

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
SEPTEMBER 29, 2015

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

Item 1 Arthur G. Dozier School for Boys Discussion

REQUEST: Discussion of the Florida Department of Financial Services' Chief Financial Officer's letter regarding the state-owned property formerly known as the Arthur G. Dozier School for Boys in Marianna, Florida.

COUNTY: Jackson

LOCATION: Arthur G. Dozier School for Boys (Dozier School)
Sections 05 through 08, Township 04 North, Range 10 West

STAFF REMARKS: The University of South Florida has conducted fact finding research under its Use Agreement (No. U-0406) with the Board of Trustees. At the request of the Chief Financial Officer, in a letter dated September 4, 2015, this item is being brought to the Board of Trustees for discussion.

Dr. Kimmerle and her team at the University of South Florida's Forensic Anthropology Laboratory will be submitting their final report to the Board of Trustees in January 2016 regarding their findings at the Dozier School.

History

Prior Board of Trustees' authorizations to the University of South Florida for the Dozier School are listed below:

- December 19, 2011 - a Letter of No Objection was issued by the Department of Environmental Protection (DEP), under delegation, granting access to the Boot Hill Cemetery area until June 30, 2012.
- August 23, 2012 - an extension was granted by DEP, under delegation, granting access to the Boot Hill Cemetery area until December 1, 2012.
- August 6, 2013 - a one-year Use Agreement (No. U-0406) was approved by the Board of Trustees granting access to the Dozier School property until August 6, 2014.
- August 4, 2014 - a renewal and extension of the Use Agreement was issued by DEP, under delegation, granting access to the Dozier School property until August 6, 2015.
- August 4, 2014 - an addendum to the Use Agreement was issued by DEP, under delegation, replacing two provisions:
 - Commencement (paragraph 2) - parties mutually consent to extension of term for one-year through August 6, 2015, and parties may agree to second, one-year extension through August 6, 2016, provided acknowledgement and consent is executed by both parties.
 - On-Site Records (paragraph 31) - USF is not authorized to take possession of any confidential records which might be found on the property.
- August 3, 2015 - a renewal and extension of the Use Agreement was issued by DEP, under delegation, granting access to the Dozier School property until January 31, 2016.

Item 1, cont.

(See Attachment 1, Pages 1-2)

RECOMMEND DISCUSSION

Item 2 DEP's Proposed Quarterly Performance Accountability and Annual Reporting Measures

REQUEST: Consideration of the Department of Environmental Protection's proposed quarterly performance accountability and annual reporting measures.

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

STAFF REMARKS: As part of the Cabinet Governance Guidelines approved at the March 10, 2015 Cabinet Meeting, the Governor and Cabinet requested that all cabinet agencies or agency heads appointed and/or approved by the Governor and Cabinet present quarterly performance accountability and reporting measures. Accordingly, the Department of Environmental Protection (DEP) has established quarterly performance measures that reflect standards essential to effectively manage and protect resources, as well as provide public recreation on state-owned lands.

Division of State Lands (DSL)

DSL oversees approximately 3.2 million acres of conservation and non-conservation lands which are titled to the Board of Trustees. Of these, approximately 3.1 million acres are conservation lands and 120,000 acres are non-conservation lands.

As staff to the Board of Trustees, DSL is responsible for acquiring land, reviewing management plans, and authorizing activities on all state lands owned by the Board of Trustees. DSL oversees the Florida Forever conservation land acquisition program and manages activities on Board of Trustees-owned and sovereignty submerged lands. DSL makes the most of its funding by utilizing beneficial acquisition practices, including partnerships and strategic negotiation efforts. DSL's performance measures comprehensively evaluate and monitor the degree to which these requirements are being met.

Land Management Uniform Accounting Council (LMUAC)

LMUAC was created by the Florida Legislature in 2000 with the enactment of section 259.037, F.S. LMUAC is comprised of representatives from DSL and state agencies that manage Board of Trustees-owned land.

Item 2, cont.

LMUAC developed a uniform method of compiling accurate costs of land management activities, as well as reporting data such as economic impact to local communities, total visitors, volunteer hours, acres treated for invasive exotics, and acres burned. The information is reported annually in report form to the Acquisition and Restoration Council and Board of Trustees. The data contained within the Board of Trustees' Annual Reporting Measures has been extracted from the LMUAC 2014 Annual Report. This report can be obtained using the following the link: http://www.dep.state.fl.us/lands/ARC/2014_LMUAC_Annual.pdf.

Division of Recreation and Parks (DRP)

DRP manages 174 three-time gold-medal award-winning park and trail properties, spanning more than 788,000 acres with 100 miles of sandy white beaches and more than 1,500 miles of multi-use trails. State parks include freshwater springs, beaches, aquatic preserves, ornamental gardens, forts, museums, and lighthouses. DRP offers hiking, biking, swimming, horseback riding, canoeing and kayaking, camping, picnicking, cabin rentals, viewing threatened plant and animal species, or quiet relaxation.

DRP is responsible for providing resource-based public recreation while preserving, interpreting, and restoring the state's natural and cultural resources. DRP's reporting measures monitor the progress and management of state-owned lands for conservation and restoration, as well as public enjoyment. Prescribed burning and exotic invasive species removal are two of the essential natural resource management techniques. Reporting visitation is an indication of public awareness.

Office of Coastal and Aquatic Managed Areas (CAMA)

CAMA protects natural resources on state-owned sovereign submerged lands and coastal uplands through administration of the state's 41 aquatic preserves, three National Estuarine Research Reserves, the Florida Keys National Marine Sanctuary, and the Coral Reef Conservation Program. CAMA also administers the Florida Coastal Management Program, which coordinates statewide participation of the Governor's South Atlantic Alliance and Gulf of Mexico Alliance.

Aquatic Preserves are submerged lands of exceptional ecological character to be maintained in their natural or existing conditions for future generations. The 41 aquatic preserves are coastal and fresh water sites that encompass approximately 2.2 million acres of sovereign submerged lands.

CAMA is responsible for managing these protected coastal and aquatic areas to preserve wildlife habitats and protect waterways, while also inviting residents and visitors to explore Florida's natural environment.

Siting Coordination Office (SCO)

SCO reviews applications for power plants, transmission lines, natural gas pipelines, as well as coordinates certification of these facilities. Certification is an umbrella permit for all affected state, regional, and local agencies and includes any applicable regulatory activity. This is a life-of-the-facility approval and authorizes construction, operation and maintenance.

Item 2, cont.

The Siting Acts provide a centralized and coordinated permitting process for the state to meet its need for electrical energy while also assuring Florida's citizens that facility operation safeguards are technically sufficient for their protection and welfare, and to achieve a reasonable balance between the need for the facility and the environmental impact resulting from construction and operation, including air and water quality, fish and wildlife, as well as other natural resources.

Florida Department of Agriculture and Consumer Services, Florida Forest Service (FFS)

FFS's mission statement is "To protect Florida and its people from the dangers of wildland fire and manage Florida's forest resources through a stewardship ethic to ensure that these resources are available for future generations."

FFS manages 35 State Forests that encompass 1,069,043 acres of land, issues authorizations for all prescribed burning activities in the state, and provides burning expertise to other agencies. In addition, FFS implements management activities including silvicultural activities, road maintenance, prescribed burning, reforestation, public recreation, and protection of listed flora and fauna.

Florida Fish and Wildlife Conservation Commission (FWC)

FWC's management statement is "To manage fish and wildlife resources for their long-term well-being and the benefit of people."

FWC manages 5,977,630 acres established as Wildlife Management Areas, Wildlife and Environmental Areas, Public Waterfowl Areas, Public Use Areas, Fish Management Areas or Public Small Game Hunting Areas. FWC has lead management responsibility for 54 managed areas totaling 1,431,054 acres, and the balance of this land base (4,546,576 acres) is state, water management district, federal and private lands in FWC's management area system. FWC provides natural resources management expertise, public use information, and law enforcement for all areas within FWC's management area system.

Conclusion

If the Board of Trustees accepts the proposed quarterly performance and reporting measures, DEP will monitor its performance and provide a quarterly comprehensive evaluation of its progress.

(See Attachment 2, Pages 1-6)

RECOMMEND ACCEPTANCE OF DEP's PROPOSED PERFORMANCE ACCOUNTABILITY AND REPORTING MEASURES

Item 3 BOT Delegations Reaffirmation/Deletions/Modifications

REQUEST: Reaffirm existing delegations granted to the Secretary of the Department of Environmental Protection by the Board of Trustees, and consider deletions and modifications to the reaffirmed delegations.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Statewide

STAFF REMARKS: The Board of Trustees has delegated several of its functions to the Secretary of the Department of Environmental Protection (DEP). The delegated functions have streamlined operations performed by DEP and have allowed staff to be more responsive when addressing issues that affect the environment and the public. DEP is requesting reaffirmation of the previously granted delegations and certain deletions and modifications to reach greater efficiency and effectiveness when serving the public. This request for reaffirmation corresponds with the Cabinet Governance Guidelines, as approved by the Governor and Cabinet at the March 10, 2015 meeting.

History

On February 4, 1992, BOT, sitting as the Department of Natural Resources (DNR) approved delegations of authority to the Executive Director of DNR. Those delegations were the “sole and unified source of all delegations of authority” to DNR, and remained in effect after the merger of DNR and the Department of Environmental Regulation into DEP. Since the 1992 delegations, section 253.002, F.S., and rule 18-21.0051, F.A.C., were adopted, which add certain other delegations from the Board of Trustees to staff of DEP and to certain water management districts for certain proprietary authorizations. Subsequent to the 1992 delegations, the Board of Trustees: (1) on September 21, 2004, reaffirmed the existing delegations granted to DEP; (2) on February 16, 2005, reaffirmed the existing delegations granted to DEP (retroactive to September 21, 2004); and (3) on January 31, 2006, approved additions and revisions to the delegations granted to DEP. Since January 31, 2006, the Board of Trustees has granted DEP additional delegations in various individual agenda items.

DEP has developed policies and procedures to ensure that delegations granted to the DEP are exercised in accordance with the laws, rules and intent of the Board of Trustees. Issues involving heightened public concern will continue to come before the Board of Trustees.

DEP is recommending the Board of Trustees reaffirm the current delegations of authority and consider the following deletions and modifications to the delegations being reaffirmed:

Item 3, cont.

DELETIONS

Authorized Action Completed

- DSL-50 Extended deadline to commence construction of state building at Southwood.
(Page 17) *The office building referenced in DSL-50 is constructed at Shumard Oak Boulevard and Capital Circle SE. Certificate of Compliance with deed restrictions was executed on September 9, 2008.*
- DSL-54 Approve and consent to the contract between BOT, Mitigation Services PBC, LLC
(Page 17) and Florida Fish and Wildlife Conservation Commission. [BOT action 3/10/09, Subs. Item 4] *The sublease agreement referenced in DSL-54 with Mitigation Services PBC, LLC was executed on July 6, 2015.*
- DSL-56 Approve final acreage, location and value in exchange with City of Palm Coast.
(Page 17) *The City of Palm Coast, at its option, allowed the agreement to expire on May 27, 2011, (in accordance with Paragraph 1 of the "Amendment to Exchange Agreement" dated May 26, 2010.)*

Authority Obsolete

- DWRM-2 Take final agency action on permit applications for exploration or production
(Page 6) drilling for oil and gas resources. *Final agency action on the above permit applications is a regulatory function taken through the Division of Water Resource Management.*
- DSL-13 Related to Invasive Plant Management. *Pursuant to section 369.20, F.S., this
(Page 10) program as of July 1, 2008 is now within the Florida Fish and Wildlife Conservation Commission.*
- OGT-1 Regarding contracts and agreements for OGT to manage land.
(Page 18) *This delegation is when OGT who is now under DRP agrees to manage property so this is not something BOT would need to approve.*

Duplicate Authority

- DRP-7 Approve, modify, and terminate requests for temporary and incidental uses of state
(Page 8) park lands to public agencies. *Use agreements or licenses that are compatible with the purposes of Recreation and Parks-leased lands are taken through the Division of State Lands DSL-40.*
- DSL-20 Regarding acquisitions of land in Florida Keys Florida Forever projects.
(Page 12) *Existing delegation DSL-16 (c) can be used in place of DSL-20 for future Florida Keys Florida Forever Project acquisitions.*

Item 3, cont.

- DSL-23 (Page 13) Approve purchases of land within current Mega-Parcel Category of the DSL Land Acquisition Workplan. *Existing delegation DSL-16 (c) can be used in place of DSL-23 for future Florida Keys Florida Forever Project acquisitions.*
- DSL-26 (Page 13) Accepting land and establishing ownership lines in Biscayne Bay Aquatic Preserve. *Existing delegation DSL-15 can be used in place of DSL-26 (a) and existing delegation DSL-35 can be used in place of DSL-26(b)*
- OGT-4 (Page 18) Execute subleases authorized by BOT. *Sublease approval is done under DSL-1 and DSL-24*
- OGT-6 (Page 18) Initiate the process for surplus land designations within greenways and trails. *This delegation is handled under DSL-6 if determined by the BOT that it is no longer needed for conservation purposes.*
- OGT-12 (Page 18) Manage the Marjorie Harris Carr Cross Florida Greenways State Recreation and Conservation Area as a multiple-use area. *This delegation is defined in section 253.7825 (1), F.S.*

Authority Obsolete/Duplicate Authority

- DRP-8 (Page 8) Execute subleases to other governmental entities for the management of properties leased to DRP. *Sublease approval is done under DSL-24.*
- OCAMA-5 (Page 18) Approve, modify, and terminate requests for temporary incidental uses of lands. *Use agreements or licenses that are compatible with the purposes of CAMA-leased lands are taken through the Division of State Lands.*
- OCAMA-6 (Page 19) Execute subleases to other governmental entities for the management of properties leased to OCAMA. *CAMA leases uplands for management purposes from the BOT. Because CAMA is the lessee, it is appropriate that DSL sign subleases on behalf of the BOT. Though CAMA remains the lessee, the sublease was handled by DSL under their existing delegations DSL-24.*

MODIFICATIONS

Clarification of Authority

- DIR-11 (Page 3) Initiate rule development, prepare and sign rule certification packages after BOT's approval. *This delegation is largely a re-write of an existing delegation to more completely align with terminology used in chapter 120, F.S. The Board of Trustees delegated the authority to prepare and sign certification packages on June 4, 2013, in Item 2.*

Item 3, cont.

- DIR-13 Notify law enforcement of rule and law violations.
(Page 3) *Clarify the delegation refers to the Board of Trustees.*
- DIR-15 Settle claims, administrative actions, and legal proceedings brought by or against
(Page 3) BOT, or its employees acting within the scope of their employment in certain
instances. *Clarify the delegation refers to the Board of Trustees.*
- DIR-18 Perform functions to administer day-to-day duties.
(Page 4) *Clarify the delegation refers to the Board of Trustees.*
- OGC-2 Respond on behalf of BOT to petitions filed pursuant to ch. 120, F.S., including the
(Page 5) designation of hearing officers for informal administrative hearings.
*Language in limitation section has been modified to be more in line with the
language in the rule.*
- DAS-1 Approve the transfer of appropriations. *Clarify the delegation refers to the Board
(Page 5) of Trustees.*
- DWRM-1 Take final agency action on applications for authorization to use sovereign
(Page 6) submerged lands related to permit applications for geophysical seismic activities,
exploration or production drilling for oil and gas resources. *Final agency action on
the above permit applications is a regulatory function taken through the Division
of Water Resource Management.*
- DDM-1 Take final agency action on applications to use sovereign submerged lands when
(Page 6) the application involves an activity for which DEP has permitting responsibility.
Clarify the delegation to follow language in rule 18-21.004, F.A.C.
- DSL-12 Process Butler Act (Chapter 8537, Laws of Florida (1921)) disclaimer applications.
(Page 10) *Revised to track the language of the Butler Act.*
- DSL-33 Approve ~~determination~~ of procedures to establish local tidal datums.
(Page 14) *Clarifies that DEP approves only the procedures that private surveyors use to
delineate the line. The standards to meet when delineating the line are set pursuant
to Chapter 177, Part II, F.S. Coastal Mapping.*
- OCAMA-9 Enter into agreements for private and public uplands to be used in conjunction with
(Page 19) Biscayne Bay Aquatic Preserve. [s. 258.397, F.S.]
Language revised for clarification.

Item 3, cont.

Modification /Clarification of Authority

DSL-6 Declare land surplus in limited circumstances and sell filled land and reclaimed
(Page 9) lake bottom. *Revised to allow the department to approve the sale or lease of certain
filled sovereignty lands pursuant to applicable rules and statutes. Also allow the
department to sell or lease reclaimed lake bottom to the riparian owners.*

DSL-16 Regarding acquisitions of all conservation and non-conservation lands.
(Page 11) *Amended to include non-conservation land acquisitions which was granted in past
delegations but omitted on last reaffirmation. Also amended (i) to clarify that this
delegation is not to include fee-simple acquisitions since it is not allowed per
sections 253.025(6)(d) and 259.041(7)(e), F.S.*

OCAMA-7 Handle land use documents. *The current delegations contemplate the grant of real
(Page 19) property interests rather than the acceptance of real property interests that are not
donations. This existing delegation is amended to include easements and to clarify
that these interests will be held by BOT rather than OCAMA.*

Minor miscellaneous wording revisions have been made for clarification purposes and are indicated with strikethrough/underline on the attached delegations document.

(See Attachment 3, Pages 1-34)

RECOMMEND APPROVAL

Item 4 Kilbee Ranch Conservation Easement/FDACS/Rural & Family Lands Protection Program

REQUEST: Consideration of (1) an option agreement to acquire a 1,286-acre perpetual conservation easement over lands lying within the Kilbee Ranch project of the Florida Department of Agriculture and Consumer Services' (FDACS) Florida Forest Service (FFS) Rural & Family Lands Protection Program (RFLPP) from Kilbee Ranch, LLC; (2) a cooperative agreement with the United States Department of Agriculture, Natural Resource Conservation Service; and (3) designation of FDACS/FFS as the monitoring agency.

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

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

COUNTY: Seminole

Item 4, cont.

LOCATION: Sections 35 & 36, Township 20 South, Range 32 East and Sections 01 & 02, Township 21 South, Range 32 East

CONSIDERATION: \$4,095,000 (\$1,000,000 of the acquisition costs will be provided through a Farm and Ranchlands Protection Program (FRPP) grant from the United States Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS)).

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u>		<u>APPROVED VALUE</u>	<u>SELLERS' PURCHASE PRICE</u>	<u>TOTAL PURCHASE PRICE</u>	<u>TRUSTEES' PURCHASE PRICE</u>	<u>OPTION DATE</u>
		<u>String (06/10/15)</u>	<u>Roper (06/10/15)</u>					
Kilbee Ranch	1,286	\$4,755,000	\$4,500,000	\$4,755,000	*	\$4,095,000**	\$3,095,000***	120 days after BOT approval

*Property was assembled over many years.

**The purchase price for the conservation easement is \$3,184.29 per acre.

***Trustees' purchase price is reflective of the FRPP grant.

STAFF REMARKS: This acquisition was negotiated by FDACS/FFS under its RFLPP. If approved, this will be the nineteenth perpetual conservation easement proposed for acquisition and a total of 11,190.8 acres will have been authorized for preservation under the Rural and Family Lands Protection Program. The Kilbee Ranch Project is ranked in Tier One on the 2014 RFLPP Acquisition List.

PROPERTY DESCRIPTION:

Background

Kilbee Ranch represents one of the last ranches of its size in Seminole County. This property has been in the family since the 1920's as part of a much larger 1,372-acre parcel. There are remnants of a 1900's era sawmill and hunt camp on the property. Although the owners have received numerous offers to purchase the property for development, their intent is to maintain ownership of the property in order to manage the lands as a working ranch into the future.

Property Details

The Kilbee Ranch Project is a working ranch consisting of 1,372 acres of which approximately 1,286 acres are proposed for preservation under this conservation easement. It is home to an active cattle operation of approximately 350 head, as well as silvicultural and hay operations, with approximately 50% of the property being maintained in improved pasture.

The property shares the eastern half of its boundary with the Little Big Econ State Forest and lies in close proximity to the St. Johns and Econlockhatchee Rivers. Scattered about the property are many depression marshes, small pine flatwoods remnants, dome swamps, and cabbage palm wet flatwoods, creating a biodiversity that supports numerous species such as gopher tortoise, sandhill cranes, and various varieties of ferns. The Technical Review Team observed intact cypress stands, moderately stocked stands of slash pine, and stands of forested wetlands made up of oak, hickory,

Item 4, cont.

red maple, sweet gum and sweet bay. Additionally, deer, turkey, coyote, feral hog, and Florida black bear are known to inhabit the ranch, with nearly all of the property being within the secondary Florida black bear range.

PROHIBITED USES:

- Dumping of non-biodegradable, toxic or hazardous substances, trash garbage, wastes, abandoned vehicles, appliances, machinery or similar material is prohibited.
- The exploration for and extraction of oil, gas, minerals, dolostone, peat, muck, marl, limestone, limerock, kaolin, fuller's earth, phosphate, common clays, gravel, shell, sand and similar substances either directly or indirectly.
- Activities that affect the hydrology of the land or that detrimentally affect water conservation, erosion control, soil conservation, or fish and wildlife habitat, etc.
- Planting of nuisance exotic or non-native plants as listed by the Exotic Pest Plant Council (EPPC) or its successor and to the extent practical, control and prevent the spread of nuisance exotics or non-native plants on the Property.
- New construction or placing of temporary or permanent buildings, mobile homes or other structures in, on or above the ground of the Property except as may be permitted hereinafter, or as necessary for maintenance or normal operations of the Property or during emergency situations.
- Construction or placing of roads, billboards or other advertising, utilities, or structures, except those structures and unpaved roads necessary for the agricultural operations on the land or structures necessary for other activities allowed under the Easement, and except for linear facilities described in section 704.06(11), Florida Statutes.
- Fertilizer use for agriculture activities not in accordance with agricultural Best Management Practices recommended by the Natural Resources Conservation Service or the Florida Department of Agriculture and Consumer Services, whichever is more stringent, as those Best Management Practices may be amended from time to time. No agricultural activities shall occur within a 100-foot buffer around sinkholes and other karst features that are connected to spring conduits, except as provided in the applicable Best Management Practices.
- Actions or activities that may scientifically be expected to adversely affect threatened or endangered species.
- Commercial water wells on the Property.

Item 4, cont.

- Harvesting of cypress trees in the designated SNAs.
- Mitigation banks pursuant to Section 373.4135, et. seq., Florida Statutes.
- Conversion of SNAs to more improved areas.
- Acts or uses of the Property detrimental to the preservation of the structural integrity or physical appearance of sites on the Property of historical, architectural, archaeological, or cultural significance.
- New non-game-friendly fencing, except in those areas identified for security as shown in the BDR.

OWNER'S RIGHTS:

- The underlying fee simple title absolute in the Property.
- The production, processing, and marketing of agricultural crops and livestock is permitted provided it is conducted in a manner consistent with the terms of this Conservation Easement.
- Forest management and timber harvesting are permitted, provided all forest management and timber harvesting is carried out in accordance with all applicable local, State, Federal and other governmental laws and regulations and to the extent reasonably practicable, in accordance with then-current, generally accepted best management practices for the sites, soils, and terrain of the Property.
- Passive recreational and educational activities are permitted if they do not negatively affect the soils and the agricultural operations and are consistent with the purpose of the Conservation Easement.
- New roads may be constructed if they are necessary to carry out the agricultural operations or other permitted uses on the Property. Maintenance of existing roads documented on the BDR is permitted.
- Fences may be maintained and replaced and new fences installed if they are necessary for agricultural operations on the Property or to mark boundaries of the Property.
- The right to conduct prescribed burning on the Property; provided, however, that the owner shall obtain and comply with a prescribed fire authorization from the Florida Forest Service of the Florida Department of Agriculture and Consumer Services or its successor agency.

Item 4, cont.

- The right to mortgage the Property; provided, however, that the Mortgagee's lien shall be inferior to and lower in priority than the Easement.
- The right to contest tax appraisals, assessments, taxes and other charges on the Property.
- The right to continue to use, maintain, repair, and reconstruct, all existing buildings, barns, animal pens, outbuildings, fences, roads, ponds, wells, utilities, drainage ditches and such other facilities on the Property as depicted in the Baseline Documentation Report, except on Special Natural Areas.
- The right to sell, devise or otherwise transfer ownership of the Property to a third party. This right, however, does not include the right to sell the remaining property rights on the Property for the purposes of a conservation easement or other restriction that would divest the Property of its use under the terms and conditions of this Easement.
- The right to exclusive use of the improvements on the Property.
- Grantor shall obtain and comply with all permits for management of stormwater, for water wells and consumptive uses as may be required by the water management district or any successor agency having jurisdiction over those activities.
- The right to construct, after giving notice to FFS, buildings or other structures incident to agricultural uses carried on in accordance with sound agricultural practices. Such buildings shall not be used as residences.
- Boundary Maintenance.
- The right to observe, maintain, photograph, introduce and stock native fish or wildlife on the Property, to use the Property for hiking and horseback riding. The Owner reserves, and shall continue to own, the hunting and fishing rights on or related to the Property and may lease and sell privileges of such rights.
- Subdivision: The owners have reserved the right to subdivide the Property into not more than three individual parcels, of not less than 400 acres each (for family planning purposes). The Grantor shall provide legal descriptions for the three parcels. [This information was provided to the contract appraisers and was considered in determining the value of the Property.]

Item 4, cont.

- Building Envelopes: Grantor reserves the right to develop up to 45,000 square feet of impervious surfaces per farm or ranch parcel, as identified in Exhibit D. Impervious surfaces are defined as material that does not allow water to percolate into the soil on the Property; this includes, but is not limited to, residential buildings, agricultural buildings with or without flooring, paved areas, and any other surfaces that are covered by asphalt, concrete, or roofs. Any such development may not be constructed within the SNAs. [Note – Impervious Surfaces are limited to 2% by NRCS.]
- Easements: The granting of easements or rights-of-way for power lines, gas lines, sewer lines, waterlines, telecommunications towers, and wind farms is prohibited. Notwithstanding this prohibition the Grantee may grant or modify easements for utility connections necessary to serve the permitted uses of the Property that are consistent with the Easement Purposes. Existing utilities may be replaced or repaired at their current location.

ENCUMBRANCES:

There are no known encumbrances on the property that adversely affect marketability or the ability to enforce the rights granted under the easement.

MORTGAGES AND LIENS:

All mortgages and liens will be satisfied or subordinated at the time of closing.

On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to the Department of Environmental Protection (DEP) the authority to review and evaluate marketability issues related to land acquisition as they arise on all Chapter 259, F.S., and to resolve them appropriately. Therefore, DEP staff will review, evaluate and implement an appropriate resolution for these and any other title issues that arise prior to closing.

CLOSING INFORMATION:

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

EASEMENT MONITOR:

This perpetual conservation easement will be monitored by the FFS.

COMPREHENSIVE PLAN:

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

Item 4, cont.

(See Attachment 4, Pages 1-68)

RECOMMEND APPROVAL

Item 5 JB Ranch Conservation Easement/FDACS/Rural & Family Lands Protection Program

REQUEST: Consideration of (1) an option agreement to acquire a 1,617.46-acre perpetual conservation easement over lands lying within the JB Ranch project of the Florida Department of Agriculture and Consumer Services' (FDACS) Florida Forest Service (FFS) Rural & Family Lands Protection Program (RFLPP) from JB Ranch I, LLC, and Suniland Family Limited Partnership; (2) a cooperative agreement with the United States Department of Agriculture, Natural Resource Conservation Service; and (3) designation of FDACS/FFS as the monitoring agency.

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

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

COUNTY: Collier

LOCATION: Sections 21 & 22 and Part of Sections 14 & 28, Township 48 South, Range 30 East

CONSIDERATION: \$3,750,000 (\$1,500,000 of the acquisition costs will be provided through a Farm and Ranchlands Protection Program (FRPP) grant from the United States Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS)).

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u>		<u>APPROVED VALUE</u>	<u>SELLERS' PURCHASE PRICE</u>	<u>TOTAL PURCHASE PRICE</u>	<u>TRUSTEES' PURCHASE PRICE</u>	<u>OPTION DATE</u>
		<u>(11/11/14)</u>	<u>(11/11/14)</u>					
JB Ranch	1,617.46	\$4,367,000	\$4,165,000	\$4,367,000	*	\$3,750,000**	\$2,250,000***	120 days after BOT approval

*Property was assembled over many years.

**The purchase price for the conservation easement is \$2,318.45 per acre.

***Trustees' purchase price is reflective of the FRPP grant.

STAFF REMARKS: This acquisition was negotiated by FDACS/FFS under its RFLPP. If approved, this will be the twentieth perpetual conservation easement proposed for acquisition and a total of 12,808.26 acres will have been authorized for preservation under the Rural and Family Lands Protection Program. The JB Ranch Project is ranked in Tier One on the 2014 RFLPP Acquisition List.

Item 5, cont.

PROPERTY DESCRIPTION:

JB Ranch is a working ranch consisting of 9,303 acres of which approximately 1,617.46 acres are proposed for preservation under this conservation easement. Operating in eastern Collier County, the ranch was founded in the 1940's and is under its third generation of management as a cow/calf operation. Other agricultural activities include select timber harvesting, bee keeping, and row cropping on various parts of the property.

JB Ranch sits atop a large swath of public lands in south Florida. The ranch is located immediately north of Big Cypress National Preserve, with Wetlands Reserve Program Easement (WRPE) #133 located across County Road 858. Additionally, the Florida Panther National Wildlife Refuge is located 1.5 miles west of the property. If approved, this will be the first RFLPP conservation easement in the region.

Most of the eastern three-quarters of the property are comprised of intact natural communities. A southern portion of Okaloacoochee Slough travels through the eastern half of the property. The slough has been altered by canals and ditches, although a majority of it can be considered slough marsh. Spreading west from the slough are scattered basin/depression marshes, hydric/mesic hammock, cypress-dominated strand swamp, dome swamps, and small areas of pasture and wet prairie - all mostly within a matrix of wet/hydric flatwoods. Row crops and pasture are restricted to the northwest corner of the property.

Many rare species are documented on the property. Although no recent breeding data is known, a bird rookery from the late 1980s is recorded in the northeastern corner of the ranch. This rookery included great egret, little blue heron, snowy egret, tricolored heron, white ibis, and glossy ibis. The property is within the U.S. Fish and Wildlife Service Primary Zone for the federally endangered panther, which makes it an important area for feeding, transport, and breeding of the species. Additional wildlife includes two federally-threatened species: the crested caracara and wood stork; as well as the state-threatened Florida sandhill crane. According to the Florida Fish and Wildlife Conservation Commission, the property is wholly within the primary Florida black bear range for the Big Cypress population.

PROHIBITED USES:

- Dumping of non-biodegradable, toxic or hazardous substances, trash garbage, wastes, abandoned vehicles, appliances, machinery or similar material is prohibited.
- The mining or excavation of surface or subsurface materials, minerals, dolostone, peat, muck, marl, limestone, limerock, kaolin, fuller's earth, phosphate, common clays, gravel, shell, sand and similar substances.
- The exploration for and extraction of oil and gas, except as provided in Grantor's reserved Rights.

Item 5, cont.

- Activities that affect the hydrology of the land or that detrimentally affect water conservation, erosion control, soil conservation, or fish and wildlife habitat, etc.
- Planting of nuisance exotic or non-native plants as listed by the Exotic Pest Plant Council (EPPC) or its successor and to the extent practical, control and prevent the spread of nuisance exotics or non-native plants on the Property.
- New construction or placing of temporary or permanent buildings, mobile homes or other structures in, on or above the ground of the Property except as may be permitted hereinafter, or as necessary for maintenance or normal operations of the Property or during emergency situations.
- Construction or placing of roads, billboards or other advertising, utilities, or structures, except those structures and unpaved roads necessary for the agricultural operations on the land or structures necessary for other activities allowed under the Easement, and except for linear facilities described in section 704.06(11), Florida Statutes.
- Fertilizer use for agriculture activities not in accordance with agricultural Best Management Practices recommended by the Natural Resources Conservation Service or the Florida Department of Agriculture and Consumer Services, whichever is more stringent, as those Best Management Practices may be amended from time to time. No agricultural activities shall occur within a 100-foot buffer around sinkholes and other karst features that are connected to spring conduits, except as provided in the applicable Best Management Practices.
- Actions or activities that may scientifically be expected to adversely affect threatened or endangered species.
- Subdivisions: The JB Ranch Property shall not be divided or subdivided into, or separately conveyed as, more than 4 farm or ranch parcels (3 divisions allowed). To ensure the future agricultural viability of the JB Ranch Property, the boundaries of such division(s) must be approved in writing by Grantee and the Chief of NRCS or his or her authorized designee (Chief of NRCS) before any such division, subdivision or separate conveyance occurs. The Chief of NRCS may only approve the division, subdivision or separate conveyance of the JB Ranch Property into separately conveyable farm or ranch parcels when:
 1. The Grantee requests approval from the Chief of NRCS to subdivide the JB Ranch Property into separate farm or ranch parcels, after receiving a request from the Grantor;
 2. The Grantor certifies to the Chief of NRCS that the requested subdivision is required to keep all farm or ranch parcels in production and viable for agriculture use and that separate conveyance of the JB Ranch Property farm or ranch parcels will move the land from one agricultural operation to another; and

Item 5, cont.

3. The Chief of NRCS determines that the—
 - a. Parcels resulting from the subdivision of the JB Ranch Property will meet ACEP land eligibility requirements of 16 U.S.C. § 3865 et seq. as enacted on the date the original parcel was enrolled in ACEP;
 - b. Subdivision will not decrease the Agricultural Land Easement’s protection for the agricultural use and future viability, and related conservation values, of the JB Ranch Property; and
 - c. The resulting parcel will not be below the average size of farms in the county or parish as determined by most recent United States Department of Agriculture’s Census of Agriculture.

After Grantor receives written approval from Grantee and the Chief of NRCS, the Grantor shall give Grantee and the Chief of NRCS written notice prior to making a division of the JB Ranch Property. The division, subdivision or separate conveyance of parcels of the JB Ranch Property as provided in this Paragraph, will not affect the right of the Grantor, its heirs, successors, or assigns to make any additional division(s) of the JB Ranch Property up to the 3 divisions allowed. The Grantor making the conveyance retains the right to make further approved division(s) of the Property unless the permitted division is allocated by that Grantor in the instrument creating the division or other recorded instrument.

- Commercial water wells on the Property, but not including agricultural water wells.
- Cutting of cypress trees anywhere on the Property, except for selective harvesting of cypress to maintain edges of pasture areas.
- Mitigation banks pursuant to Section 373.4135, et. seq., Florida Statutes.
- Conversion of SNAs to more improved areas, except where as approved by Grantee it is determined that limited land management activities will improve the habitat, such as wooded pastures.
- Conversion of forested areas to improved pasture, except that wooded pastures would not be considered improved pastures and can be expanded. Planting of forage grasses and management in accordance with BMPs are allowed in all pasture areas, including wooded pastures.
- Acts or uses of the Property detrimental to the preservation of the structural integrity or physical appearance of sites on the Property of historical, architectural, archaeological, or cultural significance.
- New non-game-friendly fencing, except in those areas identified for security as shown in the BDR.

Item 5, cont.

- Conversion of forested areas to non-forested areas as shown in the BDR, except that clearing, chopping and other management for wooded pastures not located within a SNA is allowed.

OWNER'S RIGHTS:

- The underlying fee simple title absolute in the Property.
- The right to conduct prescribed burning on the Property; provided, however, that the owner shall obtain and comply with a prescribed fire authorization from the Florida Forest Service of the Florida Department of Agriculture and Consumer Services or its successor agency.
- The right to mortgage the Property; provided, however, that the Mortgagee's lien shall be inferior to and lower in priority than the Easement.
- The right to contest tax appraisals, assessments, taxes and other charges on the Property.
- The right to continue to use, maintain, repair, and reconstruct, all existing buildings, barns, animal pens, outbuildings, fences, roads, ponds, wells, utilities, drainage ditches and such other facilities on the Property as depicted in the Baseline Documentation Report, except on Special Natural Areas.
- Grantor shall have the right to install additional fences, ponds, wells, drainage ditches and other similar agricultural facilities in accordance with BMPs and NRCS recommendations, except in the Special Natural Areas.
- The right to sell, devise or otherwise transfer ownership of the Property to a third party. This right, however, does not include the right to sell the remaining property rights on the Property for the purposes of a conservation easement or other restriction that would divest the Property of its use under the terms and conditions of this Easement.
- The right to exclusive use of the improvements on the Property.
- Grantor shall obtain and comply with all permits for management of stormwater, for water wells and consumptive uses as may be required by the water management district or any successor agency having jurisdiction over those activities.
- The right to construct, after giving notice to Grantee, buildings or other structures incident to agricultural uses carried on in accordance with sound agricultural practices, including hunting, fishing, camping, hiking, and wildlife viewing. Such buildings shall not be used as residences for continued habitation.

Item 5, cont.

- Boundary Maintenance.
- The right to observe, maintain, photograph, introduce and stock native fish or wildlife on the Property, to use the Property for hiking and horseback riding. The Owner reserves, and shall continue to own, the hunting and fishing rights on or related to the Property and may lease and sell privileges of such rights.
- The Grantor reserves the right of exploration for and extraction and production of oil and gas and all other hydrocarbons under the Property either directly or indirectly by Grantor or on Grantor's behalf or with the joinder or consent of Grantor in any application for a permit so to do, under and by virtue of the authority of a grant or reservation or other form of ownership of or interest in or control over or right to such substances, including but not limited to the drilling for and extraction/production of oil, gas, *and all other hydrocarbons under the Property by slant or directional drilling from adjacent properties, so as not to damage or interfere with the Easement area*, or except as necessary and lawfully allowed for the conduct of allowed activities, so long as such activities are in accordance with the requirements of the Collier County Comprehensive Plan and Land Development Code and applicable state and federal oil and gas permits.
- The rights to pursue complimentary conservation activities, such as gopher tortoise recipient areas, environmental credits, carbon credits, or other activities to protect and enhance habitat for other species. These rights do not include wetland mitigation banks pursuant to Section 373.4135, et. seq., Florida Statutes or Federal Law.

ENCUMBRANCES:

There are no known encumbrances on the property that adversely affect marketability or the ability to enforce the rights granted under the easement.

MORTGAGES AND LIENS:

All mortgages and liens will be satisfied or subordinated at the time of closing.

On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to the Department of Environmental Protection (DEP) the authority to review and evaluate marketability issues related to land acquisition as they arise on all Chapter 259, F.S., and to resolve them appropriately. Therefore, DEP staff will review, evaluate and implement an appropriate resolution for these and any other title issues that arise prior to closing.

CLOSING INFORMATION:

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

Item 5, cont.

EASEMENT MONITOR:

This perpetual conservation easement will be monitored by the FFS.

COMPREHENSIVE PLAN:

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

(See Attachment 5, Pages 1-81)

RECOMMEND APPROVAL

Item 6 Babcock Ranch Preserve/FDACS/Designation

REQUEST: Consideration for the Florida Department of Agriculture and Consumer Services (FDACS) to be authorized as the designated agent of the Board of Trustees for the purposes outlined in Section 259.1053(5)(d), F.S., relating to the management and operation of Babcock Ranch Preserve (Preserve).

STAFF REMARKS:

Background

The Board of Trustees approved a purchase agreement to acquire the Charlotte County portion of the Babcock Crescent B Ranch on November 22, 2005. The acquisition of the state's portion of the Preserve by the Board of Trustees was a conservation acquisition under the Florida Forever program. The goal of acquiring the property was to sustain the ecological and economic integrity of the property while allowing the business of the ranch to operate and prosper. The Preserve constitutes a unique land mass that has significant scientific, cultural, historical, recreational, ecological, wildlife, fisheries, and productive values. It is part of a potential greenway of undeveloped land extending from Lake Okeechobee to the east and Charlotte Harbor to the west. The natural beauty and abundant resources of the Preserve provide numerous public recreational opportunities such as hiking, fishing, camping, horseback riding, and hunting in addition to its agricultural productivity.

On July 31, 2006, a Management Agreement was entered into between Babcock Ranch Management, LLC, and the Board of Trustees for one five-year term with one automatic renewal for an additional five-year term, not to extend beyond July 31, 2016. The purpose of the Management Agreement is to provide for the management and conservation of the Preserve which includes leasing, licensing, harvesting, hunting, farming, and other related operations. The Management Agreement was renewed for the additional five-year term and is set to expire on July 31, 2016.

Item 6, cont.

In 2013, the Florida Legislature passed HB 7087, which provided for FDACS to assume the management and operation of the Preserve upon the termination of the Management Agreement. Section 259.1053, F.S., sets forth the duties and responsibilities of FDACS, which include implementing a management plan; administering and operating a working ranch; allowing public use; conserving the natural resources; and providing leases and other agreements for the use and occupancy of the facilities of the Preserve. Additionally, the Florida Fish and Wildlife Conservation Commission is directed to manage the public fishing, hunting, and wildlife management activities on the Preserve when the Management Agreement expires.

Current Request

Section 259.1053(5)(d), F.S., grants to the Board of Trustees “or its designated agent” the authority to negotiate and enter into agreements, leases, contracts, and other arrangements with any person, firm, association, organization, corporation, or governmental entity, including entities of federal, state, and local governments; and grant privileges, leases, concessions, and permits for the use of land for the accommodation of visitors to the preserve, provided no natural curiosities or objects of interest shall be granted, leased, or rented on such terms as shall deny or interfere with free access to them by the public as necessary and appropriate to carry out the purposes and activities authorized by the Babcock Ranch Preserve Act. Such grants, leases, and permits may be made and given without advertisement or securing competitive bids, but may not be assigned or transferred by any grantee without the consent of the Board of Trustees or its designated agent.

Before FDACS proceeds in fulfilling its statutory duties and responsibilities on behalf of the Board of Trustees, pursuant to Section 259.1053, F.S., the Board of Trustees must first authorize FDACS as its designated agent.

(See Attachment 6, Pages 1-5)

RECOMMEND APPROVAL