AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
JUNE 24, 2004

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Item 1 **Minutes**

Submittal of the Minutes from the March 30, 2004 and April 13, 2004 Cabinet Meetings.

(See Attachment 1, Pages 1-40)

RECOMMEND APPROVAL

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Item 2 **FAMU Board of Trustees/The 1090 Joint Venture Option Agreement**

REQUEST: Consideration of an option agreement to acquire 9.105 acres by the Florida Agricultural and Mechanical University Board of Trustees from The 1090 Joint Venture.

COUNTY: Leon

APPLICANT: Florida Agricultural and Mechanical University (FAMU)

LOCATION: Section 18, Township 01 South, Range 02 East

CONSIDERATION: $625,000

		APPRAISED BY			SELLER'S		
		Wright	Ketcham	APPROVED	PURCHASE	PURCHASE	OPTION
PARCEL	ACRES	(08/07/02)	(08/07/02)	VALUE	PRICE	PRICE	DATE
Jt. Venture	9.105	$655,000	$730,000	$730,000	$435,400 *	$625,000** (86%)	08/31/04

* The property was transferred to seller in 1990 by quitclaim deed for minimal documentary stamp tax of $100. The grantees in the initial purchase of the parcel in 1984 are the grantors in the quitclaim deed and are two of the beneficiaries of the 1090 Joint Venture. This is the last remaining parcel of a much larger tract of land purchased for a total amount of $435,400.
** $68,643 per acre

STAFF REMARKS: This acquisition was negotiated by the Department of Environmental Protections' (DEP) Division of State Lands (DSL). Funding for the purchase is available through a federal grant to FAMU received April 4, 2000, and the funds are still available. This acquisition, used to expand the Center for Viticulture and Small Fruit Research (FAMU Vineyards), is consistent with the provisions of sections 1001.72, 1001.73 and 1001.74, F.S.

Pursuant to section 1001.74(31), F.S., title will be held by the FAMU Board of Trustees because the property is not being acquired with funds appropriated by the Legislature. The statute states that it is not intended to abrogate the authority of the Board of Trustees of the Internal Improvement Trust Fund to approve contracts for the purchase of state lands or to require policies and procedures to obtain clear legal title to parcels purchased for state purposes. Accordingly, the option agreement is being presented to the Board of Trustees for approval, and DSL staff will be reviewing the title commitment, survey, and environmental site assessment, notwithstanding the fact that title will not be held by the Board of Trustees.

All mortgages and liens will be satisfied at the time of closing. In the event the commitment for title insurance, to be obtained prior to closing, reveals any encumbrances that will affect the value of the property or the proposed management of the property, staff will so advise the Board of Trustees prior to closing.

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Item 2, cont.

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

This property will be managed by FAMU as part of the existing campus.

(See Attachment 2, Pages 1-29)

RECOMMEND APPROVAL

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Item 3 **Knight Option Agreement/Florida Board of Education/New College of Florida**

REQUEST: Consideration of an option agreement to acquire 0.39 acre for the benefit of the Florida Board of Education and New College of Florida from Fred L. Knight and Sylvia M. Knight.

COUNTY: Sarasota

APPLICANT: New College of Florida (NCF)

LOCATION: Section 01, Township 36 South, Range 17 East

CONSIDERATION: $315,000

PARCEL	ACRES	APPRAISED BY Hatin (12/17/03)	APPROVED VALUE	SELLER'S PURCHASE PRICE	PURCHASE PRICE	OPTION DATE
Knight	0.39	$335,000	$335,000	$145,000	$315,000 (94%)	120 days after BOT approval

*The parcel, also known as "NCF parcel #2", was acquired by seller in December 1988.

STAFF REMARKS: This acquisition was negotiated by NCF. Funds for the acquisition were appropriated during the December, 2002 Legislative session and are still available for use by NCF for acquisition and costs associated with this purchase. Although the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) will have no financial responsibilities in this acquisition, title to the property will be conveyed to the Board of Trustees at closing, pursuant to section 1001.74(31)(c), F.S.

The property is improved with a 2,422-square-foot, single-family residence. The seller shall lease the residence for a period of up to six months after the date of closing during which time he will be refurbishing a new residence. The seller shall be responsible for utilities, maintenance and insurance during the lease period and can vacate the property earlier with 14-day written notification. Upon closing, the purchaser shall use the property for temporary faculty housing according to its management plans approved by the Board of Trustees of New College of Florida.

All mortgages and liens will be satisfied at the time of closing. In the event the commitment for title insurance, to be obtained prior to closing, reveals any encumbrances that may affect the value of the properties or the proposed management of the properties, staff will so advise the Board of Trustees prior to closing.

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Item 3, cont.

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

This property will be managed by NCF as part of the existing campus.

(See Attachment 3, Pages 1-42)

RECOMMEND APPROVAL

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Item 4 **Chappelle Option Agreement/DRP Fort George Island Additions & Inholdings Project**

REQUEST: Consideration of an option agreement to acquire 18.10 acres within the Division of Recreation and Parks Fort George Island Additions and Inholdings project from Dorothy, Doris and Leo Chappelle.

COUNTY: Duval

LOCATION: Section 18, Township 01 South, Range 29 East

CONSIDERATION: $925,000

		APPRAISED BY			SELLER'S	TRUSTEES'	
		Ryan	Crenshaw	APPROVED	PURCHASE	PURCHASE	OPTION
PARCEL	ACRES	(02/09/04)	(02/13/04)	VALUE	PRICE	PRICE	DATE
Chappelle	18.10	$1,000,000	$900,000	$1,000,000	*	$925,000** (93%)	120 days after BOT approval

* Inherited Property
** $51,105 per acre

STAFF REMARKS: The Fort George Island project has been identified on the Department of Environmental Protections' (DEP) Division of Recreation and Parks (DRP) Additions and Inholdings List. This agreement was negotiated by DEP's Division of State Lands on behalf of DRP under the State Parks Additions and Inholdings Florida Forever program.

All mortgages and liens will be satisfied at the time of closing. There are two older single-family dwellings upon the property, in addition to some ancillary outbuildings, all positioned within the general eastern portion of the property. The improvements were considered by the appraisers in their final reconciliation of value. DRP, the future managing agency, has determined that the property can be managed with the improvements in place. 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. DEP staff will review, evaluate and implement an appropriate resolution for any title issues that arise prior to closing.

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

Fort George Island has long been acknowledged to have exceptional archaeological and historic value that includes numerous shell middens, the site of a late prehistoric Indian village, the remains of a Spanish mission and more modern structures of historic value. The subject property is known to contain midden sites, an historic structure and the largest natural area remaining in private ownership on the island. Acquiring the property will further a preservation effort that began in 1989.

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Item 4, cont.

The property will be managed by DRP as a part of the Fort George Island Cultural State Park.

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

(See Attachment 4, Pages 1-32)

RECOMMEND APPROVAL

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Item 5 **John R. Allison, III, Trustee Option Agreement/Florida Keys Ecosystem Vaca Cut Site Florida Forever Project**

REQUEST: Consideration of an option agreement to acquire 23.46 acres within the Florida Keys Ecosystem Vaca Cut Site Florida Forever project from John R. Allison, III, Trustee.

COUNTY: Monroe

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

CONSIDERATION: $1,000,000

		APPRAISED BY			SELLER'S	TRUSTEES'	
		Marr	Johnston	APPROVED	PURCHASE	PURCHASE	OPTION
PARCELS	ACRES	(12/11/03)	(12/11/03)	VALUE	PRICE	PRICE	DATE
01 & 02	23.46	$970,000	$1,000,000	$1,000,000	$ 1,000,000*	$1,000,000** (100%)	120 days after BOT approval

* Purchased date: 05/18/04
** Price per acre: $42,626

STAFF REMARKS: Florida Keys Ecosystem project is an "A" group project on the Florida Forever Full Fee Project List approved by the Board of Trustees on February 26, 2004. The project contains 8,578 acres, of which 3,020 acres have been acquired or are under agreement to be acquired. After the Board of Trustees approves this agreement, 3,043 acres, or 65 percent of the project, will remain to be acquired.

All mortgages and liens will be satisfied at the time of closing. Department of Environmental Protection (DEP) staff will review, evaluate and implement an appropriate resolution for any title issues that arise prior to closing. There is a non-exclusive utility easement to the Florida Keys Electric Cooperative dated September 16, 1974, that runs along the roadway to the condo site adjacent to this parcel. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to DEP the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately.

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

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

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Item 5, cont.

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

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

(See Attachment 5, Pages 1-37)

RECOMMEND APPROVAL

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Item 6 **T. G. Lee Farms, Inc. Option Agreement/DACS/DOF/ Withlacoochee State Forest Additions & Inholdings Project**

REQUEST: Consideration of an option agreement to acquire 1,800 acres within the Department of Agriculture and Consumer Services, Division of Forestry's Withlacoochee State Forest Additions and Inholdings project from T. G. Lee Farms, Inc.

COUNTIES: Hernando and Sumter

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

LOCATION: Sections 16 through 21, Township 22 South, Range 22 East

CONSIDERATION: $4,500,000

		APPRAISED BY			SELLER'S	TRUSTEES'	
		Candler	Sutte	APPROVED	PURCHASE	PURCHASE	CLOSING
PARCEL	ACRES	(10/06/03)	(10/06/03)	VALUE	PRICE	PRICE	DATE
T. G. Lee	1,800	$5,135,000	$4,800,000	$4,905,000*	unknown**	$4,500,000*** (92%)	8/13/04

* Approved value was reduced due to reduction in acreage.
** Purchased in 1974 as part of a larger tract.
*** $2,500 per acre

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

All mortgages and liens will be satisfied at the time of closing. After the initial appraisal map and appraisals were completed, the property owner determined that he would like to retain approximately 100 acres in Sumter County and add approximately 16 acres in Hernando County to the acquisition. A determination was made by the appraiser that this would not have an affect on the per acre value of the property. The property is improved with two barns, seven wells, and a septic tank. There is one easement in favor of Sumter County Electric Cooperative on the 1,800 acres being considered in this item. The property is also encumbered by four outstanding oil, gas, and mineral reservations, of which the right of entry on two of these reservations has been extinguished due to the Florida Marketable Record Title Act. Of the two remaining reservations, one is in favor of the State of Florida and the other in favor of John C. Kiernan and Cecil A. Kiernan. A cattle lease and hunting lease currently exist on the property. The hunting lease will be terminated prior to closing. Upon Board of Trustee's approval of this item, the owner will contact the lessees to inform them of the expiration of said lease. The property is being acquired subject to an existing cattle lease for a period of up to two years. DOF, the future managing agency, desires to keep this cattle lease

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Item 6, cont.

in effect to aide in the management of the property. The appraisers considered the improvements, easements, outstanding oil, gas and mineral reservations and cattle lease in their final reconciliation of value. DOF, the future managing agency has determined that the property can be managed with the improvements, easements, and outstanding mineral reservations. Because these issues were discovered during preliminary due diligence, further research may change the facts and scope of each issue and; therefore, the Department of Environmental Protection (DEP) staff will review, evaluate and implement an appropriate resolution for these and any other title issues that arise prior to closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to DEP the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately.

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

This property provides additional access, improves the overall ability to manage the Withlacoochee State Forest, and affords natural resource conservation and expanded outdoor recreational opportunities under the multiple-use management regime practiced by DOF.

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

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

(See Attachment 6, Pages 1-30)

RECOMMEND APPROVAL

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Item 7 **Rooster Crossing Plantation, LLC Option Agreement/DACS/DOF/Lake Talquin State Forest Additions & Inholdings Project**

REQUEST: Consideration of an option agreement to acquire 1,775 acres within the Department of Agriculture and Consumer Services, Division of Forestry's Lake Talquin State Forest Additions and Inholdings project from Rooster Crossing Plantation, LLC, a Florida Corporation.

COUNTY: Gadsden

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

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

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Item 7, cont.

CONSIDERATION: $3,658,292

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

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

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

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

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

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

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

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Item 7, cont.

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

(See Attachment 7, Pages 1-46)

RECOMMEND APPROVAL

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Substitute Item 8 **DCF/City of Pembroke Pines/Youth Services International, Inc. Sub-Sublease Agreement/DOA/Determination**

REQUEST: Consideration of (1) an assignment of a sub-sublease agreement to Youth Services International, Inc.; (2) an amendment of the sub-sublease agreement; (3) a standard sub-sublease form for future use by the City of Pembroke Pines; (4) delegation of authority to the Secretary of the Department of Environmental Protection, or designee, pursuant to section 253.002(1), F.S., to approve future sub-subleases and amendments to sub-subleases within the City of Pembroke Pines' Health-Care Park; and (5) a determination that an award of the sub-sublease without conducting a competitive bid is in the public interest pursuant to section 18-2.018(2)(i), F.A.C.

COUNTY: Broward
Sub-sublease No. 2628-14-1A

APPLICANTS: Department of Children and Families (DCF), City of Pembroke Pines (City), and Youth Services International, Inc. (YSI)

LOCATION: Section 16, Township 51 South, Range 41 East

CONSIDERATION: YSI will pay the City $410,868 annually (34,239 square-feet at $12 per square-foot, which includes utilities)

STAFF REMARKS: DCF currently leases a 300-acre parcel, more or less, in Broward County under Board of Trustees' Lease No. 2628. The parcel, formerly known as South Florida State Hospital, is now known as the Howard C. Forman Human Services Campus. On July 1, 2001, DCF entered into a 50-year sublease with the City for 174.254 acres for the purpose of establishing, operating and maintaining a Health-Care Park.

On December 11, 2002, the Board of Trustees approved a sub-sublease between the City and Psychotherapeutic Services of Florida, Inc., for the purpose of operating a residential commitment program under Contract No. 03H01 with the Florida Department of Juvenile Justice (DJJ). The contract expired on January 5, 2004, and DJJ entered into Contract No. 06H01 with YSI. The Department of Environmental Protection, Division of State Lands (DSL) is requesting an assignment of the sub-sublease from Psychotherapeutic Services of Florida, Inc., to YSI. YSI will provide the same services as the prior sub-sublessee.

Additionally, DSL is requesting an amendment to the sub-sublease to make its term and rental rate consistent with the YSI contract with DJJ. The City has negotiated with YSI to pay twelve dollars per square foot, plus utilities, which is an increase of $2 per square foot from the previous sub-sublessee. This rate is based on the Department of Management Services rates and is available to all providers at the facility.

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Substitute Item 8, cont.

YSI is a private, for-profit corporation. DSL does not have delegated authority to assign sub-subleases when the terms change or to amend sub-subleases. For this reason, approval of the assignment and amendment is being submitted to the Board of Trustees for approval. Pursuant to section 18-2.018(1)(i), F.A.C., the Board of Trustees shall authorize uses of uplands that will generate income or revenue to a private user, or will limit or preempt use by the general public, on the basis of competitive bidding unless the Board of Trustees determine it to be in the public interest to do otherwise. To prevent a lapse in service at the juvenile residential facility, the City is requesting the waiver by the Board of Trustees of the requirement to competitively bid this sub-sublease. Because the facility will be servicing juveniles, it is important that there be no lapse in service. For this reason, DSL believes that there is a public interest to be served by not going through the bidding process.

Pursuant to section 18-2.018(1)(a), F.A.C., the decision to authorize the use of Board of Trustees-owned uplands requires a determination that such use is not contrary to the public interest. YSI will provide uninterrupted service to the existing juvenile residential facility for moderate risk delinquent males. For this reason, DSL staff believes that the proposed sub-sublease is not contrary to the public interest.

In order to expedite future development within Sublease No. 2628-14 for establishment of the human service campus, the City is requesting that the Secretary of the Department of Environmental Protection, or designee, be given the delegated authority to approve future sub-subleases and amendments to sub-subleases by the City, so long as any future sub-subleases are in the standard form presently being considered for approval.

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S.; however, the Department of Community Affairs (DCA) determined that the plan was not in compliance. A compliance agreement between DCA and the City has been finalized. The proposed action is consistent with the adopted plan according to a letter received from the City of Pembroke Pines.

(See Attachment 8, Pages 1-42)

RECOMMEND APPROVAL

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Substitute Item 9 **BOT/Jaymar Farms, Inc. Exchange Agreement/Determination/ Hillsborough County Balm-Boyette Scrub Site**

REQUEST: Consideration of (1) a determination that a 5.36-acre parcel, more or less, of state-owned land in Hillsborough County is no longer needed for conservation purposes, pursuant to Article X, section 18 of the Florida Constitution and section 253.034(6), F.S., and that the property no longer needs to be preserved in furtherance of the P2000 Act pursuant to section 259.101(6)(b), F.S.; (2) a determination that the property is surplus; and (3) an exchange agreement under which the Board of Trustees would convey a 5.36-acre parcel of state-owned land to Jaymar Farms, Inc., in exchange for a 5.36-acre parcel owned by Jaymar Farms, Inc., as an addition to the Hillsborough County Balm-Boyette Scrub Site.

COUNTY: Hillsborough

APPLICANT: Jaymar Farms, Inc.

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Substitute Item 9, cont.

LOCATION: Section 20, Township 31 South, Range 21 East

CONSIDERATION: Value-for-Value

PARCEL	ACRES	APPRAISED BY Pallardy 09/10/02	APPROVED VALUE	EXCHANGE VALUE	CLOSING DATE
Jaymar Farms	5.36	$26,800	$26,800	$26,800	120 days after
BOT	5.36	$26,800	$26,800	$26,800	BOT approval

STAFF REMARKS: This exchange was negotiated by Hillsborough County (County) and the Florida Department of Environmental Protection (DEP).

DEP's Division of State Lands (DSL) received a request from Jaymar Farms, Inc., (Jaymar), with approval from the County, to obtain 5.36 acres of state-owned land in exchange for property of equal value. On February 13, 2001, the Acquisition and Restoration Council (ARC) approved the exchange with some concerns regarding the potential non-agricultural use of the state-owned land to be surplused. While it is the intent of Jaymar to farm this parcel of land, the smallest portion of which abuts state-owned land leased to the County as part of the Balm-Boyette Scrub Site (Scrub), DSL believes it to be in the best interest of the state to convey this parcel without such restriction (1) to allow this parcel, which has no natural resource value and is not required for site access, to potentially be utilized at its highest and best use; and (2) to complete this exchange for the benefit of acquiring valuable scrub habitat and an additional buffer to the Scrub. The extraneous parcel to be exchanged was acquired from the County in 1994 as part of the Balm-Boyette Scrub CARL Project. The staff recommendation to lift the restriction and proceed with the exchange was addressed at the ARC meeting on April 15, 2004, and there were no objections.

Pursuant to Article X, section 18 of the Florida Constitution, lands designated for natural resources conservation purposes may be disposed of if the governing board of the entity determines the property is no longer needed for conservation purposes. The subject parcel was acquired as part of a larger acquisition and staff has determined that the state-owned parcel has no natural resource value and provides no benefit to the Scrub.

Pursuant to section 253.034(6), F.S., the Board of Trustees is receiving a net positive conservation benefit in the exchange because (1) the state-owned parcel has no natural resource value; (2) the Jaymar parcel contains natural scrub habitat which will be a better benefit to the citizens of the state and will be better managed by the County as an addition to the current Scrub; and (3) the Jaymar parcel is immediately adjacent and runs along the Scrub project. Pursuant to section 253.42(3), F.S., the value of the exchanged parcel is equalized from a financial as well as property size aspect. In addition, the state shall receive a much desired scrub habitat and buffer to the current Scrub. In return, as addressed in the February 12, 2001, ARC meeting, the state divests itself of a non-essential parcel, which contains no natural resource value.

In Resolution No. R00-188, dated September 8, 2000, the County adopted this exchange as part of its Environmental Lands Acquisition and Protection Program. The 5.36-acre parcel to be acquired from Jaymar shall be managed and maintained by the County for the Scrub (Lease No. 4093). In addition, the 5.36-acre parcel of state-owned land requested for surplus will be released from the abovementioned lease.

DEP has determined that surplus land sales are not subject to the local government planning process. The acquisition of the Jaymar parcel is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands section of the State Comprehensive Plan.

(See Attachment 9, Pages 1-29)

RECOMMEND APPROVAL

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Substitute Item 10 **BOT/Olson & Associates of N.W. Florida, Inc. Exchange Agreement/Determination/Point Washington State Forest**

REQUEST: Consideration of (1) a determination that a 9.20-acre parcel, more of less of state-owned land in the Point Washington State Forest is no longer needed for conservation purposes, pursuant to Article X, section 18 of the Florida Constitution and section 253.034(6), F.S; and that the property no longer needs to be preserved in furtherance of the P2000 Act pursuant to section 259.101(6)(b), F.S.; (2) a determination that the property is surplus; and (3) an exchange agreement under which the Board of Trustees would convey the subject parcel to Olson & Associates of N.W. Florida, Inc., in exchange for a 11.32 acre parcel located in the Point Washington State Forest's optimum management boundary.

COUNTY: Walton

APPLICANT: Olson & Associates of N.W. Florida, Inc. (Olson)

LOCATION: Sections 11 and 14, Township 03 South, Range 19 West

CONSIDERATION: BOT parcel for the Olson parcel plus a cash payment of $160,000 to be deposited into the P2000 Trust Fund and an additional $250,000 paid to the Friends of Florida State Forest, a Florida non-profit corporation, for the planning and construction of trailhead and/or public access facilities relating to the Point Washington State Forest

		APPRAISED BY				
		Fruitticher	Humphrey	APPROVED	EXCHANGE	CLOSING
PARCEL	ACRES	05/10/2004	05/08/2004	VALUE	VALUE	DATE
Olson	11.32	$1,030,000	$1,053,000	$1,030,000	$1,030,000	90 days after
BOT	9.20	$1,190,000	$1,210,000	$1,190,000	$1,190,000	BOT approval

STAFF REMARKS: This exchange was negotiated by the Florida Department of Environmental Protection (DEP).

DEP's Division of State Lands received a request by Olson that was approved and recommended by the Florida Department of Agriculture and Consumer Services, Division of Forestry (DOF) for the exchange of 9.2 acres of state-owned land located in Point Washington State Forest (Forest) for 11.32 acres of land under contract to Olson and within the optimum management boundary of the Forest.

The 9.20 acres of state-owned land located within the Forest has been approved to be released from lease by the Bureau of Forest Management in exchange for the 11.32-acre parcel under contract by Olson.

According to DOF, this exchange would:

- Provide a manageable boundary with a buffer on the north side of St. Joe Watercolor development enhancing fire control;
- Provide a manageable boundary with a buffer on the east side of St. Joe Watercolor development enhancing fire control;
- Provide road access that currently does not exist on the southern portion of the Forest to aid in recreation, land management, and fire control; and
- Result in an additional 2.12 acres of desirable lands added to the Forest.

Pursuant to Article X, section 18 of the Florida Constitution, lands designated for natural resources conservation purposes may be disposed of if the governing board of the entity determines the property is no longer needed for conservation purposes. The subject parcel was

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Substitute Item 10, cont.

acquired as part of a larger acquisition and staff has determined that the state-owned parcel does not represent the requisite conservation value for the Forest.

Pursuant to section 253.034(6), F.S., the Board of Trustees is receiving a net positive conservation benefit in the exchange because (1) if the state-owned parcel remained in state ownership, it would be necessary to use a portion of it as a firebreak, thereby reducing its natural resource value; (2) the Olson parcel has a natural resource value that will be a benefit to the citizens of the state and will be better managed by DOF as an addition to the current Forest; and (3) the Olson parcel will be improved by a firebreak at the expense of the applicant. In addition to the benefits already identified by DOF, Olson has agreed to certain measures to enhance management of the Forest. These include noticing future landowners of the proposed subdivision, Naturewalk at Seagrove (Naturewalk), of smoke from prescribed and wild fires, construction and maintenance of a firebreak around and within Naturewalk, and paying $250,000 towards the construction of additional entry point/trailhead facilities for the Forest.

It is Olson's intent to build a roadway on the 9.20-acre parcel to access Naturewalk.

Pursuant to section 253.034(6)(e), F.S., the Acquisition and Restoration Council reviewed the exchange request at its April 15, 2004 meeting and recommended approval.

Pursuant to section 253.115, F.S., notification of this request was issued to land owners within 500 feet. No objections were received.

DEP has determined that surplus land sales are not subject to the local government planning process. The acquisition of the Olson parcel is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands section of the State Comprehensive Plan.

(See Attachment 10, Pages 1-75)

RECOMMEND APPROVAL

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Item 11 **District School Board of Collier County/Community School of Naples, Inc./Deed Restriction Modification/Partial Release of Deed Restriction**

DEFERRED FROM THE MAY 11, 2004 AGENDA

REQUEST: Consideration of a (1) modification of restriction in Board of Trustees' Deed Number 25112 to the District School Board of Collier County; and (2) partial release and transfer of deed restriction from a 3.951-acre parcel conveyed under Deed Number 25112 to two parcels containing 3.309-acres and 0.692-acre, respectively, to be acquired by the District School Board of Collier County from the Community School of Naples, Inc.

COUNTY: Collier
Deed Number 25112

APPLICANTS: District School Board of Collier County, Florida and Community School of Naples, Inc.

LOCATION: Section 12, Township 49 South, Range 25 East

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Item 11, cont.

STAFF REMARKS: On June 16, 1970, the Board of Trustees conveyed 180 acres in Collier County to the District School Board of Collier County (School Board) by Deed Number 25112. The deed contains a restriction that requires that the property be used solely for public school purposes. The deed also includes a reverter in favor of the Board of Trustees in the event the land ceases to be used for public school purposes. The School Board has negotiated a land exchange with its adjacent property owner, the Community School of Naples, Inc. (Community School), a non-profit organization, to obtain land for an additional entrance road that will connect its existing high school, elementary school and administration building with Livingston Road. The School Board proposes to convey a 3.951-acre portion of its campus (Spoon Parcel) to the Community School in exchange for two parcels of land containing 3.309 acres (Roadway Parcel) and 0.692 acre (Lake Parcel). The Roadway and Lake Parcels will be used for the entrance road and drainage lake, respectively. The Community School will use the Spoon Parcel for baseball fields. The Spoon Parcel was selected for the exchange because of its limited use to the School Board. Although upland property, it is isolated from the rest of

(AGENDA CONTINUED ON FOLLOWING PAGE)

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Item 11, cont.

the public school site by wetlands. Initially the School Board sought a release of the deed restriction for the Spoon Parcel; however, Department of Environmental Protection (DEP) staff is recommending that the deed restriction instead be transferred from the Spoon Parcel to the Roadway and Lake parcels.

Mr. Michael P. Jonas, State Certified Appraiser with Coastal Engineering Consultants, Inc., has valued the Spoon Parcel to be conveyed to the Community School at $535,000. The Roadway and Lake Parcels are valued at $540,000.

To accommodate the extension of Livingston Road, Collier County took a portion of the Community School property, requiring the Community School to establish an alternative stormwater management system. The School Board is willing to assist the Community School by allowing the connection of their respective water management systems such that the School Board system will accept drainage from the Community School and provide for outfall of water to the Airport Road Canal to the west of the School Board Property. The system will jointly serve both the Community School and the School Board. Pursuant to a Shared Maintenance Agreement to be executed by both parties, each will grant the other a non-exclusive stormwater easement for the portions of the stormwater system to be constructed within their respective properties. The School Board will also grant the Community School a non-exclusive easement across the Roadway Parcel for utilities and pedestrian and vehicular ingress and egress for private school related purposes. To accommodate these uses, the restriction in Board of Trustees' Deed Number 25112 must be modified to allow access, drainage, stormwater management, and utilities. The additional activities are granted for the use and benefit of the Community School only. Use by any other entity will require additional modification of Deed No. 25112.

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

(See Attachment 11, Pages 1-17)

RECOMMEND APPROVAL

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Item 12 **Reconsideration of Sale of State-owned Land/Orange County/Alexandra (U.S.A.), Inc.**

DEFERRED FROM THE MAY 11, 2004 AGENDA
DEFERRED FROM THE APRIL 13, 2004 AGENDA
DEFERRED FROM THE MARCH 30, 2004 AGENDA

REQUEST: Consideration of (1) an application by Alexandra (U.S.A.), Inc., to purchase two parcels, containing approximately 0.14 and 0.52 acre of filled, formerly sovereignty submerged lands; and (2) modification of a 1999 sale by the Board of Trustees of 4.69 acres of filled, formerly sovereignty submerged lands to Alexandra (U.S.A.), Inc.

COUNTY: Orange
Deed No. 30145 (4848-48)

APPLICANT: Alexandra (U.S.A.), Inc.

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Item 12, cont.

LOCATION: Section 05, Township 24 South, Range 28 East, Lake Sheen, Class III waters

CONSIDERATION: $350,000, to be deposited in the Internal Improvement Trust Fund; and quitclaim of applicant's interest in three parcels of submerged lands, containing 2.85 acres (Parcel B), 1.20 acres (Parcel B-1), and 1.46 acres (Parcel C), respectively, for the purpose of clearing the Board of Trustees' title.

STAFF REMARKS: In 1994 and 1995, Alexandra (U.S.A.), Inc. (Alexandra), purchased property in Orange County for residential development purposes. The purchase included a 4.93-acre finger of land ("banana parcel") that extends into Lake Sheen, and two parcels of submerged lands and associated wetlands to the north and south of the banana parcel containing 2.84 acres (Parcel B) and 2.23 acres (Parcel C), respectively. At the time of purchase, the banana parcel appeared relatively unimproved, with large trees ringing the perimeter along the lakefront. It was not until an application for a dredge and fill permit was submitted to the South Florida Water Management District (SFWMD) that title to the banana parcel became an issue. Aerial photographs taken in 1954 showed the area to be submerged lands in their natural state, and aerial photographs dated February 1958 showed recent fill in the area of the banana parcel.

On June 22, 1999, the Board of Trustees approved the sale of 4.69 acres of the banana parcel (Parcel A) to Alexandra for $212,500 for the purpose of clearing the applicant's title. In addition to the cash payment, Alexandra agreed to quitclaim to the Board of Trustees its interest in the two parcels of submerged lands and to grant the Board of Trustees a conservation easement over a 1.45-acre parcel of wetlands located west of and adjacent to the banana parcel.

Following Board of Trustees' approval, the applicant requested that the legal description of Parcel A be modified to reflect the ambulatory nature of the ordinary high water line. Department of Environmental Protection (DEP) staff agreed to the modification, which was to be forwarded to the Governor and Cabinet for approval via a letter of negative response. While waiting for revised legal descriptions, the applicant acquired a 75-foot strip of land to the north of Parcel B that also included filled, formerly sovereignty submerged lands and submerged lands. Alexandra contacted DEP staff to negotiate an agreement similar to the 1999 transaction that would clear both parties' respective titles. Subsequent negotiations resulted in the following new request that requires Board of Trustees' approval:

NEW REQUEST

1. The 75-foot strip of land Alexandra acquired that adjoins the northern boundary of Parcel B consists of a 0.14-acre parcel of land above the 99.5-foot contour (Parcel A-1), and a 1.20-acre parcel of submerged lands below the 99.5-foot contour (Parcel B-1). Alexandra would like to purchase Parcel A-1 from the Board of Trustees, and it is prepared to quitclaim Parcel B-1 to the Board of Trustees.

2. At the time of Board of Trustees' approval of the 1999 transaction, a 0.52-acre strip of land above the 99.5-foot contour located between Parcel A and Parcel C (Parcel C-1) was included in the lands to be deeded to the Board of Trustees as part of Parcel C. Because Parcel C-1 is landward of the 99.5-foot contour, it should have been included with Parcel A in the conveyance to Alexandra. Alexandra would like to purchase the 0.52-acre strip of land.

A review of six lot sales in the Lake Sheen/Lake Tibet area showed prices ranging from $300,000 to $910,000. The sale most closely resembling the applicant's request is the lowest sale for a 1.09 acre lot located less than a quarter mile to the north of Alexandria's parcel that

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Item 12, cont.

was sold in January 2004 for $300,000. The applicant has offered $137,500 for the additional 0.66 acre, or $208,333 per acre. DEP staff believes this is a reasonable offer because (1) the two parcels are not developable lots; (2) both parcels are landlocked and have no legal access; (3) the Board of Trustees would not likely receive that much if the parcels were sold on the open market; (4) the applicant has already paid for the parcels once; and (5) the Board of Trustees will receive a quitclaim deed for an additional 1.20 acres of submerged lands.

MODIFICATION OF 1999 SALE

1. During the course of closing the 1999 transaction and negotiating the sale of the additional parcels, DEP staff determined that there were use restrictions on a portion of the lands involved in the 1999 transaction that represented unacceptable encumbrances. As a condition of development permits and the subdivision plat, a 0.25-acre portion of Parcel C south of and including a 30-foot right-of-way across the southern portion of Parcel C (Parcel E) is designated for conservation purposes and is subject to a conservation easement in favor of the SFWMD. Alexandra has also dedicated its development rights to Parcel E to Orange County. Although Alexandra has offered to grant the Board of Trustees a conservation easement over Parcel E, DEP staff believes that there is no benefit to be derived from receiving a conservation easement over lands already subject to multiple development restrictions. More importantly, DEP's Bureau of Survey and Mapping (BSM) has reviewed aerial photographs of the area and determined that in the event Alexandra were to apply for regulatory permits involving these lands, it would recommend that proprietary authorization was not required. For this reason DEP staff recommends eliminating Parcel E from the lands originally proposed for quitclaim to the Board of Trustees by Alexandra.

2. DEP staff also learned that Parcel D, originally proposed for a conservation easement to the Board of Trustees, is also subject to a conservation easement in favor of the SFWMD, and its development rights have also been dedicated to Orange County. Because these lands will already be restricted for conservation purposes, there is no benefit to the Board of Trustees in accepting another conservation easement across the property. For this reason, DEP staff recommends eliminating the conservation easement over Parcel D from the previously negotiated transaction. In recognition of this change, Alexandra has agreed to eliminate the ten percent reduction in purchase price it was to receive for the conservation easement to the Board of Trustees across Parcel D.

PURCHASE PRICE FOR NEW PARCELS

In 1999, the Board of Trustees approved a sale price of $212,500 for 4.69 acres, or $45,309 per acre. The following facts were considered in negotiating the purchase price:

1. Although the property was appraised at $800,000, that figure reflected the value of a parcel of land available for development with all the amenities and infrastructure associated with a developed subdivision, such as paved roads, utilities, and access. Were the Board of Trustees to have sold the property as a separate, landlocked parcel, it is unlikely it would have received $800,000.

2. Alexandra had already paid in excess of $300,000 for the banana parcel.

3. Alexandra believes it can substantiate its claim that all or a substantial portion of the parcel was filled prior to June 11, 1957. The applicant has provided an affidavit from an adjacent landowner attesting to the fact that dredge and fill activities were occurring in 1955. His statement is based on the date a lawsuit was filed involving his father and the applicant's predecessor in title regarding the placement of the fill. The affidavit attests only to there

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Item 12, cont.

having been dredge and fill activities going on in the area in 1955. It does not indicate the extent to which filling had occurred or whether the banana parcel was in existence on June 11, 1957. However, if Alexandra elects to file suit, and the court rules in its favor, the Board of Trustees will receive only $2,500. Although DEP does not believe section 253.12(6), F.S., applies in this instance, a lawsuit would be expensive and time-consuming.

4. Alexandra agreed to quitclaim its interest in Parcels B and C to the Board of Trustees and grant a conservation easement to the Board of Trustees over Parcel D.

By eliminating the conservation easement over Parcel D and the ten percent reduction in purchase price it was to receive for the conservation easement, the purchase price increases from $212,500 to $233,750 or $49,840 per acre for the original 4.69 acres. Alexandra now seeks approval to purchase Parcels A-1 (0.14 acre) and C-1 (0.52 acre) for $137,500 (0.66 acres x $208,333). As additional consideration, Alexandra will quitclaim Parcel B-1, containing 1.20 acres of submerged lands lying below the 99.5-foot contour, to the Board of Trustees.

DEP staff recommends accepting the above-noted modifications to the 1999 sale because: (1) existing use restrictions over Parcel D already provide protection for the wetland resources on the property, thus the additional conservation easement to the Board of Trustees would provide no benefit to the state; (2) similar use restrictions on Parcel E also already protect wetland resources on the property; and (3) DEP staff has determined that the Board of Trustees would not claim any proprietary interest in Parcel E should the applicant apply for any regulatory permits.

DEP staff also recommends the sale of Parcels A-1 and C-1, because: (1) the 10 percent reduction given for the conservation easement over Parcel D will be eliminated, increasing the payment to be received by the Board of Trustees; (2) the filling was not done by Alexandra; (3) Alexandra has already paid in excess of $300,000 for the banana parcel; (4) both parties will have clear title to their respective lands; and (5) there will be no need for lengthy and expensive litigation between the parties regarding when the lands were filled and the applicability of section 253.12(6), F.S.

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

(See Attachment, Pages 1-21)

RECOMMEND **(1) APPROVAL OF THE SALE OF THE TWO ADDITIONAL PARCELS OF LAND SUBJECT TO RECEIPT OF A MARKETABLE TITLE INSURANCE COMMITMENT OR OPINION OF TITLE ACCEPTABLE TO DEP FOR PARCELS B, B-1 AND C; AND (2) APPROVAL OF THE MODIFICATION TO THE 1999 SALE**

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Item 13 **BOT/Marion County Deed Restriction Modification**

REQUEST: Approval of a Modification of Deed Restriction for Board of Trustees' Deed No. 29528 to Marion County.

COUNTY: Marion
Deed No. 29528

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Item 13, cont.

APPLICANT: Marion County

LOCATION: Section 01, Township 16 South, Range 22 East

STAFF REMARKS: In 1983, Marion County (County) and James C. Scott entered into an agreement to construct a communications tower at the County's solid waste facility for radio coverage for local and state emergency services. The tower was donated and constructed by Mr. Scott on the condition that he be allowed to use a portion of the tower for private communications purposes. On September 7, 1983, the County and Mr. Scott, and his wife Dolores, entered into a 30-year lease, with an option to renew for an additional 30 years. In 1990, the County determined that the tower site property was needed for other public purposes. The County obtained an easement on a 67.58-acre parcel of land adjacent to its solid waste facility from the Canal Authority of Florida (Authority) on which to relocate the tower. The 67.58-acre parcel was under management by the Authority as part of the Cross Florida Barge Canal (Canal). Because dismantling and reassembling the tower would have resulted in emergency communications being down for several weeks, the original tower was left in place until the replacement tower could be constructed on the Canal lands. The original tower was then dismantled and sold for scrap, and the private lease was transferred to the new tower on the Canal lands.

In 1993, as a result of the deauthorization of the Canal, the Authority conveyed the 67.58-acre parcel to the Board of Trustees. The 67.58 acres was subsequently designated as surplus by the Board of Trustees and sold to the County in 1996 for appraised market value. Pursuant to section 253.783(2)(a), F.S., in lieu of paying for the land, the County elected to deduct the purchase price from amounts due to be refunded to the County for its share of ad valorem taxes paid to the Cross Florida Canal Navigation District. Because the County chose to pay for the land by deducting the purchase price from the monies it was to be refunded, the Board of Trustees' deed contains a restriction that limits use of the property to public purposes.

Although the appraisal notes the existence of a communications tower lease on the property, only County use is mentioned and there is no indication that the Board of Trustees was made aware of the private lease when the conveyance to the County was approved on October 22, 1996. The County initially sought a release of the deed restriction; however, the deed restriction is a statutory requirement. Department of Environmental Protection (DEP), Division of State Lands' (DSL) staff is instead recommending a modification of the deed restriction to allow the existing lease to remain for the term of the lease. The lease is for an initial term of 30 years, commencing on September 27, 1983. The lessee has the option of renewing for an additional 30 years by providing the County with written notice of its intention to renew at least six months prior to expiration of the lease. Staff's recommendation is based on the following reasons:

A. The easement from the Authority to the County did not prohibit the County from entering into private leases;
B. The tower, with its private use, was on the property at the time the Board of Trustees acquired title to the property;
C. The tower is currently used by the County for local and state emergency services as required by the deed restriction; and
D. If the conveyance to the County were presented to the Board of Trustees today under the same circumstances, DSL staff would acknowledge the existing use because of the prior commitment made by the County to the private lessee.

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Item 13, cont.

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

(See Attachment 13 Pages 1-52)

RECOMMEND APPROVAL

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2nd Substitute Item 14 **BOT/Watson Island Deed Restriction Modification/City of Miami/Flagstone Island Gardens, LLC Lease/Easements**

REQUEST: Consideration of (1) modification of deed restrictions for a parcel of land encompassing 24.2 acres, more or less, on Watson Island, to allow the City of Miami to lease the parcel to Flagstone Island Gardens, LLC; and (2) easements, both temporary and permanent, over other adjacent and nearby areas needed for the project that contain the same deed restrictions on which modification would be required.

COUNTY: Miami-Dade

APPLICANT: City of Miami

LOCATION: Section 31, Township 53 South, Range 42 East, Biscayne Bay Aquatic Preserve, Class III waters, within the local jurisdiction of the City of Miami.

CONSIDERATION: Semi-annual payments in the amount of 15 percent of the total rental payments received by the City of Miami (City) from the lease of the property to Flagstone Island Gardens, LLC (Flagstone). The payments are to be deposited into the Internal Improvement Trust Fund. Flagstone will spend no less than $1,000,000 to improve an undeveloped, open space area on the southeast side of Watson Island.

		APPRAISED BY		
		Waronker	Johnston	APPROVED
PARCEL	ACRES	(02/01/02)	(05/30/03)	VALUE
Fee Simple	24.2	$29,430,000	$29,395,000	$29,430,000
Annual Rental Rate	24.2	$ 2,060,000	$ 2,070,000	$ 2,070,000

STAFF REMARKS: Watson Island was created as a result of dredge and fill activities conducted in Biscayne Bay for the purpose of creating a long and wide channel all the way through Biscayne Bay to the mainland. The project was created to provide a safer and more direct access to the port in Miami. This 86-acre spoil island was conveyed to the City on February 24, 1949, under Dedication No. 19447.

Historically, it was not uncommon for the Board of Trustees to dedicate submerged lands to local governments for public purposes. These dedications were often made for no consideration because they were conveyed with public purpose restrictions. Dedication No. 19447 is an example of that practice and contains specific language referencing the public purpose nature of the dedication and prohibiting the sale, conveyance, or lease of the land to any private person, firm, or corporation for any private uses or purposes.

At the time of the dedication, there were three commercial activities operating on Watson Island: Chalk's Airlines, the Miami Yacht Club, and the Miami Outboard Club. Each of the three businesses became a tenant of the City with the dedication of the island to the City in 1949. Since 1956, the Board of Trustees has approved leases between the City and boat clubs.

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2nd Substitute Item 14, cont.

In the past the City has requested, and the Board of Trustees has approved, modifications to Dedication No. 19447. In 1980, the Board of Trustees waived the deed restrictions to allow the City to develop an amusement park on Watson Island. That waiver included a provision requiring the City to dedicate one-third of the revenues it was to receive to economic development projects and one-third to the acquisition and maintenance of city parks. The amusement park was never developed and the waiver has since expired. In 1985, the Board of Trustees modified the deed restrictions to allow construction of a restaurant on a parcel of filled lands adjacent to Bayside Center. Under that modification, the City was required to dedicate the revenues it received from the portion of the development located on the restricted property to the acquisition of lands adjacent to Biscayne Bay or the Miami River with the first acquisition to be the Barnacle Addition.

In 1996, the Board of Trustees approved a request to modify deed restrictions on a parcel of land to allow the City to lease a portion of the parcel to Parrot Jungle and Gardens, Inc. In return for the partial modification of deed restrictions, the City is to make an annual payment of $26,250 (representing 7.5 percent of $350,000), or the cumulative total of the following, whichever is greater: 0.64 percent (7.5 percent of the 8.5 percent indicated by appraisal) of annual gross ticket sales; 0.225 percent (7.5 percent of 3 percent indicated by appraisal) of annual gross banquet/restaurant revenues; and 0.3 percent (7.5 percent of 4 percent indicated by appraisal) of annual gross retail sales.

In February 2001, the City issued a Request for Proposal (RFP) to propose, plan, design, develop, construct, lease and manage a state of the art mega yacht marina and mixed-use project on the Biscayne Bay waterfront property on Watson Island. The City received three proposals in July 2001, in response to the RFP, and selected Flagstone based on criteria set forth in the RFP. On November 6, 2001, the City held a special municipal election and voters were given the opportunity to approve whether the City could authorize a 45-year lease, with two 15-year renewable options, of city-owned upland/submerged land on Watson Island. According to City Resolution Number 01-1198, the citizens of Miami approved a referendum supporting the City's proposal to lease the subject area on Watson Island by a 65:35 margin.

The lease area consists of 10.8 acres of uplands and 13.4 acres of submerged lands. In addition to the total, leased acreage of 24.2 acres, additional adjacent and nearby lands will also be required, mostly on a temporary basis, to achieve the objectives and schedules of the project proposed by Flagstone and accepted by the City. There are three areas outside the leased area that will be utilized by Flagstone: (1) submerged area, (2) off-site parcels, and (3) south park area. The City will be granting an easement over the lands outside the leased area, but related to the development of the project. The submerged area is approximately 3.57 acres in size. This area is intended to be used for navigation purposes to permit unrestricted movement of mega-yachts from the marina to the federally controlled navigation channels. The South Florida Water Management District is involved with the permitting issues associated with this submerged area. There are two off-site parcels that run adjacent and perpendicular to the leased area. These parcels are needed for utilities and access. The south park area will be used as a construction staging area for the development.

The existing and proposed marina structures are located within the Biscayne Bay Aquatic Preserve. This aquatic preserve was created by statute in 1974. (See section 258.397, F.S.) This parcel was conveyed to the City in 1949; therefore, it is staff's opinion that this parcel was alienated and is not currently sovereignty submerged lands. Accordingly, the aquatic preserve statute does not apply.

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2nd Substitute Item 14, cont.

In consideration of the Board of Trustees' modifying the public purpose restrictions to allow the City to enter into a public-private, profit making partnership with Flagstone Island Gardens, LLC, the City has agreed to make semi-annual payments to the Board of Trustees in the amount of 15 percent of the total rental payments received by the City from the lease of the subject property. Pursuant to City Resolution No. 01-1070 adopted on October 11, 2001, 50 percent of Flagstone's Base Rent paid to the City will be appropriated to the City's Park Department.

Flagstone's $395,000,000, mixed-use project on the leased area will include the following:

- Two hotels
- Retail shops
- Replacement fish market
- Mixed dining facilities
- Mega yacht marina
- Time share fractional units
- Land based concert stage
- Maritime gallery
- Parking garage with roof garden leisure park
- Public space and gardens

In addition to the development on the leased parcel, Flagstone will spend up to $1,000,000 to improve an undeveloped, open space area on the southeast side of Watson Island and the Japanese Garden on Watson Island. Such improvements may include: a playground, parking area, security cameras, restroom facilities, observation area or platform, underground utilities, fencing, and open air pavilion.

The economic benefit that this project will have to the City is substantial. It is estimated that this project will provide the City $4,313,865 of recurring tax income and Miami-Dade County $6,813,712 in recurring taxes. Projected full time equivalent employees (FTE) will equal in excess of 950 FTE's and during construction, over 3,000 construction jobs will be created.

The Department of Environmental Protection (DEP) has received three objections to the proposed development and waiver of deed restrictions: The Urban Environmental League of Greater Miami (UEL), the 1000 Venetian Way Condominium Association, Inc., and the Venetian Causeway Neighborhood Alliance, Inc.

The UEL is objecting to the modification of deed restrictions until the full impact on public land by the project is examined and the Masterplan of Watson Island is updated. The UEL is also concerned that the public amenities proposed by Flagstone will not be completed, as they are not part of the lease agreement between the City and Flagstone. The 1000 Venetian Way Condominium Association, Inc. and the Venetian Causeway Neighborhood Alliance, Inc. objections parallels UEL's concerns with the subject development and modification of deed restrictions request.

If the Board of Trustees approves this request, the public use deed restrictions contained in Dedication No. 19447 shall remain in full force and affect for all the land described in said dedication, including Watson Island, which are not part of this modification or which have not been previously waived by the Board of Trustees.

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2nd Substitute Item 14, cont.

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S. The Department of Community Affairs has determined that the plan is in compliance. The proposed action is consistent with the adopted plan according to a letter received by the City.

(See Attachment 14, Pages 1-82)

RECOMMEND APPROVAL

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Item 15 **BOT Delegations Reaffirmation**

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

COUNTY: Statewide

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

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

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

(See Attachment 15, Pages 1-13)

RECOMMEND APPROVAL

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Good Cause Item 16 **City of Miami Waiver of Deed Restrictions Amendment**

REQUEST: Consideration of an Amendment to Waiver of Deed Restrictions for 58,887 square feet for submerged lands lying within Board of Trustees' Deed Number 19448.

COUNTY: Miami-Dade

APPLICANT: City of Miami (City)

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Good Cause Item 16, cont.

LOCATION: Section 22, Township 54 South, Range 41 East in Biscayne Bay, Class III Waters, within the local jurisdiction of the city of Miami
Aquatic Preserve: Biscayne Bay, Resource Protection Area 3
Manatee Area slow speed zone: Yes
Outstanding Florida Waters: No

CONSIDERATION: $126,238.87 a negotiated fee representing (1) $5,388.16 as the initial fee computed at $.0915 per square foot, which includes a 30 percent discount because of the first-come, first-served nature of the facility, or six percent of gross revenues whichever is greater pursuant to section 18-21.011, F.A.C.; and (2) a one time payment in the amount of $120,850.71.

STAFF REMARKS: Pursuant to Board of Trustees' Deed Number 19448, dated February 24, 1949, the Board of Trustees conveyed to the City sovereignty lands bayward of the established bulkhead line. This deed conveyance contained use restrictions that lands described therein are "granted, bargained, sold and conveyed to the City for public purposes including municipal purposes only and that the City and its successors and assigns shall never convey or lease the lands described in the deed."

On July 21, 1981, the Board of Trustees met and approved a waiver of deed restrictions for 29,424 square feet of submerged lands described in Board of Trustees' Deed Number 19448. The City entered into a lease agreement with Bayshore Properties, Inc., which was amended and assigned to Grove Marina Market, Ltd., a Florida limited partnership, on March 16, 1986, for the use of these submerged lands. The City leases the upland property and the deeded submerged lands to Grove Marina Market, Ltd., for the purpose of operating an existing commercial marina facility which is ninety percent open to the public on a first come first served basis. The City has determined and advised the Department of Environmental Protection, Division of State Lands (DSL), that portions of the area being utilized by this facility are not within the area of the original waiver of deed restrictions (Waiver of Deed Restriction Number 19448-D) and therefore are in violation of the deed. The City maintains that, due to a Final Judgment In Condemnation in an action between the City and Coconut Grove Marine Properties, Inc., which was entered into on January 30, 1974, that it was its understanding that a large portion of the subject area did not need to be included in the original waiver. However, DSL staff has determined that the condemnation did not give city title to the submerged lands. There are also other small portions that are preempted and outside the original waiver. The area that is not within the waiver of deed restrictions totals to be approximately 58,887 square feet. The annual fee for the additional area is calculated for the first year at $5,388.16 as the initial fee computed at the base lease fee rate of $0.1309 per square foot, discounted 30 percent because of the first-come, first-served nature of the facility or six percent of gross revenues whichever is greater pursuant to section 18-21.011(1)(b)3, F.A.C. and shall be adjusted for each subsequent year pursuant to provisions of section 18-21.011, F.A.C. However, since the City has not paid for the use of this additional area since 1984, the one time payment for the past use of this area is $120,850.71.

There is also a portion of the existing marina facility that is located on sovereignty lands between the uplands and Board of Trustees' Deed Number 19448 that would need to come under lease. This portion of the facility consists of 21,344 square feet. The lease fees in arrears have been calculated from September 30, 1984 to present and will be collected prior to execution of the lease under current delegation. DSL staff is currently preparing a sovereign submerged land lease for execution by the City.

A similar agenda item was brought before the Board of Trustees on July 25, 2000, for the City of Miami/Dinner Key Boatyard facility. That item was approved for a waiver of deed

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Good Cause Item 16, cont.

restrictions on 134,370 square feet, more or less. That submerged property lies within the same deeded area as the proposed amendment to waiver of deed restrictions. DSL staff recommends that issuance of this waiver, with the requirement that lease fees be paid, is consistent with previous Board of Trustees' actions in this deeded area.

The existing marina structures are located within the Biscayne Bay Aquatic Preserve. This aquatic preserve was created by statute in 1974. (See section 258.397, F.S.) This parcel was conveyed to the City in 1949; therefore, it is DSL staff's opinion that this parcel was alienated and is not currently sovereignty submerged lands. Accordingly, the aquatic preserve statute does not apply in this instance. DSL staff is recommending the amendment to waiver of deed restrictions be approved.

(See Attachment 16, Pages 1-29)

RECOMMEND APPROVAL