumping and unauthorized use, therefore it would not be compatible for public use; and
- the sale of the parcel will eliminate liability for the Board of Trustees.

Item 2, cont.

Rule Requirement

Pursuant to rule 18-21.013(3), F.A.C., the Board of Trustees may pursue the following options in regard to filled, formerly submerged, sovereignty lands filled without authorization after June 10, 1957: (1) direct the fill be removed by or at the expense of the applicant; (2) direct the fill to remain as state-owned; or (3) sell the filled land. The first option is not recommended because removal of the fill could entail water quality impacts resulting in environmental damage to the area. The second option is not recommended because the location, size, and configuration of the parcel as a narrow strip is not suitable for management by the state for public use. Consequently, DEP recommends that the 0.10-acre parcel of filled, formerly submerged, sovereignty lands be sold.

Pursuant to rule 18-21.013(3)(c)1., F.A.C., DEP is recommending to the Board of Trustees that the purchase price for the filled land be assessed at two times the present appraised value since the unauthorized fill was done by the applicant's predecessor in title after June 10, 1957. An appraisal submitted by the applicant, and approved by DEP's Bureau of Appraisal, indicates that the value of the parcel is \$22,540; two times that value is \$45,080.

Noticing

Pursuant to sections 253.034 and 253.111, F.S., state agencies, state universities, Florida College System institutions, and the county were notified of the proposed sale. Although notice is not required for sale of filled, formerly submerged, sovereignty lands, the filled parcel was included in the notice for purposes of identifying the full extent of available lands. No interest was expressed by any noticed governmental or educational entity.

Bid History

DEP offered the combined 0.17-acre parcel for sale by competitive bid with a minimum bid of \$61,165. An advertisement was placed in the legal section of the Key West Citizen newspaper for three consecutive Sundays beginning June 30, 2013. A real estate "For Sale" sign was also placed on the property. DEP also sent out e-mail notifications of the proposed bid through GovDelivery to approximately 4,000 recipients including real estate offices, developers, investment companies, and other parties who have requested to receive notification of surplus land bid notices. The combined 0.17-acre parcel was also advertised on the DSL website.

Although there were several calls from interested parties, only one bid was received in the amount of \$61,165 from John Moore. The bid was a bona fide offer of the minimum bid amount and included a ten percent deposit. DEP recommends acceptance of the bid and approval of the contract.

Comprehensive Plan

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

Item 2, cont.

(See Attachment 2, Pages 1-12)

RECOMMEND APPROVAL

**Item 3 Justin Greenbaum, Inc. Acceptance of Bid and Offer/Sale and Purchase Contract/
Determination**

REQUEST: Consideration of (1) a determination that a 1.91-acre parcel, more or less, of state-owned, non-conservation land in Broward County is surplus and is no longer needed, pursuant to section 253.034(6), F.S.; (2) acceptance of a bid and offer in the amount of \$1,525,000 submitted by Justin Greenbaum, Inc., for the purchase of the 1.91-acre parcel, more or less, of state-owned, non-conservation land; and (3) approval of a contract for sale and purchase of the 1.91-acre parcel, more or less, of state-owned, non-conservation land to Justin Greenbaum, Inc.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Broward

APPLICANT: Justin Greenbaum, Inc.

LOCATION: Section 34, Township 49 South, Range 42 East

CONSIDERATION: \$1,525,000 to be deposited in the Internal Improvement Trust Fund

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY Mendel R. Westberry <u>(12/11/12)</u>	<u>BID AMOUNT</u>	<u>CLOSING DATE</u>
BOT	1.91	\$1,503,000	\$1,525,000	120 days after BOT approval

STAFF REMARKS:

In 1983, Broward County donated 2.38 acres, consisting of 32 lots, to the state to be used for a halfway house. The 2.38 acres are currently under lease (Lease No. 3506) to the Department of Juvenile Justice (DJJ). DJJ subleases 8 of the 32 lots, totaling approximately 0.47 acre, to the Department of Children and Families for the operation and maintenance of a facility for runaways and troubled adolescents. DJJ is requesting the Board of Trustees to release the remaining 24 vacant lots, totaling approximately 1.91 acres, from its lease.

Statutory Requirement

Pursuant to section 253.034(6), F.S., in order to surplus non-conservation land, the Board of Trustees must make a determination that the land is no longer needed. Pursuant to section 253.034(6)(c), F.S., non-conservation lands shall be reviewed by the Department of Environmental Protection's (DEP) Division of State Lands (DSL) for recommendation as to

Item 3, cont.

whether such lands should be retained in public ownership or disposed of by the Board of Trustees. DEP offers the following to assist the Board of Trustees in making an affirmative determination that the 1.91-acre parcel is no longer needed:

- DJJ, the managing agency, has evaluated the use of the parcel and determined that it is not being used for the purpose for which it was originally leased and no longer needs the parcel; and
- DSL has reviewed DJJ's findings, completed the required surplus lands process, and recommends that the property be disposed of by the Board of Trustees.

Noticing

On June 11, 2012, pursuant to sections 253.034 and 253.111, F.S., the subject parcel was offered for lease to state agencies, state universities, and Florida College System institutions; for sale to the same entities provided they have authority to hold title; and for sale to the local governments. No interest in the subject parcel was expressed by any noticed educational or governmental entity.

Bid History

DEP offered the 1.91-acre parcel for sale by competitive bid with a minimum bid of \$1,503,000. An advertisement was placed in the legal section of the Sun Sentinel for three consecutive Sundays beginning April 21, 2013. "For Sale" signs were placed on the subject parcel, and the subject parcel was listed on the Commrex commercial real estate website. DEP also sent out e-mail notifications of the proposed bid through GovDelivery to 3,117 recipients including real estate offices, developers, investment companies, and other parties who have requested to receive notification of surplus land bid notices.

One bid was received in the amount of \$1,525,000 from Justin Greenbaum, Inc. The bid is a bona fide offer and included a ten percent deposit. DEP recommends acceptance of the bid and approval of the contract.

Comprehensive Plan

A consideration of the status of the local government comprehensive plan was not made for this item. DEP has determined that the proposed action is not subject to the local government planning process.

(See Attachment 3, Pages 1-10)

RECOMMEND APPROVAL

Item 4 Florida International University's/Miami-Dade County's Business Plan/Coconut Grove Playhouse

REQUEST: Consideration of a request to review and approve Florida International University's and Miami-Dade County's business plan for the use of the Coconut Grove Playhouse property for education, theatrical productions, and related arts purposes in partnership with GableStage, Inc., a Florida not-for-profit corporation.

VOTING REQUIREMENT FOR APPROVAL: Two members, one of whom is the Governor, when four members are voting; or any two members, when three members are voting.

COUNTY: Miami-Dade

APPLICANTS: Board of Trustees of Florida International University (FIU) and Miami-Dade County (County)

LOCATION: Section 21, Township 54 South, Range 41 East

STAFF REMARKS: Coconut Grove Playhouse (Playhouse) was acquired by the Board of Trustees in 1980. It was conveyed in 2004 to Coconut Grove Playhouse, LLC (LLC), conditioned upon its operation as a theater. On October 12, 2012, the Board of Trustees recorded a Notice of Automatic Reverter when the LLC failed to keep the theater in operation, and title again vested in the Board of Trustees.

State agencies, state universities, and Florida College System institutions were given notice that the property was available, pursuant to section 253.034(15), F.S. FIU responded to the notice and requested a joint lease with the County. Pursuant to section 253.034(15), F.S., state universities and Florida College System institutions are given priority consideration to lease Board of Trustees-owned land that is available for lease. However, pursuant to a recent change in section 253.034(15), F.S., now being section 253.034(14), F.S., before a lease is granted, the state university or Florida College System institution must submit a plan for review and approval by the Board of Trustees. FIU and the County have submitted the required plan for approval by the Board of Trustees which provides for a variety of theater, art, and educational uses by incorporating all aspects of the theater's programs into its curriculum.

The County, as indicated in this business plan, has extensive experience in the design, construction and management of large-scale performing arts facilities and in working with non-profit arts organizations to assure programmatic and financial success. The County has already secured \$20,000,000 for capital expenditures for the development and construction of the Playhouse. FIU and the County will partner with GableStage, Inc. (GableStage), through an operational agreement, in the management of the Playhouse. GableStage is an established non-profit theater company with a 20-year history as the preeminent theater in Miami-Dade County. Its work with local schools and colleges already provides educational programming for more than 10,000 students annually. Cooperative management will provide the experience and financial support needed to bring back a major, historic cultural site which will again serve as the hub for the significant arts community in Coconut Grove.

Item 4, cont.

The notice that FIU responded to requires that once a lease is executed it will be held in escrow and the lessee will be required to satisfy all liens and encumbrances identified in the title commitment within three months. If FIU and the County, as lessees, fail to meet this deadline, they will not receive an executed lease and the property would either be renoticed for lease or sold.

In addition to the standard lease terms, conditions and applicable laws, the Department of Environmental Protection (DEP) is recommending a 50-year term lease with mutual option to renew or extend which will require FIU and the County to:

- satisfy or obtain releases of any additional encumbrances that attached to the Playhouse after the title commitment's effective date of September 25, 2012;
- request the Board of Trustees' approval of any changes to the business plan deemed substantive by DEP;
- request the Board of Trustees' approval for private subleases that would generate revenues;
- provide additional financial assurances satisfactory to the Board of Trustees to ensure the renovations and/or construction of the Playhouse is completed, continually maintained, and operated during the term of the lease, even though the County has secured \$20,000,000 and has indicated that it has had success in private-public partnerships on other similar projects; and
- provide timelines to assure the timely completion of the renovation and/or construction of the Playhouse.

DEP is recommending that the Board of Trustees approve FIU's and the County's business plan for the use of the Coconut Grove Playhouse property for education, theatrical productions, and related arts purposes in partnership with GableStage.

In accordance with section 253.115, F.S., property owners within 500 feet of the subject property were notified and two property owners expressed concerns regarding development near a residential area and increased traffic.

Comprehensive Plan

A consideration of the status of the local government comprehensive plan was not made for this item. DEP has determined that the proposed action is not subject to the local government planning process.

(See Attachment 4, Pages 1-43)

RECOMMEND APPROVAL OF THE PLAN SUBJECT TO LEASE PROVISIONS THAT ADDRESS THOSE ISSUES AS OUTLINED ABOVE AND CRITERIA OF SECTION 253.034(14), F.S.