

**AGENDA**  
**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**  
**SEPTEMBER 7, 2005**

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**Item 1        Minutes**

Submittal of the Minutes from the May 17, 2005, June 1, 2005, and June 16, 2005 Cabinet Meetings.

(See Attachment 1, Page 1-52)

**RECOMMEND APPROVAL**

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**Item 2        BOT/Dixon Settlement Agreement**

**REQUEST:** Consideration of a proposed settlement agreement in the case of Board of Trustees of the Internal Improvement Trust Fund of the State of Florida v. James O. Dixon & Marian C. Dixon, 20th Circuit, Case No: 03-1860-CA

**COUNTY:** Charlotte

**APPLICANTS:** Florida Department of Environmental Protection, Division of State Lands, James O. Dixon, and Marian C. Dixon

**LOCATION:** Placida, Florida. Located adjacent to the northwest terminus of the Gasparilla Island Bridge

**STAFF REMARKS:** This case involves an ownership dispute over certain filled lands and associated accretion located adjacent to the northwest terminus of the Gasparilla Island Bridge. James O. Dixon and Marian C. Dixon (Dixons) own a public access marina that borders on the lands. For purposes of discussion in this agenda item and settlement agreement, the disputed lands are referred to as Parcel 1 and Parcel 2.

On December 30, 1954, the Board of Trustees granted Easement No. 20840 to the Florida Bridge Company. Pursuant to this easement, the Florida Bridge Company filled an undetermined portion of Parcel 1 and Parcel 2. On April 11, 1961, the Board of Trustees approved the sale of sovereign submerged lands to Bert L. Cole. On May 12, 1961, the Board of Trustees issued Deed No. 22792 (828-08) to Bert L. Cole and Helen L. Cole (Coles) for the sovereign submerged lands that border on Easement No. 20840. On April 11, 1961 and October 27, 1964, the Board of Trustees formally approved fill permits that were issued by Charlotte County to the Coles.

The Coles are predecessors in title to the Dixons. Though Parcel 1 and Parcel 2 fall outside of the land deeded to the Coles, the Dixons have presented affidavits evidencing that the Coles filled an undetermined portion of Parcel 1 and Parcel 2 and that this fill was placed prior to July 1, 1975.

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**Item 2, cont.**

Pursuant to section 253.12(9), F.S., the Dixons are entitled to this unauthorized fill placed by the Coles prior to July 1, 1975. The boundary dividing the authorized fill placed by the Florida Bridge Company and the unauthorized fill placed by the Coles is difficult or impossible to ascertain.

Mediation took place on April 15, 2005 in Venice, Florida. A settlement, contingent on approval by the Board of Trustees, was reached. The Gasparilla Island Bridge Authority (GIBA) manages Parcel 1 and a portion of Parcel 2. GIBA has neared completion on an administration building located on Parcel 2. GIBA has passed a resolution approving the proposed settlement agreement.

Rather than continue litigation, both sides, recognizing the strengths and weaknesses in their cases, the costs and length of litigation, and the uncertainty of the outcome of a trial, have agreed to a proposed settlement agreement. The material terms of the settlement agreement are as follows:

- (1) The Board of Trustees will quitclaim Parcel 1 and a portion of Parcel 2 to the Dixons; and
- (2) The Dixons will quitclaim a portion of Parcel 2 and any other lands within Easement No. 20840 to the Board of Trustees.

(See Attachment 2, Pages 1-32)

**RECOMMEND APPROVAL OF THE SETTLEMENT AGREEMENT**

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**Item 3 U. S. Department of the Interior/National Park Service Conveyance/Big Cypress National Preserve/Big Cypress National Preserve Addition**

**REQUEST:** Approval to convey approximately 3,504.81 acres of Board of Trustees' lands within the Big Cypress National Preserve (0.92 acre) and the Big Cypress National Preserve Addition (3,503.89 acres) to the United States Department of the Interior, National Park Service.

**COUNTY:** Collier

**APPLICANT:** United States Department of the Interior, National Park Service (DOI)

**LOCATION:** Big Cypress National Preserve and Big Cypress National Preserve Addition

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**Item 3, cont.**

**STAFF REMARKS:** In 1973, the Florida Legislature adopted chapter 73-131, Laws of Florida (section 380.055, F.S.), also known as the Big Cypress Conservation Act of 1973 (Act). Among other things, the Act authorized the Board of Trustees to spend \$40 million for land acquisition within the Big Cypress National Preserve (Big Cypress) and to donate and convey title to the land so acquired or currently owned by the state to DOI. Additionally, section 380.055(9)(a), F.S., states "It is the intent of the Legislature to provide the means to accomplish an agreement between the State of Florida and the Government of the United States whereby the state will contribute toward the cost of a program of acquisition of land and water areas and related rights and interests within the area proposed as the Federal Big Cypress National Preserve Addition, Florida. It is the intent of the Legislature that the Governor and Cabinet begin an acquisition program within the area designated as the Big Cypress National Preserve Addition on behalf of the state...". On October 11, 1974, Congress adopted Public Law 93-440, the Big Cypress National Preserve Act (1974 Act), which established the Big Cypress, and in December 1974, the Governor and Cabinet signed an agreement with DOI under which they agreed to convey to DOI all state-owned lands within the Big Cypress. Subsequently, Public Law 100-301 was enacted on April 29, 1988, establishing the Big Cypress National Preserve Addition (Addition). This law amended the 1974 Act to substantially increase the acreage in Big Cypress and notably provided for federal/state sharing of the land acquisition costs in the Addition area, including recognition of the value of lands to be donated by the Board of Trustees.

In keeping with this objective, the Board of Trustees is asked to transfer the state-owned parcels, most of which are tax deed parcels, located within Big Cypress and the Addition to DOI. An extensive analysis and review shows that the Board of Trustees has acquired 522 tracts of land comprising approximately 3,504.81 acres. One tract is within Big Cypress (0.92 acre) and the rest of the tracts (3,503.89 acres) are within the Addition. There are 307 tax deeds (78 percent) with an average cost of \$210.74 per area, and there are 86 warranty deeds (22 percent) with an average cost of \$544.50 per acre. Some deeds have more than one tract and some have portions of tracts. When the Department of Environmental Protection (DEP) has deeds that complete a tract (i.e. N ½ and S ½), DEP counts it as one tract. In order to avoid fractions of tracts, in some cases a part of a tract is counted as one tract. In summary, DEP has a tract total of 522 that both the state and DOI agree upon.

In numerous discussions between DEP and DOI staff, it was agreed that effective management of these parcels is needed to alleviate trespassers, garbage dump sites, exotic plants and other management issues. If DOI should, for any reason, cease to use the land for the purpose of conservation and protection of the natural resources and scenic beauty of the Big Cypress Areas, as set forth in the Act and Public Law 93-440 approved October 11, 1974, and Public Law 100-301 approved on April 29, 1988, title to said land will automatically revert to the Board of Trustees. Also, the Board of Trustees is retaining the mineral interest which is consistent with prior conveyances in Big Cypress.

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**Item 3, cont.**

In section 380.055(9)(b), F.S., it states “The intent of this condition for the donation of land and water areas by the state is to ensure that the investment of federal funds in the acquisition of land and water areas for the Big Cypress National Preserve Addition will amount to 80 percent of the cost thereof and the state’s investment shall amount to 20 percent of such costs in total.” For the purposes of determining this 80/20 cost share provision, the total acquisition cost for the state to acquire lands in the Addition is \$3,378,870 (6 percent). This acquisition cost represents the amount paid for the 3,503.89 acres (\$1,458,870.62) which does not include administrative or ancillary costs, and it does include the value of the Section 16 lands in the Addition (1,920 acres at \$1,000 per acre). Likewise, the acquisition cost of the property acquired by DOI for determination of the 80/20 cost share provision will be the amount paid for the property and will not include amounts spent for administrative and ancillary costs. At the present time, it is estimated that DOI has spent \$53,500,000 (94 percent) on acquisitions in the Addition which exceeds its portion of the 80/20 cost share provision. Also, the one tract in Big Cypress is 0.92 acre and the acquisition cost for this tract is \$866.00.

DEP and DOI staff recognize that a full reconciliation of the cost split cannot occur until completion of all land acquisitions in the Addition, and this is a work in progress. The state has completed all acquisitions in Big Cypress and the Addition with the exception of lands associated with the Florida Department of Transportation (FDOT) acquisitions at the I-75 corridor and associated tracts. Board of Trustees staff and FDOT staff are currently evaluating these tracts. DOI has 174 tracts (835 acres) left to acquire in Big Cypress and 328 tracts (2,377 acres) left to acquire in the Addition. Of these 328 tracts in the Addition, 255 tracts (1,576 acres) have been forwarded for condemnation proceedings to the U.S. Attorney’s Office. Title to the condemnation tracts has not yet passed to DOI, nor has compensation been paid (\$1,600,000). The majority of the remaining tracts in the Addition have been determined to be exempt, or are potentially exempt from acquisition as defined in Public Law 100-301, section 4(f), and these are being acquired on a willing seller basis. Once all acquisitions in Big Cypress and the Addition are finalized, both the state and DOI recognize and agree that either entity could be responsible for payment per the 80/20 cost share provision. To ensure protection of these lands and for management reasons previously stated, an early conveyance of these lands to DOI will assure immediate protection of these conservation lands.

Because the conveyance of Big Cypress lands to DOI for continued conservation purposes was legislatively agreed to pursuant to section 380.055, F.S., and 16 U.S.C. section 698f(d), the Acquisition and Restoration Council’s recommendations were not solicited. 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 3, Page 1-114)

**RECOMMEND APPROVAL**

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**Item 4      Acquisition Efforts Status Report/North Key Largo Hammocks/Florida Keys Ecosystem/Coupon Bight/Key Deer Florida Forever Projects**

**REQUEST:** Consideration of a status report on the acquisition efforts of parcels located within the North Key Largo Hammocks, Florida Keys Ecosystem, and Coupon Bight/Key Deer Florida Forever projects.

**COUNTY:** Monroe

**LOCATION:** Multiple

**STAFF REMARKS:** On December 16, 2003, the Board of Trustees delegated authority to the Secretary of the Department of Environmental Protection (DEP), to waive the appraisal requirements and to extend binding offers up to 125 percent of either the current appraised value or the 1986 tax assessed value (TAV) in the North Key Largo Hammocks, Florida Keys Ecosystems, and Coupon Bight/Key Deer Florida Forever projects. The Board of Trustees delegated this authority with the requirement that DEP staff report the status of the acquisition efforts in the project areas. Two status reports have been accepted by the Board of Trustees on August 24, 2004 and February 16, 2005, respectively.

On February 16, 2005, the Board of Trustees delegated additional authority to the Secretary of DEP to: (1) extend offers and approve any contract for the sale and purchase of land pursuant to section 259.041(1), F.S., at \$7,000 over, or up to 125 percent, per parcel of the current appraised value, whichever is greater, when the purchase price per parcel does not exceed \$100,000; (2) recognize and appraise as Rate of Growth Ordinance (ROGO) parcels those parcels that previously qualified for ROGO designation; and (3) allow payments in lieu of litigation to settle claims by private landowners to lands that appear to be sovereignty submerged lands, such payments not to exceed \$1,000 per parcel.

Offers were made on all applicable parcels using the February 16, 2005 delegation. These offers have had a 24 percent acceptance rate. Overall the project has had an acceptance rate of 15.2 percent. The new delegation has revitalized the interest of many owners that were previously unwilling to sell their property.

<b>Offers</b>	
Total number of parcels receiving TAV 1 <sup>st</sup> offers	2,408
Total number of parcels receiving TAV 2 <sup>nd</sup> offers	844
Total number of parcels receiving 1 <sup>st</sup> appraised offers	1,356
Total number of parcels receiving 2 <sup>nd</sup> appraised offers	737
Total number of parcels receiving DSL + \$7,000	855
Total number of parcels below MHWL receiving offers	322
Total number of parcels receiving new ROGO appraised 1 <sup>st</sup> offers	854
Total number of parcels receiving new ROGO appraised 2 <sup>nd</sup> offers	13
<b>Total number of parcels receiving offers</b>	<b>7,390</b>

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**Item 4, cont.**

<b>Contracts Received</b>	
Total number of parcels under contract	1,127
% of offers accepted	15.2%
<b>Closing Status</b>	
Total number of parcels in closing	895
Total number of parcels clear to close	100
Total number of parcels closed	232

The boundary amendment that was approved in June of 2004 has been mapped and appraised. The previous status report indicated a second boundary amendment was approved by the Acquisition and Restoration Council in February 2005. All mapping of these parcels is complete and appraisals reports will be finalized in early October. All offers for the June 2004 amendment have been mailed and offers for the February 2005 amendment will be completed by the end of November. Currently, staff is reviewing the completed maps to determine the correct number of acres and parcels. Prior to the February boundary amendment the project had 1,818 parcels totaling 4,530 acres remaining.

Additionally staff is working with Monroe County Land Authority to acquire 571 parcels containing 135.12 acres that will be donated to the Board of Trustees. These parcels are located in all three project areas.

(See Attachment 4, Pages 1-8)

**RECOMMEND APPROVAL**

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**Item 5      Robert W. Codling, Trustee, Option Agreement Florida Keys Ecosystem  
Florida Forever Project**

**REQUEST:** Consideration of (1) an option agreement to acquire 25.53 acres within the Florida Keys Ecosystem Florida Forever project from Robert W. Codling, Trustee; and (2) the authority to waive the survey requirement.

**COUNTY:** Monroe

**LOCATION:** Section 32, Township 66 South, Range 29 East

**CONSIDERATION:** \$366,300

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**Item 5, cont.**

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY:	APPROVED	SELLER'S	TRUSTEES'	OPTION
		Johnston (05/14/05)	<u>VALUE</u>	<u>PURCHASE</u> <u>PRICE</u>	<u>PURCHASE</u> <u>PRICE</u>	<u>DATE</u>
Codling	25.53	\$407,000	\$407,000	\$23,400*	\$366,300** (90%)	120 days after BOT approval

\* Seller purchased property in February 1976.

\*\* \$14,347.83 per acre

Noted Features of Subject Property:

- Unplatted residential site.
- Located on a closed water body with no access to the gulf or ocean.
- Value based on potential sale as ROGO points.

**STAFF REMARKS:** The Florida Keys Ecosystem project is an "A" group project on the Florida Forever Small Holdings Project Interim List approved by the Board of Trustees on August 23, 2005. The project contains 11,641 acres, of which 3,337 acres have been acquired or are under agreement to be acquired. After the Board of Trustees approves this agreement, 8,278.47 acres, or 71 percent of the project, will remain to be acquired.

There is a road that is owned by the Florida Department of Transportation (DOT) that runs through the southern portion of the property. It is inaccessible to DOT and has no effect on value.

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

A title insurance policy and an environmental site evaluation will be provided by the purchaser prior to closing. It is the opinion of DEP's Bureau of Survey and Mapping that the available boundary information is sufficient to reasonably protect the public's interest and any additional benefit derived from a survey is minimal relative to its cost; therefore, a waiver of the requirement for a survey of the property is being requested pursuant to section 18-1.005, F.A.C.

The unique pine rocklands and hardwood hammocks of the Florida Keys, forest 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 part of the Ramrod Key Hammocks unit of 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 1-18)

**RECOMMEND APPROVAL**

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**Item 6      **Fred M. Williams, Jr., Option Agreement/FWC/Aucilla Wildlife Management Area Additions and Inholdings Project****

**REQUEST:** Consideration of an option agreement to acquire 80.1 acres within the Florida Fish and Wildlife Conservation Commission's Aucilla Wildlife Management Area Additions and Inholdings project from Fred M. Williams, Jr.

**COUNTY:** Jefferson

**APPLICANT:** Florida Fish and Wildlife Conservation Commission (FWC)

**LOCATION:** Section 06, Township 02 South, Range 04 East

**CONSIDERATION:** \$300,000

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY Carroll (04/06/05)	APPROVED <u>VALUE</u>	SELLER'S PURCHASE <u>PRICE</u>	TRUSTEES' PURCHASE <u>PRICE</u>	OPTION <u>DATE</u>
Williams	80.1	\$320,000	\$320,000	*	\$300,000** (94%)	150 days after BOT approval

\* Seller purchased the property in 2001 as part of a larger tract.

\*\* \$3,745 per acre

Noted Features of Subject Property:

- Zoned Agricultural (1 unit per 20 acres)
- Present use is agricultural and recreation.
- Highest and best use is for timber production and recreational uses.
- Property has physical and legal access from Walker Springs Road.

**STAFF REMARKS:** This acquisition was negotiated by FWC and is eligible for funding under its Florida Forever Additions and Inholdings Program.



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**Item 6, cont.**

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

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

This land is an important and integral component of FWC's acquisition plans to conserve lands within the Aucilla and Wacissa River systems and their associated fish and wildlife resources.

The parcel will be managed by FWC as part of the Aucilla Wildlife Management 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 6, Pages 1-13)

**RECOMMEND APPROVAL**

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**Item 7      Southern Region Industrial Realty, Inc. Purchase Agreement/Declaration of Restrictive Covenant/Memorandum of Agreement/Designate DACS/DOF as Lead Manager**

**REQUEST:** Consideration of (1) a purchase agreement to acquire 1,651.69 acres within the Northeast Florida Timberlands and Watershed Reserve Florida Forever project from Southern Region Industrial Realty, Inc.; (2) approval to place a Declaration of Restrictive Covenant and a Memorandum of Agreement against the property in favor of the United States of America, by and through the Department of the Navy; and (3) designation of the Florida Department of Agriculture and Consumer Services, Division of Forestry as the lead manager.

**COUNTY:** Duval

**LOCATION:** Sections 01, 02, 12 and 13, Township 02 South, Range 24 East; Section 31, Township 01 South, Range 25 East; Sections 35 and 36, Township 01 South, Range 24 East; and Sections 06 and 07, Township 02 South, Range 25 East

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**Item 7, cont.**

**CONSIDERATION: \$8,400,000**

<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>CLOSING DATE</u>
		<u>Grainger (12/14/04)</u>	<u>Veasey (12/29/04)</u>				
Northfolk Southern	1,651.69	\$7,000,000	\$10,000,000	\$8,400,000*	\$4,320,000**	\$8,400,000*** (100%)	150 days after BOT approval

\* Approved value is based upon 120% of the lesser appraised value.

\*\* Purchased on 11/29/73 as a part of a larger tract.

\*\*\* \$5,085 per acre

**STAFF REMARKS:** The Northeast Florida Timberlands and Watershed Reserve project is an "A" group project on the Florida Forever Full Fee Project Interim List approved by the Board of Trustees on August 23, 2005. The project contains 143,347 acres, of which 34,312.65 acres have been acquired or are under agreement to be acquired. After the Board of Trustees approves this agreement, 107,382.66 acres, or 75 percent of the project, will remain to be acquired.

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

This transaction has eight parts to it and all will close simultaneously. Below is a list of the parts each contingent upon all the others:

- The total purchase price to the seller is \$13,516,000;
- The state is purchasing property from seller for \$8,400,000;
- Preservation North Florida on behalf of the City of Jacksonville (City) is contributing \$5,116,000;
- The property is located in the Westlake Direct Regional Impact (DRI) and the seller has agreed to use its best efforts to remove the property from the DRI immediately after closing. The seller has agreed to escrow \$50,000 at closing to cover the estimated cost if the state has to file the paperwork to remove the property from the DRI. The seller has a binding clearance letter from the Department of Community Affairs stating removing the proposed acquisition from the DRI is not a substantial deviation and therefore should not be a problem; and
- The Department of the Navy is requesting Restrictive Covenants over the entire subject property in exchange for payment of \$2,000,000.

The City's contribution of \$5,116,000 to this transaction is derived from the City selling

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**Item 7, cont.**

property and a timber lease contract to the state. Staff anticipates the parcels below will be on the October 2005 Board of Trustees Agenda after the City's board reviews and takes action late September 2005 or early October 2005. Below are the points of interest on those properties:

- The City is selling five parcels to the state for a total of \$6,514,999.30 for 4,123 acres. The Monticello Drug and Monticello Land parcels are located in the Northeast Florida Timberlands and Watershed Reserve Florida Forever project and were purchased by the City on July 1, 2002 and October 11, 2002. These two parcels will be sold to the state for 100 percent of the approved value based on when the City appraised and purchased the property;
- The three parcels known as Verdie Forest, Wood Trust, and Caldwell Trust are located in the Pumpkin Hill Florida Forever project and were purchased by the City on August 27, 2003, May 2, 2003, and April 24, 2003, respectively. The City purchased these three parcels under a multi-party agreement that provides for a 45 percent state, 55 percent City split;
- There are timber leases outstanding on the Monticello Drug and Monticello Land parcels and it has been requested that the City have these removed prior to closing;
- The City is currently negotiating a contract to purchase the timber rights for \$1,150,000; and
- The Florida Department of Agriculture and Consumer Services, Division of Forestry (DOF) has agreed to contribute \$1,200,000 towards the fee acquisition of the Monticello Drug parcel.

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

The three-county corridor of the Northeast Florida Timberlands Watershed and Reserve will create a conservation landscape connecting several high-quality managed areas, including Jennings State Forest, Cecil Field Conservation Corridor, Cary State Forest and Timucuan Ecological and Historic Preserve. The project area will also connect with two military reservations, Camp Blanding and Whitehouse Naval Outlying Field, and is contiguous at the southern end with, Etoniah/Cross Florida Greenway Florida Forever Project. The Greenways and Trails Coordinating Council identified it as a highly important conservation corridor in its statewide analysis. The project's size and diversity makes it desirable for use and management as a state forest.

The property will be managed by DOF, as an addition to Cary State Forest.

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

(See Attachment 7, Pages 1-127)

**RECOMMEND APPROVAL**