

**AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
OCTOBER 25, 2016**

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

Item 1 Minutes

Submittal of the Board of Trustees' Minutes from the August 2, 2016 Cabinet Meeting.

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.

(See Attachment 1 at http://www.dep.state.fl.us/secretary/cab/public_notices.htm)

RECOMMEND APPROVAL

Item 2 Natural Bridge Timberlands, LLC. Option Agreement/Upper St. Marks River Corridor Florida Forever Project/St. Joe Timberland Florida Forever Project

REQUEST: Consideration of an option agreement to acquire approximately 11,027 acres, of which approximately 10,398 acres are within the Upper St. Marks River Corridor Florida Forever project and the St. Joe Timberland Florida Forever project, from Natural Bridge Timberlands, LLC.

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.

COUNTIES: Leon and Jefferson

LOCATION: Sections 25, 26, and 34 through 36, Township 01 South, Range 02 East; Sections 30 through 32, Township 01 South, Range 03 East; Sections 01 through 05, 08 through 12, 14 through 17, 20, 21, 28 through 30, Township 02 South, Range 02 East; and Sections 05 through 08, Township 02 South, Range 03 East

CONSIDERATION: \$16,100,000

<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 (05/08/16)</u>	<u>Ryan (05/08/16)</u>				
Natural Bridge Timberlands, LLC.	11,027*	\$18,080,000	\$21,500,000	\$21,500,000	\$13,672,000**	\$16,100,000*** (75%)	120 days after BOT approval

*Of the 11,027 acres, 9,681 acres are within the Upper St. Marks River Corridor Florida Forever project, 717 acres are within the St. Joe Timberland Florida Forever project, and 629 acres are located outside the boundaries of the Florida Forever projects.

**Seller purchased the subject property in March 2014 for \$13,672,000, as part of a larger 300,000+/- acre sale, which included a bulk discount.

***\$1,460 per acre.

Item 2, cont.

STAFF REMARKS: The subject parcel is located within the Upper St. Marks River Corridor Florida Forever project, ranked number 9 in the Florida Forever Critical Natural Lands project category, and the St. Joe Timberland - St Marks Springs site Florida Forever project, ranked number 3 in the Florida Forever Climate Change Lands project category, approved by the Board of Trustees on April 26, 2016. The Upper St. Marks River Corridor project contains 14,570 acres, of which 13,226 acres have been acquired or are under agreement to be acquired. If the Board of Trustees approves this agreement, 1,344 acres, or nine percent of the project, will remain to be acquired. The St. Joe Timberland - St. Marks Springs site project contains 717 acres, of which the entire site is under agreement and will be acquired, if the Board of Trustees approves this agreement.

Project Description

Public acquisition of this project will contribute to the Florida Forever goals of protecting Florida's biodiversity at the species, natural community, and landscape levels and beginning a long-sought and permanent wildlife corridor along the St. Marks River. The project forms a corridor to conservation lands to the north and south, thereby helping to form a contiguous landscape-sized Protection Area. This project is also important to protect water resources within this project and the surrounding area, protect twelve known historic sites, and increase public recreational and education opportunities.

Property Description

This property, known as the Horn Spring property, is a major corridor connection. Horn Spring connects the St. Marks River Preserve State Park, along its northern boundary, to Fanlew Preserve and Aucilla Wildlife Management Area (WMA), on a portion of its eastern boundary, and to Natural Bridge Battlefield Historic State Park, on its southern boundary. The Horn Spring property is located in southeastern Leon County and southwestern Jefferson County line and has approximately 9.7 miles of meandering frontage along the northwest and southeast sides of the St. Marks River. This part of the St. Marks River is relatively shallow and navigable by canoes and kayaks. South of the Horn Spring property, the river increases in size and ultimately converges with the Wakulla River which then flows into the Gulf of Mexico.

The Horn Spring property contains ten springs, including a spring with a depth of 22-feet called Horn Spring, for which the property is named. Horn Spring is located approximately two miles north of Natural Bridge Road. Additionally, there are three other springs in this same vicinity named Little Horn Spring #1, 2, and 3, that connect into the St. Marks River.

South of Natural Bridge Road, there are six additional springs. These springs are named Rhodes Springs #1 and 4, Natural Bridge Spring (a/k/a Jim French Spring), Natural Bridge Spring #2, and Gerrell Spring #4 and 5. The Natural Bridge Spring is approximately 33 feet deep. The spring run is approximately 6 feet deep and flows swiftly over a limestone and sand bottom. The majority

Item 2, cont.

of the spring water run flows southwest to the St. Marks River and disappears into a siphon spring and then flows underground, then re-emerges in the spring run and again flows into a siphon spring underground. The St. Marks River, re-emerges approximately a mile away at St. Marks River Rise or St. Marks River Spring.

These springs were used by aboriginal man, Spanish conquistadors, friars, settlers, Governor Moore's Army in their 1706 defeat of the Spanish, and more than a thousand combatants in the Civil War Battle of Natural Bridge. The Natural Bridge Battle was significant as it was the fight between Union and Confederate forces with Tallahassee being saved by the Confederates and giving it the distinction of being the only Confederate Capitol not captured by the Union during the Civil War.

Mortgages and Liens/Encumbrances

All mortgages and liens will be satisfied at the time of closing. There are some noted title exceptions directly related to oil, gas and mineral (OGMs) reservations, common road easements, and natural gas pipeline easements over the subject parcel. The appraisers considered these conditions in the valuation of the property. 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.

Closing Information

A title insurance commitment, a survey, and an environmental site assessment will be provided by the Buyer.

Management

The southern portion of the Horn Spring property, the majority of which is located within the Natural Bridge Battlefield Historic State Park approved optimum boundary, will be managed by the Division of Recreation and Parks (DRP) as an addition to the state park. The management of the property will provide conservation and protection of natural and historical resources and resource based public outdoor activities. This acquisition will protect additional portions of the historic battlefield and provide enhanced protection and preservation of the Battle of Natural Bridge historic site within the state-managed Natural Bridge Battlefield Historic State Park.

The remainder of the Horn Spring property will be managed by the Northwest Florida Water Management District (NFWMD) in coordination with the Florida Fish and Wildlife Conservation Commission (FWC). The coordination between NFWMD and FWC will serve the public with many potential resource-based outdoor recreation activities, including canoeing, fishing, hiking, hunting, and wildlife viewing. There is also an opportunity for resource management of the timber assets which could provide for recreational infrastructure improvements to the Horn Spring property.

Item 2, cont.

The landscape connectivity and diversity provided by the Horn Spring property has the potential for many resource-based public outdoor recreation activities and is an excellent recreational trail opportunity, which provides a connection to other conservation and recreation lands in Leon County, such as the J.R. Alford Greenway, L. Kirk Edwards Wildlife and Environmental Area, Lafayette Heritage Trail Park, Tom Brown Park, St. Marks River Preserve State Park, and Natural Bridge Battlefield Historic 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 2, Pages 1-97)

RECOMMEND APPROVAL

Substitute Item 3 Dark Star Investments, LLC (Old Man Frank's)/Nonwater Dependent Activities/Determination

REQUEST: Consideration of a request (1) for a determination, pursuant to rule 18-21.004(1)(g), F.A.C., that it is in the public interest to allow nonwater dependent activities to occur on sovereignty submerged lands leased by the Applicant; and (2) to allow nonwater dependent, open-air, over-the-water dining activities to be conducted on the Applicant's proposed structure.

VOTING REQUIREMENT FOR APPROVAL: Three votes

APPLICANT: Dark Star Investments, LLC, a Florida limited liability company
d/b/a Old Man Frank's
Lease No. 530020873

LOCATION: 1005 South Lake Howard Drive, Winter Haven
Lake Howard, Polk County

CONSIDERATION: \$0.20 per square foot, based on the appraised market rental value, will be applied annually to the proposed 844 square feet, more or less, associated with the nonwater dependent activity, pursuant to rule 18-21.011(1)(b)6., F.A.C.

STAFF REMARKS: Rule 18-21.004(1)(g), F.A.C., provides that activities on sovereignty lands shall be limited to water dependent activities only unless the Board of Trustees determines that it is in the public interest to allow an exception as determined by a case-by-case evaluation. Since the 1970s, the Board of Trustees' policy has been to restrict the use of sovereignty submerged lands to water-related activities. This policy was reiterated and incorporated into the Conceptual

Substitute Item 3, cont.

State Lands Management Plan adopted by the Board of Trustees on March 17, 1981, and adopted into rule on March 27, 1982. The rule was modified on August 1, 1983, to allow public projects which are primarily intended to provide access to and use of the waterfront to contain minor uses which are not water dependent if they are: (1) located in areas along seawalls or other nonnatural shorelines; (2) located outside of aquatic preserves or Class II waters; and (3) the nonwater dependent uses are incidental to the basic purpose of the project, and constitute only minor nearshore encroachments on sovereignty lands.

Section 253.03(15), F.S., encourages the use of sovereignty submerged land for public access and water dependent uses. Effective July 1, 2016, the statute was amended to include related minimal secondary nonwater dependent uses. The over-the-water dining activities under consideration involve a nonclimatized area with minimal secondary nonwater dependent use of placing tables and chairs on structures over sovereignty submerged land for dining activities.

Background

The restaurant has been serving food along Lake Howard since 1957 and the Applicant has owned the property since 1995. The restaurant extends out over Lake Howard and an “L” shaped dock leads to an “open air” dining deck located approximately 30 feet from the shoreline. The restaurant and the dining deck were grandfathered, pursuant to rule, and have been assessed fees as water dependent uses. The facility is open to the public.

Project Detail

The Applicant is now proposing to relocate the existing over-the-water dining deck closer to its shoreline by removing the dining deck from the end of the “L” shaped dock and constructing a covered wood dining deck adjacent to the shoreline and the existing facility. This will reduce the preempted area by approximately 1,000 square feet. The proposed modification includes the addition of a ramp that complies with the Americans with Disabilities Act which will provide boaters handicap access to public bathrooms on the uplands, which is very scarce on the Chain of Lakes.

The proposed nonwater dependent structure (dining deck) is not a public project (public projects include government owned/operated structures/activities); however, the proposed project conforms or will conform to the three criteria listed in rule 18-21.004(1)(g), F.A.C., for public projects. The proposed structure and nonwater dependent activities are along a seawall, constitute only minor nearshore encroachments on sovereignty submerged lands, and are not located in an aquatic preserve or Class II waters. If approved, the lease for the Applicant will define the proposed nonwater dependent structure in a survey so that it cannot be improved or expanded without Board of Trustees’ approval.

Substitute Item 3, cont.

Lease Fees

Rule 18-21.011(1)(b)6., F.A.C., provides that the annual lease fees for nonwater dependent uses shall be negotiated considering the appraised market rental value of the riparian uplands. A market rental value appraisal was completed in order to obtain a basis for negotiating annual lease fees. The Department of Environmental Protection (DEP) recommends that the proposed nonwater dependent structure, which involves minimal secondary nonwater dependent use as stated in section 253.03(15), F.S., should be assessed at a negotiated nonwater dependent rate of \$0.20 per square foot. The remaining lease area should be assessed the standard water dependent rate. Approval of this item does not supersede or eliminate any local, state or federal permitting requirements.

Public Interest

DEP is recommending the Board of Trustees find the project meets the public interest requirement because the proposed structure and associated nonwater dependent, open-air, over-the-water dining activities will continue to provide public access and enhance public enjoyment of sovereignty submerged lands without impairing traditional access or impacting sovereignty submerged lands. It will also continue to provide an economic benefit to the Applicant and potential secondary economic benefits to nearby businesses. Additionally, it does not entail a significant adverse impact to sovereignty submerged lands and resources.

Noticing

This request is not subject to noticing pursuant to section 253.115, F.S.

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 1-8)

RECOMMEND APPROVAL

Item 4 DEP's FY 2015-2016 4th Quarter Performance Accountability Measures/Annual Subjective Leadership Assessment

REQUEST: Consideration of the Department of Environmental Protection's Fiscal Year 2015-2016 4th Quarter Performance Accountability Measures and Annual Subjective Leadership Assessment.

Item 4, cont.

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.

STAFF REMARKS: In accordance with the Cabinet Governance Guidelines, approved on March 10, 2015, the Department of Environmental Protection is submitting its Fiscal Year 2015-2016 4th Quarter Performance Accountability Measures and Annual Subjective Leadership Assessment.

(See Attachment 4, Pages 1-12)

RECOMMEND ACCEPTANCE

Item 5 Aquaculture Lease Modification/St. Johns County

REQUEST: Approval to modify an existing 2.11-acre, ten-year sovereignty submerged land aquaculture lease to authorize use of the full water column.

VOTING REQUIREMENT FOR APPROVAL: Three votes

LOCATION: Matanzas River, Guana Tolomato Matanzas National Estuarine Research Reserve, St. Johns County, Florida

APPLICANT: Phil Cubbedge

CONSIDERATION: An annual fee of \$130.38, representing a base annual rental fee of \$33.46 per acre or fraction thereof; and an annual surcharge of \$10.00 per acre or fraction thereof, pursuant to Rule 18-21.022, Florida Administrative Code (F.A.C.). The annual fee and surcharge collected will be deposited in the General Inspection Trust Fund, pursuant to sections 597.010(5)(b) and (7), F.S.

STAFF REMARKS: The lessee is requesting consideration by the Board of Trustees to modify the special lease conditions to allow use of the full water column, pursuant to section 253.68(1), F.S. The lessee intends to utilize racks or floating cages to position oysters in the most nutrient rich part of the water column, eliminate predation by the commonly found bottom oyster predators and make fouling of the cage and the oyster controllable.

The lessee is a current submerged land leaseholder and Aquaculture Certificate of Registration holder. He is compliant with the terms and conditions of his existing lease and FDACS Aquaculture Best Management Practices.

Item 5, cont.

Agency Review

FDACS has determined that the proposed modification and associated aquaculture activities will not result in adverse impacts to seagrasses, existing shellfish beds, natural reefs or other sensitive habitats.

FDACS has reviewed the application for completeness. In addition, FDACS has coordinated the review of the applications with the Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, the Florida Department of State's Division of Historical Resources (DHR) and the St. Johns County Board of County Commissioners, pursuant to rule 18-21.021, F.A.C.

The proposed gear is covered under the FDACS general permit from the Army Corps of Engineers.

Special Conditions

All existing standard lease conditions will remain unchanged, including the remainder of the lessee's ten-year renewable term. The proposed lease will be subject to the terms and conditions applied to other aquaculture leases issued throughout the state for the same purposes, including the provision that the transfer or sale of the lease will not be approved during the first five years of the lease term. The leaseholder will be required to acquire a Private Aids to Navigation permit from the United States Coast Guard and install associated lighting and signage to aid boaters with navigation.

Public Interest

The lease is not in an aquatic preserve, therefore the activity does not have to be found to be in the public interest. The projects are, however, required to demonstrate that they are "not contrary to the public interest," pursuant to Article X, Section 11 of the Florida Constitution, Chapter 253, F.S., and rule 18-21.004(1)(a), F.A.C. Because the Legislature has declared aquaculture to be in the public interest, according to section 253.68(2)(a), F.S., FDACS is of the opinion that the activities meet the test of being "not contrary to the public interest" and otherwise meet all applicable requirements for a proprietary authorization to use sovereignty submerged lands.

Noticing

The proposed lease modification was noticed pursuant to section 253.70, F.S., and no objections were received.

Comprehensive Plan

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

(See Attachment 5, Pages 1-9)

RECOMMEND APPROVAL

Item 6 Lake Hatchineha Ranch Conservation Easement/FDACS/Rural & Family Lands Protection Program

REQUEST: Consideration of (1) an option agreement to acquire a 1,619-acre perpetual conservation easement over lands lying within the Lake Hatchineha Ranch project of the Florida Department of Agriculture and Consumer Services' Florida Forest Service (FDACS/FFS) Rural & Family Lands Protection Program (RFLPP) from Lake Hatchineha Ranch, LLC; and (2) designation of FDACS/FFS as the monitoring agency.

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.

APPLICANT: Florida Department of Agriculture and Consumer Services' Florida Forest Service

COUNTY: Polk

LOCATION: Portions of Section 25, Township 28 South, Range 28 East; Sections 19, 29, 30, 31, 32, and 33, Township 28 South, Range 29 East; Section 6, Township 29 South, Range 29 East

CONSIDERATION: \$2,916,000

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u>		<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>
		<u>(04/27/16)</u>	<u>(04/27/16)</u>				
Lake Hatchineha	1,619	\$3,400,000*	\$3,240,000*	\$3,400,000	**	\$2,916,000***	120 days after BOT approval

*Fee value for the Williams appraisal is \$7,285,000 and fee value for the String appraisal is \$7,125,000

**Property was assembled over a number of years by Lake Hatchineha Ranch, LLC

***The purchase price for the conservation easement is \$1,801 per acre

STAFF REMARKS: This acquisition was negotiated by FDACS/FFS under its RFLPP. If approved, this will be the twenty-ninth perpetual conservation easement proposed for acquisition, with a total of approximately 23,933 acres preserved under the RFLPP. The Lake Hatchineha Ranch project is ranked in Tier One on the 2015 RFLPP Acquisition List.

Property Description:

The Lake Hatchineha Ranch property consists of 1,619 +/- acres in Polk County, near the western shore of Lake Hatchineha and just south of Lake Hatchineha Road. The entire project will be protected under this easement.

Managed as an active cow-calf operation, approximately half the property is heavily forested and supports a mix of several natural communities, including large areas of prairie hammock. There are several small wetlands – both herbaceous and forested - scattered over the property, but the main hydrological feature of the property is the old drainage way for Catfish Creek. The property is exceptional in its overall natural resource benefits and amount of valuable habitat for rare and endangered species.

Item 6, cont.

The property is surrounded by multiple large tracts of conservation lands, including the Allen David Broussard Catfish Creek Preserve State Park (8,000+ acres); South Florida Water Management District's Kissimmee Chain of Lakes; RFLPP's K-Rocker Ranch conservation easement (789 acres); the Everglades Headwaters National Wildlife Refuge and Conservation Area (1,111 acres); and The Nature Conservancy's Hatchineha Ranch Mitigation Bank (2,057 acres) and Disney Wilderness Preserve (11,500 acres). The proposed easement is located entirely within the Catfish Creek Florida Forever Project, an approximately 20,000-acre project, of which about half of the acres have been acquired by the State. Lake Hatchineha Ranch also falls within the Lake Okeechobee Basin Management Action Plan (BMAP) area and is part of the headwater system for the Everglades.

PROHIBITED USES:

- Dumping of non-biodegradable, toxic or hazardous substances, trash garbage, wastes, abandoned vehicles, appliances, machinery or similar material is prohibited.
- The 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 either directly or indirectly by Grantor or on Grantor's behalf, etc.
- Activities that affect the hydrology of the land or that detrimentally affect water conservation, erosion control, soil conservation, or fish and wildlife habitat, etc.
- Planting of nuisance exotic or non-native plants as listed by the Exotic Pest Plant Council (EPPC) or its successor. The Grantor shall, to the extent practical, control and prevent the spread of nuisance exotics or non-native plants on the Property.
- Concentrated and confined animal feed lot operations.
- 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 permitted hereinafter, or as necessary by Grantor for maintenance or normal operations of the Property or during emergency situations or as may otherwise be specifically provided for in the Easement.
- Construction or placing of roads, billboards or other advertising, utilities, or structures, except those structures and unpaved roads necessary for the agricultural operations on the land or structures necessary for other activities allowed under the Easement, and except for linear facilities described in section 704.06(11), F.S. Grantee may erect and maintain signs designating the Property as land under the protection of Grantee.

Item 6, cont.

- Fertilizer use for agriculture activities shall be in accordance with agricultural Best Management Practices recommended by the Natural Resources Conservation Service or the Florida Department of Agriculture and Consumer Services, whichever is more stringent, as those Best Management Practices may be amended from time to time. No agricultural activities shall occur within a 100-foot buffer around sinkholes and other karst features that are connected to spring conduits, except as provided in the applicable Best Management Practices.
- Actions or activities that may scientifically be expected to adversely affect threatened or endangered species.
- Any subdivision of the Property.
- Commercial water wells on the Property.
- Harvesting of cypress trees in the designated Significant Natural Areas (SNAs).
- Mitigation banks pursuant to Section 373.4135, et. seq., F.S.
- Conversion of SNAs to more improved areas.
- Activities detrimental to the preservation of historical, architectural, archaeological, or cultural resources on the Property.
- Conversion of forested areas to non-forested areas as shown in the Baseline Documentation Report (BDR) within the SNAs.
- Granting of easements or rights-of-way for power lines, gas lines, sewer lines, waterlines, telecommunications towers, and wind farms is prohibited. Notwithstanding this prohibition the Grantee may grant or modify easements for utility connections necessary to serve the permitted uses of the Property that are consistent with the Easement Purposes. Existing utilities may be replaced or repaired at their current location.

OWNER'S RIGHTS:

- Grantor has, and shall be deemed hereby to have retained, the underlying fee simple absolute title in the Property.
- The right to conduct prescribed burning on the Property; provided, however, that Grantor shall obtain and comply with a prescribed fire authorization from FDACS' FFS or its successor agency.
- The right to mortgage the Property; provided, however, that the Mortgagee's lien shall be inferior to and lower in priority than this Easement.

Item 6, cont.

- The right to contest tax appraisals, assessments, taxes and other charges on the Property.
- The right to continue to use, maintain, repair, and reconstruct, all existing buildings, barns, dog pens, outbuildings, fences, roads, ponds, drainage ditches, swales, water conveyance structures, or other improvements and such other facilities on the Property as depicted in the BDR, except on SNAs.
- The right to sell, devise or otherwise transfer ownership of the Property to a third party. This right, however, does not include the right to sell the remaining property rights on the Property for the purposes of a conservation easement or other restriction that would divest the Property of its use under the terms and conditions of the Easement.
- The right to exclusive use of the improvements on the Property.
- Grantor shall obtain and comply with all permits for management of stormwater, for water wells and consumptive uses as may be required by the water management district or any successor agency having jurisdiction over those activities.
- The right to construct, after giving notice to Grantee, buildings or other structures incident to agricultural uses carried on in accordance with sound agricultural practices. Such buildings shall not be used as residences.
- Boundary Maintenance. Nothing shall prohibit Grantor from establishing (by survey, fencing or marking) and maintaining property lines around the perimeter of the Property to protect the Property from trespassing and to assist Grantor in the management of the Property in accordance with the Easement.
- The right to observe, maintain, photograph, introduce, and stock native fish or wildlife on the Property, to use the Property for hiking, recreation, eco-tourism activities, and horseback riding. Grantor reserves, and shall continue to own, the hunting and fishing rights on or related to the Property and Grantor may lease and sell privileges of such rights.
- Building Envelopes. The right to develop, after giving notice to Grantee, up to 20,000 square feet of impervious surfaces for residential purposes in each of 5 areas designated in Exhibit C (“Building Envelopes”). Each Building Envelope will not exceed 5 contiguous acres. Impervious surfaces are defined as material that does not allow water to percolate into the soil on the Property; this includes, but is not limited to, residential buildings, agricultural buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs. Any such development may not be constructed within the SNAs. The relative locations of the Building Envelopes are shown on Exhibit C, attached herein.

Item 6, cont.

- The right to install connections to normal utility systems, such as electric, cable, water and sewer, and telephone in each Building Envelope. If a connection to a sewer system is not available, this right shall include the right to install septic systems. This right includes the right to maintain, repair, replace, reconstruct, and enlarge such residences and the immediate surrounding areas for the use and enjoyment of a family that resides in such residences, including the right to construct and maintain ancillary structures. If at a later date Grantor determines that a different location would be better for the Building Envelope, Grantor must contact Grantee for approval. The Building Envelope will not be greater than the initial envelope and will not be within a SNA. Family residences and related structures cannot be within a SNA.
- The right to repair or replace all existing agricultural buildings and agricultural structures, as indicated in the map depicting the Building Envelope Locations attached as Exhibit C, but such buildings and structures may not be enlarged at their current location.

ENCUMBRANCES:

There are no known encumbrances on the property that adversely affect marketability or the ability to enforce the rights granted under the easement. Title work revealed conveyances of oil, gas, and mineral (OGM) rights, however, the appraisers determined that the outstanding OGM rights would have little to no impact on market value.

MORTGAGES AND LIENS:

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

CLOSING INFORMATION:

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

EASEMENT MONITOR:

This perpetual conservation easement will be monitored by the FFS.

COMPREHENSIVE PLAN:

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

(See Attachment 6, Pages 1-69)

RECOMMEND APPROVAL

**Board of Trustees
Agenda - October 25, 2016
Substitute Page Fourteen**

Substitute Item 7 Pelaez & Sons Conservation Easement/FDACS/Rural & Family Lands Protection Program

REQUEST: Consideration of (1) an option agreement to acquire a 1,410-acre perpetual conservation easement over lands lying within the Pelaez & Sons project of the Florida Department of Agriculture and Consumer Services' Florida Forest Service (FDACS/FFS) Rural & Family Lands Protection Program (RFLPP) from Pelaez and Sons, Inc.; and (2) designation of FDACS/FFS as the monitoring agency.

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.

APPLICANT: Florida Department of Agriculture and Consumer Services' Florida Forest Service

COUNTY: Okeechobee

LOCATION: Portions of Sections 32 and 33, Township 36 South, Range 34 East; Section 4, 5, 8, and 9, Township 37 South, Range 34 East

CONSIDERATION: \$3,250,000

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u>		<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>
		<u>Holden</u> <u>(04/04/16)</u>	<u>String</u> <u>(04/04/16)</u>				
Pelaez & Sons	1,410	\$4,230,000*	\$3,805,000*	\$4,230,000	**	\$3,250,000***	120 days after BOT approval

*Fee value for the Holden appraisal is \$7,050,000 and fee value for the String appraisal is \$6,625,000

**Property was assembled over a number of years by Pelaez and Sons, Inc.

***The purchase price for the conservation easement is \$2,304.96 per acre

STAFF REMARKS: This acquisition was negotiated by FDACS/FFS under its RFLPP. If approved, this will be the thirtieth perpetual conservation easement proposed for acquisition, with a total of approximately 25,343 acres preserved under the RFLPP. The Pelaez & Sons project is ranked in Tier One on the 2015 RFLPP Acquisition List.

PROPERTY DESCRIPTION:

The Pelaez & Sons property consists of 1,410 +/- acres in Okeechobee County, northwest of the town of Okeechobee, and with this easement the entire project will be placed under protection.

The Pelaez family has been in the cattle business since the 1950's. The property is currently a cow/calf operation over mostly improved pasture with 200 acres of hardwood hammocks and 200 acres of wetlands. The owners participate in multiple Best Management Practice programs, both State and Federal, and have received much recognition for innovative ranching ideas.

Substitute Item 7, cont.

The property is located less than three miles east of the Kissimmee River and adjacent to United States Department of Agriculture's Natural Resources Conservation Service Wetlands Reserve Program easement, aimed at restoring wetlands. It is also in close proximity to multiple South Florida Water Management District conservation lands.

The property is located adjacent and with direct access to a rural major collector roadway/railway. A portion of the property contains a land use designation allowing for industrial and related similar uses. Both of these aspects make the property attractive to new and expanding businesses, placing it under a high threat of conversion.

PROHIBITED USES:

- Dumping of non-biodegradable, toxic or hazardous substances, trash garbage, wastes, abandoned vehicles, appliances, machinery or similar material is prohibited.
- The 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 either directly or indirectly by Grantor or on Grantor's behalf, etc.
- Activities that affect the hydrology of the land or that detrimentally affect water conservation, erosion control, soil conservation, or fish and wildlife habitat, etc.
- Planting of nuisance exotic or non-native plants as listed by the Exotic Pest Plant Council (EPPC) or its successor. The Grantor shall, to the extent practical, control and prevent the spread of nuisance exotics or non-native plants on the Property.
- Concentrated and confined animal feed lot operations.
- 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 permitted hereinafter, or as necessary by Grantor for maintenance or normal operations of the Property or during emergency situations or as may otherwise be specifically provided for in the Easement.
- Construction or placing of roads, billboards or other advertising, utilities, or structures, except those structures and unpaved roads necessary for the agricultural operations on the land or structures necessary for other activities allowed under the Easement, and except for linear facilities described in section 704.06(11), F.S. Grantee may erect and maintain signs designating the Property as land under the protection of Grantee.
- Fertilizer use for agriculture activities shall be in accordance with agricultural Best Management Practices (BMPs) recommended by the Natural Resources Conservation Service or the Florida Department of Agriculture and Consumer Services, whichever is more stringent,

Substitute Item 7, cont.

as those BMPs may be amended from time to time. No agricultural activities shall occur within a 100-foot buffer around sinkholes and other karst features that are connected to spring conduits, except as provided in the applicable BMPs.

- Actions or activities that may scientifically be expected to adversely affect threatened or endangered species.
- Any subdivision of the Property.
- Commercial water wells on the Property.
- Harvesting of cypress trees in the designated Significant Natural Areas (SNAs).
- Mitigation banks pursuant to Section 373.4135, et. seq., F.S.
- Conversion of SNAs to more improved areas.
- Activities detrimental to the preservation of historical, architectural, archaeological, or cultural resources on the Property.
- Conversion of forested areas to non-forested areas as shown in the Baseline Documentation Report (BDR) within the SNAs.

OWNER'S RIGHTS:

- Grantor has, and shall be deemed hereby to have retained, the underlying fee simple absolute title in the Property.
- The right to conduct prescribed burning on the Property; provided, however, that Grantor shall obtain and comply with a prescribed fire authorization from the FDACS' FFS or its successor agency.
- 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.
- The right to pursue agricultural practices on the Property except as restricted in this Easement.
- The right to continue to use, maintain, repair, and reconstruct, all existing buildings, barns, dog pens, outbuildings, fences, roads, ponds, drainage ditches, swales, water conveyance structures, or other improvements and such other facilities on the Property as depicted in the BDR, except on SNAs.

Substitute Item 7, cont.

- The right to sell, devise or otherwise transfer ownership of the Property to a third party. This right, however, does not include the right to sell the remaining property rights on the Property for the purposes of a conservation easement or other restriction that would divest the Property of its use under the terms and conditions of the Easement.
- The right to exclusive use of the improvements on the Property.
- Grantor shall obtain and comply with all permits for management of stormwater, for water wells and consumptive uses as may be required by the water management district or any successor agency having jurisdiction over those activities.
- The right to construct, after giving notice to Grantee, buildings or other structures incident to agricultural uses carried on in accordance with sound agricultural practices. Such buildings shall not be used as residences.
- Boundary Maintenance. Nothing shall prohibit Grantor from establishing (by survey, fencing or marking) and maintaining property lines around the perimeter of the Property to protect the Property from trespassing and to assist Grantor in the management of the Property in accordance with the Easement.
- The right to observe, maintain, photograph, introduce, and stock native fish or wildlife on the Property, to use the Property for hiking, recreation, eco-tourism activities, and horseback riding. Grantor reserves, and shall continue to own, the hunting and fishing rights on or related to the Property and Grantor may lease and sell privileges of such rights.
- Grantor reserves the right, after notice to Grantee, to develop up to 10,000 square feet of impervious surfaces for residential purposes within an area not exceeding five contiguous acres (“Building Envelope”). Impervious surfaces are defined as material that do not allow water to percolate into the soil on the Property; this includes, but is not limited to, residential buildings and ancillary structures, agricultural buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs. The Building Envelope permitted herein may only be constructed within an area of improved pasture as depicted in the BDR and shall not be constructed within the SNAs. Grantor shall provide a legal description for the Building Envelope prior to development.
- The right to install connections to normal utility systems, such as electric, cable, water and sewer, and telephone. If a connection to a sewer system is not available, this right shall include the right to install a septic system. The granting of easements or rights-of-way for power lines, gas lines, sewer lines, waterlines, telecommunications towers, and wind farms is prohibited. Notwithstanding this prohibition the Grantee may grant or modify easements for utility connections necessary to serve the permitted uses of the Property that are consistent with the Easement Purposes. Existing utilities may be replaced or repaired at their current location.

Substitute Item 7, cont.

ENCUMBRANCES:

Title work revealed two reservations of oil, gas and mineral (OGM) rights from 1948 and 1952. During the closing process, the title insurer will research the chain of title to determine whether the right of entry related to the OGM rights has been barred by the Marketable Record Title Act. The appraisers determined that the outstanding OGM rights would have little to no impact on market value.

MORTGAGES AND LIENS:

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

CLOSING INFORMATION:

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

EASEMENT MONITOR:

This perpetual conservation easement will be monitored by the FFS.

COMPREHENSIVE PLAN:

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

(See Attachment 7, Pages 1-70)

RECOMMEND APPROVAL

Item 8 Rural & Family Lands Protection Program Prioritized Acquisition List

REQUEST: Consideration of the recommended 2016 Rural & Family Lands Protection Program Prioritized Acquisition List.

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.

Item 8, cont.

STAFF REMARKS: The purpose of the Rural and Family Lands Protection Program (RFLPP) is to protect Florida’s working agricultural lands threatened by fragmentation or conversion to non-agricultural land uses through acquisition of perpetual land conservation easements that ensure the land will be preserved perpetually for agricultural uses while protecting important natural resources and functioning ecosystems.

The initial acquisition list for RFLPP was approved by the Board of Trustees on April 28, 2009. The list consisted of 35 projects.

The 2016 RFLPP Prioritized Acquisition List was developed pursuant to sections 259.105(3)(i) and 570.71(10), F.S., and Rule 5I-7, F.A.C.

The 2016 application cycle for the program was open from April 1, 2016, through May 16, 2016. During this time, the Florida Department of Agriculture and Consumer Services (FDACS) received 56 new project applications and, combined with the existing 66 projects, had a total of 122 eligible projects. As set forth in rule 5I-7, F.A.C., FDACS formed technical review teams that evaluated each project application. The teams were composed of staff from the Florida Natural Areas Inventory, the Department of Environmental Protection, the Department of Economic Opportunity, the Florida Fish and Wildlife Conservation Commission, the geographically applicable Water Management District, as well as staff from several divisions within FDACS, including: the Division of Animal Industry, Florida Forest Service, the Office of Agricultural Water Policy, the Division of Dairy, and the Division of Fruits and Vegetables. FDACS’ technical review teams visited each application site to assess the project’s merits and its contributions to the goals and objectives of the program. FDACS staff utilized reports from the technical review team members and cooperating agencies to compile Project Evaluation Reports for each project. The Evaluation Reports were submitted to a Selection Committee established pursuant to rule.

On September 8, 2016, the Selection Committee held a public hearing in Bartow, Florida, to review the project evaluation reports and receive public testimony regarding the projects. At the conclusion of the public hearing, the Selection Committee ranked the projects in a tiered priority order and voted to approve the list as the recommended RFLPP project priority list, with those projects in Tier 1 being designated as the highest acquisition priority.

On October 21, 2016, FDACS presented the recommended project list to the Acquisition & Restoration Council (ARC) for its review pursuant to section 259.105(3)(i)1., F.S. FDACS is now submitting the recommended project list to the Board of Trustees for its consideration. Pursuant to section 259.04, F.S., the Board of Trustees “shall approve, in whole or in part, the list of projects in the order of priority in which such projects are presented.”

(See Attachment 8, Pages 1-7)

RECOMMEND APPROVAL