

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

January 17, 2023

Attachments to the items below can be viewed at the following link:

<https://floridadep.gov/cab/cab/content/agendas>

Item 1 Minutes

Submittal of the Board of Trustees' Minutes from the August 23, 2022, Cabinet Meeting.

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

(See Attachment 1 at <https://floridadep.gov/cab/cab/content/agendas>)

RECOMMEND: APPROVAL

Item 2 Rookery Bay National Estuarine Research Reserve Management Plan/Delegation

REQUEST: Consideration of a request to (1) approve the Rookery Bay National Estuarine Research Reserve Management Plan, which includes Rookery Bay Aquatic Preserve and Cape Romano-Ten Thousand Islands Aquatic Preserve; (2) delegate authority to the Secretary of the Department of Environmental Protection, or designee, to approve aquatic preserve management plans (including those associated with National Estuarine Research Reserves) developed pursuant to Rules 18-20.013 and 18-18.013, F.A.C., provided the Acquisition and Restoration Council first approves the management plan.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Collier

APPLICANT: Florida Department of Environmental Protection

LOCATION: Rookery Bay National Estuarine Research Reserve (RBNERR) is located southeast of the City of Naples in Collier County on the southwest coast of Florida.

STAFF REMARKS:

Overview

The National Estuarine Research Reserve (NERR) System is a network of protected areas established for long-term research, education, and stewardship. The present day RBNERR was selected for inclusion into the system by a committee of scientists, environmental educators, and coastal managers because it met the overall needs of a relatively pristine habitat for scientific research and environmental education opportunities. The selection garnered support from citizens and legislators across the state, was nominated by the Governor and Cabinet of Florida, and received final designation in September 1978.

Item 2, Cont.

Under the Aquatic Preserve Resolution of 1969 and subsequently in Chapter 258, Part II, Florida Statutes, aquatic preserves are set aside to be maintained in essentially the natural condition for the benefit of future generations. Cape Romano-Ten Thousand Islands Aquatic Preserve was designated in 1970 and Rookery Bay Aquatic Preserve was designated in 1976. Rookery Bay Aquatic Preserve was later expanded in 1982 and again in 1984.

RBNERR is an excellent example of a subtropical mangrove forested estuary, and it has national and international significance as the western edge of the Everglades ecosystem. However, it is adjacent to one of the fastest developing coastal areas of the United States. RBNERR contains approximately 110,000 acres, including 37,344 acres leased to Office of Resilience and Coastal Protection (ORCP). The boundary also encompasses the submerged lands of the two aquatic preserves and Ten Thousand Islands National Wildlife Refuge which is managed by the U.S. Fish and Wildlife Service. RBNERR also manages 3,700 acres owned by National Audubon Society.

The Florida Division of Historical Resources has documented 114 historical structures and archeological sites that fall within RBNERR, which are managed by the RBNERR, including prehistoric Native American burial mounds, shell middens, and homesteads.

Management Plan Public Involvement

To obtain public input on the RBNERR draft management plan, two public meetings were held. One was conducted online, on Tuesday, March 22, 2022, and the other was an advisory committee meeting, held at the RBNERR on Friday, March 25, 2022. The National Oceanic and Atmospheric Administration (NOAA) approved the RBNERR draft management plan on September 9, 2022.

Management Plan Overview

The management plan proposes the following restoration projects and facility improvements:

- Restoration Projects
 - Continuing the Fruit Farm Creek hydrological restoration by constructing culverts across San Marco Road to address more than 200 acres of impaired mangrove forest.
 - Hydrological restoration along the Henderson Creek by rerouting a service road to restore natural sheetflow.
 - Conversion of a former agricultural field overgrown with Brazilian pepper to a stormwater pond which will relieve flooding elsewhere in and outside of the RBRR.
 - Improving several low-water crossings along Powerline Road.
 - Invasives removal on Cannon, Sea Oat, and Dickmans islands.
 - Hydrological restoration to tidally reconnect Marco Shores Lake.
 - Hydrologic restoration of Collier Boulevard.
 - Culverts and elevated wildlife crossings on Shell Island Road.
- Facility Improvements
 - Renovation and expansion of the Ten Thousand Islands Field Station dock.
 - Renovation and extension of the Shell Island Road Dock.

Item 2, Cont.

- Construction of an additional Shell Island Road Dormitory incorporating LEED certification.
- Conversion of Keewaydin and Cannon Island docks to floating docks.
- Expansions at the Environmental Learning Center (ELC) and improving the resilience of the ELC and adjacent administration building.
- Hardening the water quality and weather monitoring infrastructure.
- Reconstruction of the $\frac{3}{4}$ mile Briggs Center boardwalk.
- Developing a joint RBNERR-Florida International University center for research and education.

Major accomplishments since the last management plan include the following:

- Treating 2,868 acres with prescribed fire and 13,319 acres for exotic invasive plants.
- Establishing boat and kayak tours through an ecotour operator which has reached more than 14,000 guests.
- Developing an intern program to monitor sea turtle nests in Cape Romano which has monitored 1,251 nests producing 52,140 hatchlings since 2016.
- Research on American crocodiles, Burmese pythons, and sharks.
- The launching of the Fruit Farm Creek mangrove restoration project.

Acquisition and Restoration Council Approval

The Acquisition and Restoration Council (ARC) approved the management plan at its October 14, 2022 meeting.

The management plan can be accessed at:

<https://floridadep.gov/rcc/rcc/content/site-management-plans>

Comprehensive Plan

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S. Collier County submitted an email confirming that the RBNERR Management Plan is consistent with the adopted comprehensive plan.

Delegated Authority

Background

Under the Department's ORCP and with assistance from NOAA, the state manages 42 aquatic preserves and three NERRs (which combine management of state-owned uplands and submerged lands). Management plans for the state's managed submerged aquatic resources are required to go to the Board of Trustees for review and approval, pursuant to Rule 18-20.013, F.AC. The proposed delegation, if approved, will help streamline the approval of aquatic preserves management plans with and without associated NERRs, by instead allowing management plans to be approved by the Secretary, or designee, after being approved by ARC. This delegation would make the approval process for aquatic preserve management plans consistent with the process for conservation upland management plans while maintaining the current thorough review process already in place.

Item 2, Cont.

Current Process

NERR and aquatic preserve management plans are reviewed by the Department and an advisory committee composed of, at a minimum, stakeholders identified in section 259.032(8)(b), F.S. Additionally, the public is provided multiple opportunities to review and comment upon the plans as they are developed. At least 30 days prior to public meetings, the draft plans are posted on the Department's public facing website, and a notice of such posting is announced to the public via electronic mail. Additionally, at least one week prior to the public meeting, a notice is published in a local newspaper of general circulation and flyers are posted in the vicinity of the NERR or aquatic preserve. In addition to the public and advisory committee meetings held within the vicinity of the aquatic preserve, the plans are reviewed by ARC at a public meeting open to the public. Furthermore, NERR management plans undergo even further review through NOAA.

Similar Delegation

The Department's Division of State Lands (DSL) serves as staff to the Board of Trustees for oversight of activities occurring on state-owned conservation lands. With assistance from DSL, ARC has the responsibility, pursuant to section 253.034(5)(g), F.S., of reviewing the management plans for state-owned conservation lands and providing a recommendation to the Board of Trustees, including approval, approval with modifications, or rejection of the plan. Final approval of state-owned conservation land management plans were delegated by the Board of Trustees to the Department on September 29, 2015, provided ARC approves the plan. The Department now requests this authority, to approve aquatic preserve management plans and associated NERR management plans, in order to streamline the approval process. The new delegated authority to the Secretary of the Department, or designee, would be as follows:

The Secretary, or designee, may approve aquatic preserve management plans, including those associated with National Estuarine Research Reserves, submitted pursuant to Rule 18-18.013, F.A.C., or Rule 18-20.013, F.A.C.

(See Attachment 2, Page 1)

RECOMMEND: APPROVAL

Item 3 Yachting Promotions Inc. / Recommended Consolidated Intent/ Special Events Lease Modification

REQUEST: Consideration of an application for a modification to an existing ten-year Class IV special events, sovereignty submerged lands lease to increase the preempted area from 1,078,315 square feet to 1,401,850 square feet, more or less, for a temporary commercial docking facility associated with the Palm Beach International Boat Show.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Palm Beach

APPLICANT: Yachting Promotions Inc. (Yachting Promotions)
Lease No. 500028996
Application No. 50-0137959-009-EM

LOCATION: Adjacent to Flagler Drive (Between Banyan Boulevard and Myrtle Street)
West Palm Beach
Section 22, Township 43 South, Range 43 East
Aquatic Preserve: No
Waterbody/Classification: Lake Worth Lagoon, Class III, not approved for shellfish harvesting
Designated Manatee County: Yes, with an approved manatee protection plan
Manatee Aggregation Area: No
Manatee Protection Speed Zone: Slow speed year-round/specific channels excluded

CONSIDERATION: \$35,079.85, representing (1) \$33,166.23 as the initial prorated annual lease fee computed at the base rate of \$0.1919 per square foot, pursuant to section 253.0345(1)(b), F.S., and (2) \$1,913.62 as the one-time 25 percent surcharge payment for the new lease area of 323,535 square feet, pursuant to Rule 18-21.011(1)(b)1., F.A.C. Sales tax and county discretionary sales surtax will be assessed, pursuant to sections 212.031, and 212.054, F.S., if applicable.

STAFF REMARKS: In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., the "Recommended Consolidated Notice" contains a recommendation for issuance of both the permit, required under part IV of Chapter 373, F.S., and the authorization to use sovereignty submerged lands under Chapters 253 and 258, F.S. The Board of Trustees is requested to act on those aspects of the activity which require authorization to use sovereignty submerged lands.

Background

Yachting Promotions first obtained a permit from the Department to operate the Palm Beach International Boat Show (Boat Show) in 1995. At the time, the Boat Show was only preempting City-owned submerged lands; therefore, a lease was not required to operate the temporary docking facility.

Item 3, Cont.

In 1998, it was discovered by the Department that the Boat Show was operating outside of City-owned submerged lands and on sovereignty submerged lands. Civil penalties for violations were collected in arrears.

On March 9, 1999, the Board of Trustees approved a five-year Class IV special events lease containing 435,045 square feet (9.987 acres) for a commercial temporary docking facility.

On July 31, 2007, the Board of Trustees accepted the conveyance of 370,695.6 square feet (8.51-acres) of City-owned submerged lands back to the state. As a result of this conveyance, Yachting Promotions was required to obtain a lease modification to incorporate the previously City-owned submerged lands into the lease.

On April 14, 2008, Yachting Promotions lease expired, and on January 29, 2009, the special events permit expired. Soon thereafter, Yachting Promotions held their annual boat show. Yachting Promotions was assessed over \$40,000 in civil penalties.

On February 9, 2010, the Board of Trustees approved a one-year renewal and modification of the special events lease and permit associated with the Boat Show from 475,199 square feet to 1,183,551 square feet.

Since 2010, subsequent lease modifications and permits have been authorized for the reconfiguration of the floating dock structures. These modifications also included adjusting the total preempted area of the activities. These modifications to the lease were executed by the Department under delegation of authority.

Project Description

Yachting Promotions has applied for the modification of a Class IV special events lease to operate the annual Boat Show. The proposed project will increase the preempted area as well as add additional docking structures within the lease area. The reconfiguration at the Flagler Drive location includes authorization of 667 slips available for the display of vessels; the installation of five buoys to temporarily shift the location of the federal channel further east; and an increase of the total preempted area from 1,078,315 square feet to approximately 1,401,850 square feet. The proposed modification now consists of removing portions of the lease area along the eastern side of the Intracoastal Waterway and expanding the southwestern lease area eastward to accommodate the proposed reconfiguration of structures.

Pursuant to Rule 18-21.0082(2)(c)2., F.A.C., the time of preemption, including the installation of structures, the event itself and removal of the structures, shall not exceed 45 days. Furthermore, the permit allows activity no longer than 30 days.

Item 3, Cont.

Resources

Paddle grass is located in areas within the proposed project footprint. However, it is not anticipated that there will be permanent impacts to the existing submerged resources located within the project boundaries due to the temporary nature of the event. The Applicant has provided assurances through the submission of pre, post, and in-season benthic resource surveys from previous Boat Show events. These surveys have not indicated adverse loss of seagrasses within the lease area. Additionally, the Applicant will continue to provide pre and post boat show resource surveys each year the Boat Show occurs at this location. The Boat Show, from construction and placement of the temporary docking facilities to the removal of structures, will be no longer than 30 days.

Noticing/Interested Parties

The lease modification request was noticed to property owners within a 500-foot radius of the project, pursuant to Rule 18-21.004(1)(m), F.A.C. There were 521 property owners noticed and two comments were received.

A letter was received on November 16, 2022, by James Varrant. Mr. Varrant commented on the on-land security measures, negative noise impact from traffic, and environmental concerns of the lagoon bottom, flora and fauna, and wildlife from the Boat Show. A response to these comments, addressed by the Applicant, was sent to Mr. Varrant on November 22, 2022, indicating that no dredging is proposed for the project, the channel relocation was approved by the U.S. Coast Guard (USCG) and the Florida Inland Navigation District (FIND), the temporary nature of the Boat Show (no more than 30 days total), manatee informational signs, and the brief discussion of past benthic resource survey monitoring events, which occurred and rendered no evidence of adverse impacts to benthic resources.

A letter was also received on November 28, 2022, after the formal noticing period, by Henry Wulf, on behalf of Leisure Resorts LLC, with a concern related to navigation of the adjacent marina to the north. A response to this comment, addressed by the Applicant, was sent to Mr. Wulf on December 5, 2022. This response detailed that the proposed lease modification is not extending any further towards the marina to the north than the current lease area footprint, which is authorized under Lease No. 500028996 from April 4, 2019, to March 6, 2025. Additionally, through an agreement, the Applicant and Leisure Resorts LLC, have reached a resolution related to the navigation concerns.

(Attachment 3, Pages 1-36)

RECOMMEND: APPROVAL SUBJECT TO THE SPECIAL LEASE CONDITION(S), AND
PAYMENT OF \$35,079.85

Item 4 Middle Island Management and Development LLC/ Recommended Consolidated Intent/ Lease Modification

REQUEST: Consideration of (1) an application for a modification of an existing five-year sovereignty submerged land lease containing 34,688 square feet, more or less, to a ten-year sovereignty submerged lands lease and an increase of the preempted area to 329,736 square feet, more or less, for a commercial docking facility; (2) authorization for the severance of 31,395 cubic yards of sovereignty material with 41,233 cubic yards of material removed in total; (b) removal of 186 linear feet of existing seawall to align with a new seawall; (c) the placement of 619 cubic yards of riprap; and (d) the installation of a 23,693 square foot wave attenuator.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Martin

APPLICANT: Middle Island Management and Development LLC, c/o Jeff Hardin
Lease No. 430026158
Application No. 43-0204141-003-EI

LOCATION: 75 NW Flagler Avenue
Stuart, FL
St. Lucie River
Waterbody/ Classification: Class III
Designated Manatee County: Yes, with an approved Manatee Plan.

CONSIDERATION: \$97,692.12, representing (1) \$44,293.44 as the initial annual lease fee computed at the base rate of \$0.1919 per square foot for the total of 329,736 square feet, discounted thirty percent because ninety percent of the slips are open to the public for rent on a first-come, first served basis, pursuant to Rule 18-21.011(1)(b)2., F.A.C.; (2) \$14,154.93 as the one-time twenty-five percent surcharge payment for the new lease area of 295,048 square feet, pursuant to Rule 18-21.011(1)(b)3., F.A.C; and (3) \$39,243.75 for the severance of 31,395 cubic yards of sovereignty material computed at the rate of \$1.25 per cubic yard pursuant to Rule 18-21.011(3)(a)3., F.A.C. The lease fee shall be adjusted based on six percent of the annual income if it proves to be greater than the fee computed at the base rate, pursuant to Rule 18-21.011(1)(a)1, F.A.C. Sales tax and county discretionary sales surtax will be assessed, pursuant to sections 212.031, and 212.054, F.S., if applicable.

STAFF REMARKS: In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., this "Recommended Consolidated Notice" contains a recommendation for issuance of both the permit required under Part IV of Chapter 373, F.S., and the authorization to use sovereignty submerged lands under Chapters 253 and 258, F.S. The Board of Trustees is requested to act on those aspects of the activity that require authorization to use sovereignty submerged lands.

Item 4, Cont.

The project is required to demonstrate that it is “not contrary to the public interest,” pursuant to Rule 18-21.004(1)(a), F.A.C. The Applicant has provided reasonable assurance that the proposal will maintain essentially natural conditions; will not significantly impact fish and wildlife or other natural resources, including public recreation and navigation; is consistent with the goals and objectives of the “Conceptual State Lands Management Plan;” is consistent with the local government’s comprehensive plan; and will not interfere with the riparian rights of adjacent property owners. Therefore, the Department of Environmental Protection (Department) is of the opinion that the proposal is “not contrary to the public interest” and otherwise meets all applicable requirements for a proprietary authorization to use sovereignty submerged lands, pursuant to Article X, Section 11 of the Florida Constitution, Chapter 253, F.S., associated Rule 18-21, F.A.C., and the direction of the Board of Trustees.

Background

On September 24, 1964, the Board of Trustees conveyed, without reservation, a 4.70-acre parcel of submerged land to Outboard Marine Corporation in Board of Trustees Deed No. 23833. The original lease was granted for the use of sovereign submerged lands on October 1, 1997. This lease authorized a private docking facility for the mooring of test boats, which were to be used in conjunction with the upland marine engine and testing facility. Subsequent lease modifications were for renewals and lessee name changes until October 13, 2020, when Middle Island Management and Development LLC, became the new and current lessee. The proposed modification now consists of redeveloping the current lease and upland facility into a commercial marina operation open to the public.

On August 23, 2022, the Department issued permit No. 43-0204141-004-EI, for the following activities; the removal of 186 linear feet of existing seawall to align with a new seawall, a wet/dry yacht and boat storage facility, a 6,280 square foot restaurant, pool, two-story ship store, fitness center, associated site improvements, and the construction of a surface water management system.

Project Description

The proposed project will include the construction of a 576-slip commercial marina facility, consisting of approximately 29,382 square feet of dock structure, a 23,693 square foot wave attenuator, and approximately 619 cubic yards of new riprap. Dredging is also included in the proposal and would consist of approximately 41,233 cubic yards of material, of which 31,395 cubic yards is sovereign material, within a 275,735 square foot area, and will be dredged to a maximum dredge depth of minus nine (-9) feet at mean low water.

Prior to the construction of the new docking facility, approximately 4,052 square feet of existing breakwater, 1,156 square feet of existing dock structure, and 1,160 square feet (186 linear feet) of existing seawall will be removed. The docking facility is to be used in conjunction with an upland commercial marina facility. The upland facility is planned to include a 455-dry stack boat barn, a restaurant and bar, ship store, and other amenities associated with a commercial marina facility. The commercial marina facility will have a combined total of 576 wet and dry slips. Of those, 121 will

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be wet slips, comprised of 82 on sovereignty submerged land and 39 on privately-owned submerged land.

Additionally, at least ninety percent of slips will be open to the public and maintained on a first-come, first-served basis pursuant to a special lease condition contained in the lease.

Dredging/ Shoreline Armoring/ Wave Attenuator

The Applicant proposes to dredge approximate 31,395 cubic yards of sovereignty material, 41,233 cubic yards in total, which will provide a sufficient depth of -9 feet at mean low water for mooring of vessels, for future upland construction. The dredge material will be mechanically excavated and placed directly in a self-contained barge with a fully loaded draft of no more than three feet. Additionally, the Applicant is proposing to place 619 cubic yards of riprap along approximately 1,032 linear feet of its existing upland bulkhead and install of a 23,693 square foot wave attenuator that will be used in conjunction as a docking structure.

Resources

The benthic resource survey conducted on July 13, 2021, indicated that there were no submerged resources found within, or adjacent to the docking facility and dredging footprint. Therefore, the proposed project is not expected to adversely impact any significant submerged or aquatic resources. Mangrove impacts were avoided by constructing the proposed seawall landward of the mangroves and their prop roots.

Noticing

The lease modification request was noticed to property owners within a 500-foot radius of the project, and other interested parties, pursuant to Rule 18-21.004(1)(m), F.A.C. There were fifty-three property owners specifically noticed and no objections were received.

(Attachment 4, Page 1-32)

**RECOMMEND: APPROVAL SUBJECT TO THE SPECIAL APPROVAL CONDITION(S),
THE SPECIAL LEASE CONDITION(S), AND PAYMENT OF \$ 97,692.12**

Item 5 BOT/ Charles Kennedy, Derrick New, and Dennis New Exchange Agreement/ Blackwater River State Forest/ Determinations

REQUEST: Consideration of (1) a determination that an approximately eight-acre parcel of land owned by the Board of Trustees is (a) no longer needed for conservation purposes, pursuant to Article X, section 18 of the Florida Constitution and section 253.0341(1), F.S.; and (b) surplus; (2) a determination that an exchange will (a) result in a net positive conservation benefit to the state, pursuant to section 253.0341(1), F.S.; and (b) provide a greater benefit to the public than its retention

Item 5, Cont.

in Board of Trustees' ownership, pursuant to Rule 18-2.018(3)(b)1.c., F.A.C.; and (3) approval of an exchange agreement in which the Board of Trustees will convey the approximately eight-acre parcel of state-owned conservation land in exchange for approximately 16 acres of land owned by Charles Kennedy, Derrick New, and Dennis New.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Okaloosa

APPLICANTS: Charles Kennedy, Derrick New, and Dennis New (Kennedy/New)

LOCATION: Section 03, Township 05 North, Range 25 West

CONSIDERATION: Parcel for parcel, with no cash boot to be paid by the Board of Trustees.

PARCEL	ACRES	APPRAISED BY		EXCHANGE VALUE	CLOSING DATE
		Griffith	(4/12/21)		
Kennedy/New	16	\$84,800		\$84,800	120 days after BOT approval
BOT	8	\$50,400		\$50,400	

STAFF REMARKS: The Department of Environmental Protection (Department) Division of State Lands (DSL) and the Department of Agriculture and Consumer Services' (DACS) Florida Forest Service (FFS), are proposing to exchange an eight-acre parcel of state-owned conservation land for 16 acres of land owned by Kennedy/New.

Background

In 1955, the United States of America (USA) conveyed 121,427 unsurveyed acres, now known as the Blackwater River State Forest (BRSF), to the former Florida Board of Forestry, predecessor to FFS, pursuant to the Bankhead-Jones Farm Tenant Act of 1937. The conveyance was made subject to the condition that the land be used for public purposes, and if not, it would revert back to the USA. The land was subsequently conveyed to the Board of Trustees pursuant to section 253.03(6), F.S. The land is managed by FFS under Board of Trustees' Lease No. 3686.

Project Detail

In 1984, Kennedy/New's parents purchased approximately 49 acres from Lawrence W. Looney, which included a 3,456 square foot single-family residence built in 1977. In 1989, a mobile home was placed on the property and in 2016, an open tin roof garden shed was built. Kennedy/New inherited the property in 2009 from their mother. In 2020, Kenney/New discovered that a portion of the improvements were encroaching on the eight acres of the BRSF. Kennedy/New would like to resolve the encroachment by offering 16 acres of unimproved land immediately adjacent to BRSF, in exchange for the eight-acres containing a portion of their residence and outbuildings. The Department contacted the U.S. Department of Agriculture (USDA) in 2020, regarding the reverter, and received approval to proceed with the exchange, under the condition that the reverter would be

Item 5, Cont.

transferred from the eight-acre state-owned parcel to the 16-acre parcel proposed for the exchange. The Department, FFS, and USDA have worked together to satisfy all parties in the resolution of this encroachment. This property is currently under lease to the FFS as part of the BRSF.

The proposed exchange will benefit FFS by removing eight acres of unmanageable land encumbered with a private single-family residence, mobile home, and garden shed, replacing it with 16 acres of forested land which will better meet its goals and objective of public land conservation and utilization. Additionally, the exchange will legally resolve this encroachment issue within BRSF.

Acquisition and Restoration Council

The proposed exchange request was recommended for approval by the Acquisition and Restoration Council on December 11, 2020.

Constitutional, Statutory, and Rule Requirements

Pursuant to Article X, section 18 of the Florida Constitution, the fee interest in real property may be disposed of only if the members of the governing board of the entity holding title determine the property is no longer needed for conservation purposes and only upon a vote of two-thirds of the governing board. Pursuant to section 253.0341(1), F.S., to surplus conservation lands, the Board of Trustees, by a vote of at least three members, must determine that the lands are no longer needed for conservation purposes and that the exchange will result in a net positive conservation benefit to the state. Pursuant to Rule 18-2.018(3)(b)1.c., F.A.C., the surplus lands must provide a greater benefit to the public than its retention in Board of Trustees' ownership. The Department offers the following to assist the Board of Trustees in determining that the 8-acre parcel is no longer needed for conservation purposes:

- The parcel contains a private single-family residence, mobile home, and garden shed making it unmanageable for public land conservation and utilization.

The Department also offers the following to assist the Board of Trustees in making the determination that the exchange will provide a net positive conservation benefit to the state and the eight-acre parcel will provide a greater benefit to the public than its retention in Board of Trustees' ownership:

- The new configuration of the state-owned lands will enhance public use and is compatible with the overall land management plan for this conservation area;
- The state will gain forested land adjacent to BRSF; and
- The exchange will legally resolve an encroachment within BRSF.

Management Review

FFS, as manager of BRSF, supports the proposed exchange. The 16 acres being received will be merged with BRSF and serve the purposes of the forest, land conservation, and utilization.

Item 5, Cont.

Comprehensive Plan

The Department has determined the proposed exchange is not subject to the local government planning process. The acquisition of the private parcel is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands' section of the State Comprehensive Plan.

(Attachment 5, Pages 1-28)

RECOMMEND: APPROVAL

Item 6 Namdar Group LLC Acceptance of Offer/Sale and Purchase Contract/ Determination

REQUEST: Consideration of (1) a determination that an approximately 4.33-acre improved parcel of state-owned non-conservation land, is surplus and is no longer needed, pursuant to section 253.0341(1), F.S.; (2) acceptance of a bid in the amount of \$62,600,000 submitted by Namdar Group LLC, for the purchase of an approximately 4.33-acre improved parcel of state-owned non-conservation land; and (3) approval of a contract for sale and purchase of an approximately 4.33-acre improved parcel of state-owned non-conservation land to Namdar Group LLC.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Broward
Bid No. DSL-BID-22-001

APPLICANT: Namdar Group LLC

LOCATION: Section 03, Township 50 South, Range 42 East

CONSIDERATION: \$62,600,000 to be deposited in the Architects Incidental Trust Fund pursuant to section 253.0341(14)(b), F.S.

STAFF REMARKS: The subject property was purchased by the Board of Trustees in 1975 from the Downtown Development Authority of the City of Fort Lauderdale for \$483,000. The acquisition was negotiated by the Department of General Services, now known as the Department of Management Services (DMS). The existing building was constructed in 1979.

On August 20, 1979, DMS entered a 99-year lease (No. 2985) with the Board of Trustees with an expiration date of August 20, 2078. The purpose of the lease was for managing the subject property for the operation of a state regional service center. On December 2, 2021, the Florida Department of Environmental Protection's (Department) Division of State Lands (DSL) received a request from DMS to be released from its lease on the subject property because it was in the best interest of the State of Florida to remove this facility from the DMS-managed Florida Facilities Pool.

Item 6, Cont.

Statutory Requirement

Pursuant to section 253.0341(1), F.S., to surplus non-conservation land, the Board of Trustees must determine that the land is no longer needed. Pursuant to section 253.0341(4), F.S., non-conservation lands shall be reviewed by DSL for recommendation as to whether such lands should be retained in public ownership or disposed of by the Board of Trustees. DSL offers the following to assist the Board of Trustees in making an affirmative determination that the subject parcel is no longer needed:

- DMS, the managing agency, has evaluated the use of the subject parcel and determined that it is no longer needed for the purpose for which it was originally leased; and
- DSL has reviewed DMS's findings and completed the required surplus lands process.

Noticing

Pursuant to section 253.0341(7), F.S., the subject parcel was offered for lease to state agencies and no interest in the subject property was received.

Marketing and Bid History

The Department contracted with CBRE, Inc. (CBRE) to assist with the marketing and sale of the subject property. Bid instructions were posted by CBRE on September 2, 2022, until the bid opening date of October 25, 2022. CBRE posted on their website the subject property information, maps, history, disclosure, bid package information, and the minimum bid amount of \$52,000,000, which was determined pursuant to section 253.0341(8), F.S. CBRE also placed signs on the subject property and sent emails to approximately 20,000 prospective buyers. Follow-up communications and site tours with prospective buyers were conducted by CBRE during the marketing period.

The subject property was also posted on the Department's surplus land website from September 2, 2022, until the bid opening date of October 25, 2022. The Department sent notification of the bid through GovDelivery to approximately 64,000 entities that included real estate offices, developers, investment companies, and other parties that have requested to receive notification of surplus land bid notices. The bid was also advertised in the legal section of the Sun Sentinel once per week for three consecutive weeks.

Two responsive bids were received, with the highest bid received from Namdar Group LLC, in the amount of \$62,600,000. Namdar Group LLC advised of their plans to re-develop the property.

Namdar Group LLC will be responsible for and pay all closing costs associated with the subject property including, but not limited to, survey costs, documentary stamp tax on the quitclaim deed, recording fees, abstract or title insurance fees, buyer's attorneys' fees, and any other closing costs that they may incur. Namdar Group LLC shall also reimburse any closing costs that are initially paid by the Board of Trustees or other parties on behalf of the Board of Trustees. These reimbursable closing costs include, but are not limited to, the costs of appraisal, survey, legal advertising, and the brokerage fee to CBRE.

Item 6, Cont.

Comprehensive Plan

Consideration of the status of the local government comprehensive plan was not made for this item. The Department has determined that the proposed action to surplus property is not subject to the local government planning process.

(Attachment 6, Pages 1-9)

RECOMMEND: APPROVAL

Item 7 Gissy Rainbow River, LLC Option Agreement/Conservation Easement/Rainbow River Corridor Florida Forever Project

REQUEST: Consideration of an option agreement to acquire a conservation easement over 135 acres within the Rainbow River Corridor Florida Forever project from Gissy Rainbow River Ranch, LLC.

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

COUNTY: Marion

LOCATION: Sections 25 and 36, Township 16 South, Range 18 East

CONSIDERATION: \$3,000,000

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY String (9/1/22)	Albright (9/1/22)	APPROVED <u>VALUE</u>	SELLER'S PURCHASE <u>PRICE</u>	TRUSTEES' PURCHASE <u>PRICE</u> (97%)	OPTION DATE
Gissy Rainbow River Ranch, LLC	135	\$3,100,000	\$3,060,000	\$3,100,000	\$4,667,500*	\$3,000,000** (97%)	120 days after BOT Approval

*Property is a portion of an assemblage acquired from June 2016 to March 2020 for \$4,667,500
**\$22,222 per acre.

STAFF REMARKS: The subject property is located within the Rainbow River Corridor Florida Forever project, ranked number 18 in the Florida Forever Partnerships and Regional Incentives project category, which was approved by the Board of Trustees on March 29, 2022. The project contains 1,231 acres, of which 307 acres have been acquired or are under agreement to be acquired.

Item 7, Cont.

Project Description

The Rainbow River Corridor project will protect most of the undeveloped or minimally developed private land remaining along the Rainbow River. The southern parcels will preserve a large portion of undeveloped shoreline along the eastern side of the river and provide a connection to the southern end of the Rainbow Springs State Park (RSSP). In addition, the potential restoration of altered habitats would help restore and maintain water quality and habitat along one of Florida's largest spring-run streams. This project will increase biodiversity protection through the conservation of rare species habitat, preserve landscape linkages and conservation corridors, protect surface waters of the state, preserve aquifer recharge areas, and increase natural resource-based recreation opportunities. The project lies within a wildlife corridor in the Florida Ecological Greenways Network.

Property Description

The 135-acre subject property, known as Gissy Rainbow River Ranch (Ranch), is located in southwest Marion County in the City of Dunnellon. Serving as an important linkage to existing conservation land, the Ranch shares its northern and eastern boundaries with RSSP, southwest boundary with the City of Dunnellon's Blue Run of Dunnellon Park, and western boundary with the Rainbow River.

Rainbow River has one of the largest spring runs in the world and is a designated National Natural Landmark, an aquatic preserve, and an Outstanding Florida Waterway. Restricting development on the subject property, including approximately 3,400 linear feet along the river's shoreline, is crucial for the protection of the water quality, and the flora and fauna along, the Rainbow River.

Prohibited Uses

Under the proposed conservation easement, the subject property will be restricted in perpetuity by the provisions of the easement, a summary of which includes, but is not limited to, the following prohibited uses:

- Dumping of trash, waste, hazardous materials, and soil will be prohibited;
- Exploration and extraction by grantor for oil, gas, minerals, peat, muck, limestone, etc., by means of surface exploratory and extractors operations, except as reasonably necessary to combat erosion or flooding, or except as necessary and lawfully permitted for the conduct of permitted activities;
- Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife preservation will be prohibited, unless needed for maintenance as provided in the easement;
- Acts or uses detrimental to the preservation of any historical or archaeological area will be prohibited;
- The removal, destruction, cutting, trimming, mowing, alteration, or spraying with biocides of trees, shrubs, or other natural vegetation will be prohibited, unless needed for conservation purposes, as provided in the easement;
- There shall be no planting of nuisance exotic or non-native plants;

Item 7, Cont.

- Commercial and industrial activities will be prohibited, except as may be incidental to the exercise of grantor's reserved rights in Article V;
- New construction or placing of temporary or permanent structures or buildings on the subject property will be prohibited except as may be necessary for maintenance, normal operation or emergency situations, or as permitted in Article V;
- Construction of new roads or jeep trails will be prohibited, except as associated with activities allowed under the provisions of Article V;
- The operation of motorized vehicles will be prohibited except on established trails and roads unless (1) necessary to protect or enhance the conservation values of the subject property; (2) for emergency purposes; (3) for cattle ranching purposes; and (4) to access, hunt or to retrieve game hunted legally;
- Current agricultural uses shall not be converted to more intense agricultural uses, and Natural Areas shall remain Natural Areas;
- Spring recharge areas must use best management practices for fertilizer use, as established by Florida Department of Agriculture and Consumer Services and agriculture activities within 100 feet of sinkholes, springs, and other karst features is prohibited;
- Actions or activities that may be expected to adversely affect threatened or endangered species is prohibited;
- Subdivision of the subject property is prohibited, except as provided in the easement under Article V;
- Signs, billboards, or outdoor advertising is prohibited except signs designating the subject property as conservation lands protected by the State of Florida or reasonable directional or postal signs;
- No commercial water wells;
- No commercial timber harvesting except as provided in the easement under Article V; and
- There shall be no mitigation banks established on the subject property.

Owner's Rights Retained

The proposed conservation easement will allow the owner to retain certain rights. The summary of owner's rights includes, but is not limited to, the following:

- The easement runs with the land and will be included in any sale of the subject property;
- The right to observe, maintain, photograph, fish, hunt, and introduce and stock native fish or wildlife, to use the subject property for non-commercial, passive, resource-based recreation not inconsistent with the purpose of the easement. Grantor shall continue to own hunting and fishing rights;
- The right to conduct controlled and prescribed burns with proper authorization;
- The right to mortgage the subject property;
- The right to contest taxes;
- The right to continue to use, maintain, repair, and reconstruct, but not relocate all existing buildings as depicted on the Baseline Documentation Report (BDR), no larger than 125% of the original size;

Item 7, Cont.

- The right to construct new roads with prior approval in writing by the grantee, not to exceed 1% of the subject property's existing roadways as described in the BDR.
- The right to exclusive use of the improvements depicted in the BDR;
- The right to continue existing agricultural practices, as depicted in the BDR, and the use of commonly accepted fertilizers, pesticides, and herbicides using best management practices (BMPs);
- The right to host relocated endangered, threatened, or special concern of native Florida species;
- The right to maintain or restore the existing natural habitat communities per the BDR;
- The right to maintain a commercial cattle operation in accordance with BMPs;
- The right to construct two (2) additional residential structures. Each of the two residential structures shall be limited to 7,500 square feet. Each residential area shall be limited to no more than 2.5 contiguous acres, which may include no more than two (2) outbuildings of no more than 2,000 square feet each; and
- The right to subdivide the subject property into one lot for each residence allowed in the easement and each lot shall be no less than 40 acres.

Mortgages and Liens

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 (Department) the authority to review and evaluate marketability issues as they arise on all Chapter 259, F.S., acquisitions and to resolve them appropriately. Therefore, the Department will review, evaluate, and implement an appropriate resolution for any title issues that arise prior to closing.

Closing Information

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

Monitoring Agency

The subject property will be monitored by the Department's Office of Environmental Services (OES). OES currently monitors 145 conservation easements for 277,846 acres.

Comprehensive Plan

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

(Attachment 7, Pages 1-63)

RECOMMEND: APPROVAL

Item 8 Palmer W. Collins Trust Option Agreement/Conservation Easement/Osceola Pine Savannas Florida Forever Project

REQUEST: Consideration of an option agreement to acquire a conservation easement over 287 acres within the Osceola Pine Savannas Florida Forever project from Mark W. Collins and Catherine E. Murtha, as successor trustees of the Palmer W. Collins Trust.

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

COUNTY: Osceola

LOCATION: Section 06, Township 28 South, Range 33 East

CONSIDERATION: \$1,894,200

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY		<u>APPROVED</u>	SELLER'S <u>PURCHASE</u>	TRUSTEES' <u>PURCHASE</u>	OPTION <u>DATE</u>
Collins Trust	287	String <u>(8/15/22)</u>	Jones <u>(8/15/22)</u>	\$2,000,000	\$1,900,000	\$2,000,000 N/A*	\$1,894,200** (95%) 120 days after BOT Approval

*Property was inherited.

**\$6,600 per acre.

STAFF REMARKS: The subject property is located within the Osceola Pine Savannas Florida Forever project, ranked number 16 in the Florida Forever Critical Natural Lands project category, which was approved by the Board of Trustees on March 29, 2022. The project contains 46,628 acres, of which 23,526 acres have been acquired or are under agreement to be acquired.

Project Description

A wide range of wildlife uses the open rangelands of pastures, pine flatwoods, and palmetto prairies in Osceola County. The Osceola Pine Savannas project will conserve a large part of these lands, maintaining a link of natural lands between the Bull Creek and Three Lakes and Triple N Ranch Wildlife Management Areas (WMA). This project will also ensure the survival of wildlife including the swallow-tailed kite and crested caracara. Together with these WMAs, this project provides a large area for the public to enjoy hunting, wildlife observation, and other outdoor activities. The project lies within a wildlife corridor in the Florida Ecological Greenways Network.

Property Description

The 287-acre subject property, known as Collins Ranch, is located in Saint Cloud and shares its western boundary with U.S. 441 and southern boundary with Triple N Ranch WMA. This native subject property is a mix of dry prairie with scattered areas of palmettos and pine flatwoods as well as cypress and bayhead habitat. Rattlesnake Slough runs through the central portion of the subject property. Acquiring less than fee protection of the subject property will eliminate the threat of encroaching residential development and protect wildlife that requires extensive natural areas such as the sandhill crane, wood stork, crested caracara, and the federally endangered Florida grasshopper sparrow.

Item 8, Cont.

Prohibited Uses

Under the proposed conservation easement, the subject property will be restricted in perpetuity by the provisions of the easement; a summary of which includes, but is not limited to, the following prohibited uses:

- Dumping of trash, waste, hazardous materials, and soil will be prohibited;
- Exploration and extraction by grantor for oil, gas, minerals, peat, muck, limestone, etc., by means of surface exploratory and extractors operations, except as reasonably necessary to combat erosion or flooding, or except as necessary and lawfully permitted for the conduct of permitted activities;
- Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife preservation will be prohibited, unless needed for maintenance as provided in the easement;
- Acts or uses detrimental to the preservation of any historical, or archaeological area, will be prohibited;
- The removal, destruction, cutting, trimming, mowing, alteration, or spraying with biocides of trees, shrubs, or other natural vegetation will be prohibited, unless needed for conservation purposes, as provided in the easement;
- There shall be no planting of nuisance exotic or non-native plants;
- Commercial and industrial activities will be prohibited, except as may be incidental to the exercise of grantor's reserved rights in Article V;
- New construction or placing of temporary or permanent structures or buildings on the subject property will be prohibited except as may be necessary for maintenance, normal operation or emergency situations, or as permitted in Article V;
- Construction of new roads or jeep trails will be prohibited, except as associated with activities allowed under the provisions of Article V;
- The operation of motorized vehicles will be prohibited except on established trails and roads unless (1) necessary to protect or enhance the conservation values of the subject property; (2) for emergency purposes; (3) for cattle ranching purposes; and (4) to access, hunt or to retrieve game hunted legally;
- Current agricultural uses shall not be converted to more intense agricultural uses, and Natural Areas shall remain Natural Areas;
- Spring recharge areas must use, best management practices for fertilizer use, as established by Florida Department of Agriculture and Consumer Services and agriculture activities within 100 feet of sinkholes, springs and other karst features is prohibited;
- Actions or activities that may be expected to adversely affect threatened or endangered species is prohibited;
- Subdivision of the subject property is prohibited, except as provided in the easement under Article V;

Item 8, Cont.

- Signs, billboards, or outdoor advertising is prohibited except signs designating the subject property as conservation lands protected by the State of Florida or reasonable directional or postal signs;
- No commercial water wells;
- No commercial timber harvesting except as provided in the easement under Article V; and
- There shall be no mitigation banks established on the subject property.

Owner's Rights Retained

The proposed conservation easement will allow the owner to retain certain rights. The summary of owner's rights includes, but is not limited to, the following:

- The easement runs with the land and will be included in any sale of the subject property;
- The right to observe, maintain, photograph, fish, hunt, and introduce and stock native fish or wildlife, to use the subject property for non-commercial, passive, resource-based recreation not inconsistent with the purpose of the easement. Grantor shall continue to own hunting and fishing rights;
- The right to conduct controlled and prescribed burns with proper authorization;
- The right to mortgage the subject property;
- The right to contest taxes;
- The right to continue to use, maintain, repair, and reconstruct, but not relocate or enlarge all existing buildings as depicted on the Baseline Documentation Report (BDR),
- The right to exclusive use of the improvements depicted in the BDR;
- The right to continue existing agricultural practices, as depicted in the BDR, and the use of commonly accepted fertilizers, pesticides, and herbicides using best management practices (BMP);
- The right to host relocated endangered, threatened or special concern of native Florida species;
- The right to maintain or restore the existing natural habitat communities per the BDR;
- The right to have and maintain a commercial cattle operation in accordance with BMP. The operation will include no more than 30 head of cattle on the land at any one time; and
- The right to engage in silviculture in the agriculture areas per the BDR; however, there shall be no harvesting of trees in any wetlands as identified in the BDR;

Mortgages and Liens

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 (Department) the authority to review and evaluate marketability issues as they arise on all Chapter 259, F.S., acquisitions and to resolve them appropriately. Therefore, the Department will review, evaluate, and implement an appropriate resolution for any title issues that arise prior to closing.

Closing Information

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

Item 8, Cont.

Monitoring Agency

The subject property will be monitored by the Department's Office of Environmental Services (OES). OES currently monitors 145 conservation easements for 277,846 acres.

Comprehensive Plan

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

(Attachment 8, Pages 1-45)

RECOMMEND: APPROVAL

Item 9 Role Tran, LLC Option Agreement/ Conservation Easement/ U.S. Department of Air Force Declaration of Restrictive Covenants/ Triple Diamond Florida Forever Project

REQUEST: Consideration of (1) an option agreement to acquire a conservation easement over 2,529 acres within the Triple Diamond Florida Forever project from Role Tran, LLC, and (2) request to place a restrictive covenant over the property in favor of the United States of America, by and through the Department of the Air Force, pursuant to the executed agreement.

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

COUNTY: Okeechobee

LOCATION: Sections 23 through 26, Township 34 South, Range 32 East and Section 30, Township 34 South, Range 33 East

CONSIDERATION: \$8,220,000 (If approved, the Board of Trustees' consideration could be reduced by up to a total of \$2,950,000 for a military restrictive covenant, as discussed under the Military Agreement section, provided the Department of the Air Force approves the supporting acquisition documentation. The Board of Trustees' portion would be \$5,270,000 or 64 percent.)

<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY</u>		<u>APPROVED</u>	<u>SELLER'S PURCHASE PRICE</u>	<u>TRUSTEES' PURCHASE PRICE</u>	<u>OPTION DATE</u>
		Jones (10/5/22)	String (10/5/22)				
Role Tran,	2,529	\$8,950,000	\$8,225,000	\$8,950,000	\$10,438,700*	\$8,220,000** (92%)	120 days after LLC BOT Approval

*Seller purchased the property on October 28, 2021.

**\$3,250 per acre.

Item 9, Cont.

STAFF REMARKS: The property is located within the Triple Diamond Florida Forever project, ranked number 12 in the Florida Forever Critical Natural Lands project category, approved by the Board of Trustees on March 29, 2022. The project contains 7,998 acres, all of which have been acquired or are under agreement to be acquired; thus, this will complete the project.

Project Description

The acquisition of this project would preserve significant dry prairie, important in the long-term protection of this endemic natural community and the rare species that it supports, as well as provide recreational opportunities. Additionally, preserving this intact and well managed landscape would allow for the protection and management of thousands of acres of additional high-quality habitats in an area of Florida known for its rare vertebrate wildlife, globally imperiled natural communities, and significant hydrological values. This project is bordered on the north by the Kissimmee River Prairie Preserve State Park (KPPSP).

Other public lands in the near vicinity include Avon Park Air Force Range, Bombing Range Ridge, the Kissimmee River to the west, and Fort Drum Marsh Conservation Area and Blue Cypress Conservation Area to the east. The Kissimmee-St. Johns River Connector Florida Forever project is also located within seven miles east of the property. Triple Diamond, along with existing conservation lands would contribute to a large, contiguous landscape-sized protection area of more than 200,000 acres. The project lies within a wildlife corridor in the Florida Ecological Greenways Network.

Property Description

The 2,529-acre subject property, known as Triple Diamond Ranch, is a working ranch with 70 head of cattle in northwest Okeechobee County. The subject property shares the majority of its northern boundary with Kissimmee Bend State Forest, eastern boundary with Everglades Headwaters National Wildlife Refuge and Conservation Area, western boundary with a federal Wetlands Reserve Easement, and a portion of its southern boundary with Corona Ranch Agricultural and Conservation Easement. The property is also situated within the Kissimmee River Basin and the headwaters of Lake Okeechobee and the Everglades.

Additionally, the subject property is in the Avon Park Air Force Range's (APAFR) Military Influence Planning Area II (MIPA II). This area was identified in the 2010 APAFR Joint Land Use Study as an area where compatible land use was particularly important due to military aircraft performing low altitude training. In conjunction with its close-proximity to other conservation land, and the numerous neighboring lands protected in partnership with the Readiness and Environmental Protection Integration program, acquiring a less-than-fee protection over the subject property will help further sustain APAFR's mission and protect important wildlife habitat and water resources.

Prohibited Uses

Under the proposed conservation easement, the subject property will be restricted in perpetuity by the provisions of the easement, a summary of which includes, but is not limited to, the following prohibited uses:

Item 9, Cont.

- Dumping of trash, waste, hazardous materials, and soil will be prohibited;
- Exploration and extraction by grantor for oil, gas, minerals, peat, muck, limestone, etc., by means of surface exploratory and extractors operations, except as reasonably necessary to combat erosion or flooding, or except as necessary and lawfully permitted for the conduct of permitted activities;
- Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife preservation will be prohibited, unless needed for maintenance as provided in the easement;
- Acts or uses detrimental to the preservation of any historical, or archaeological area, will be prohibited;
- The removal, destruction, cutting, trimming, mowing, alteration, or spraying with biocides of trees, shrubs, or other natural vegetation will be prohibited, unless needed for conservation purposes, as provided in the easement;
- There shall be no planting of nuisance exotic or non-native plants;
- Commercial and industrial activities will be prohibited, except as may be incidental to the exercise of grantor's reserved rights in Article V;
- New construction or placing of temporary or permanent structures or buildings on the subject property will be prohibited except as may be necessary for maintenance, normal operation or emergency situations, or as permitted in Article V;
- Construction of new roads or jeep trails will be prohibited, except as associated with activities allowed under the provisions of Article V;
- The operation of motorized vehicles will be prohibited except on established trails and roads unless (1) necessary to protect or enhance the conservation values of the subject property; (2) for emergency purposes; (3) for cattle ranching purposes; and (4) to access, hunt or to retrieve game hunted legally;
- Current agricultural uses shall not be converted to more intense agricultural uses, and Natural Areas shall remain Natural Areas;
- Spring recharge areas must use, best management practices for fertilizer use, as established by Florida Department of Agriculture and Consumer Services and agriculture activities within 100 feet of sinkholes, springs and other karst features is prohibited;
- Actions or activities that may be expected to adversely affect threatened or endangered species is prohibited;
- Subdivision of the subject property is prohibited, except as provided in the easement under Article V;
- Signs, billboards, or outdoor advertising is prohibited except signs designating the subject property as conservation lands protected by the State of Florida or reasonable directional or postal signs;
- No commercial water wells;
- No commercial timber harvesting except as provided in the easement under Article V;
- There shall be no mitigation banks established on the subject property;

Item 9, Cont.

- No lighting shall be permitted that may be dangerous, distracting, or misleading to aircraft operating from the Installation. Light Sources above 16,000 lumens must be angled 15 degrees below the horizon;
- No operation of any type shall be permitted that produces smoke, glare, or other visual hazards, or that encourage large concentrations of birds that maybe dangerous for aircraft, except as allowed in Article V; and
- No facility or structure of any kind may exceed 90 feet above ground level.

Owner's Rights Retained

The proposed conservation easement will allow the owner to retain certain rights. The summary of owner's rights includes, but is not limited to, the following:

- The easement runs with the land and will be included in any sale of the subject property;
- The right to observe, maintain, photograph, fish, hunt, and introduce and stock native fish or wildlife, to use the subject property for non-commercial, passive, resource-based recreation not inconsistent with the purpose of the easement. Grantor shall continue to own hunting and fishing rights;
- The right to continue to stock non-native game animals on the subject property;
- The right to conduct controlled and prescribed burns with proper authorization;
- The right to mortgage the subject property;
- The right to contest taxes;
- The right to exclusive use of the improvements depicted in the Baseline Documentation Report (BDR);
- The right to continue existing agricultural practices, as depicted in the BDR , and the use of commonly accepted fertilizers, pesticides, and herbicides using best management practices (BMP);
- The right to host relocated endangered, threatened or special concern of native Florida species;
- The right to maintain or restore the existing natural habitat communities per the BDR;
- The right to have and maintain a commercial cattle operation in accordance with BMP;
- The right to construct additional agricultural structures as may be required for its cattle operation, not to exceed 10,000 square feet in agricultural areas as depicted in the BDR;
- The right to continue to use, maintain, repair, and reconstruct, but not relocate or enlarge all existing buildings as depicted in the BDR;
- The right to maintain and construct perimeter fencing of the subject property and add new fencing in the agricultural areas as depicted in the BDR;
- The right to engage in silviculture in the agriculture areas per the BDR; however, there shall be no harvesting of trees in any wetlands as identified in the BDR;
- The right to cultivate and harvest hay and bahia sod, not to exceed 25% of the cumulative improved pasture of hay area in any one calendar year;
- The right to continue existing vegetation management practices for wildlife food plots within those areas depicted as agricultural areas in the BDR;

Item 9, Cont.

- The right to construct two (2) additional residential structures. Each of the two residential structures shall be limited to 5,000 square feet, and be limited to no more than 2.5 contiguous acres, which may include no more than two (2) outbuildings of no more than 2,000 square feet each; and
- The right to subdivide the subject property into one lot for each residence allowed in the easement and each lot shall be no less than ten acres.

Military Agreement

On August 4, 2021, the Air Force and Department of Environmental Protection (Department) entered into an agreement for the acquisition of restrictive covenants over the Military Impact Protection Area, which includes several Florida Forever projects. The agreement is being amended to include the subject property. The agreement provides that: (1) if the state buys certain lands in the area shown on the map; and (2) if the Air Force chooses to contribute to the acquisition, by way of placing a restrictive covenant over the lands; then (3) the state will agree to place a restrictive covenant, protective of the Air Force's flight operations and approved by the Air Force, over that land. The Air Force has currently committed \$2,950,000 to be used towards the cost share for the restrictive covenant. The agreement expires on September 30, 2026. All commitments will be subject to the Air Force's approval of supporting documentation. However, if the Air Force does not approve the supporting documentation for the contribution to the purchase price, the Department will exercise the option agreement and acquire the conservation easement without the Air Force restrictive covenant.

Mortgages and Liens

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 the authority to review and evaluate marketability issues as they arise on all Chapter 259, F.S., acquisitions and to resolve them appropriately. Therefore, the Department will review, evaluate, and implement an appropriate resolution for any title issues that arise prior to closing.

Closing Information

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

Monitoring Agency

The subject property will be monitored by the Department's Office of Environmental Services (OES). OES currently monitors 145 conservation easements for 277,846 acres.

Comprehensive Plan

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

(Attachment 9, Pages 1-58)

RECOMMEND: APPROVAL

Item 10 Conservation Foundation of the Gulf Coast, Inc. Option Agreement/ Charlotte Harbor Estuary Florida Forever Project

REQUEST: Consideration of an option agreement to acquire 8.68 acres within the Charlotte Harbor Estuary Florida Forever project from Conservation Foundation of the Gulf Coast, Inc.

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

COUNTY: Charlotte

LOCATION: Section 03, Township 42 South, Range 20 East

CONSIDERATION: \$2,695,000

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY		<u>APPROVED</u>	SELLER'S PURCHASE <u>PRICE</u>	TRUSTEES' PURCHASE <u>PRICE</u>	OPTION <u>DATE</u>
Conservation Foundation of the Gulf Coast, Inc.	8.68	Hendry (8/26/22)	Stokes (9/01/22)	\$2,750,000	\$2,750,000	\$2,695,000*	\$2,695,000** (98%) 120 days after BOT Approval

*Conservation Foundation of the Gulf Coast, Inc., acquired the property from Associated Real Estate Southwest, Inc., on December 19, 2022, to hold until the subject property could be acquired by the Board of Trustees.

**\$310,484 per acre.

STAFF REMARKS: The subject property is located within the Charlotte Harbor Estuary Florida Forever project, ranked number 1 in the Florida Forever Substantially Complete project category, approved by the Board of Trustees on March 29, 2022. The project contains 47,197 acres, of which 41,320 acres have been acquired or are under agreement to be acquired.

Project Description

The Charlotte Harbor Estuary is one of the largest and most productive estuaries in Florida and supports a vital recreational and commercial fishery. The Charlotte Harbor Estuary project aims to protect the remaining natural areas around Charlotte Harbor by conserving flatwoods, scrub, and salt marshes that support bald eagles, sandhill cranes, Florida scrub jays, and Florida manatees. Conserving the flatwoods and prairies behind the mangrove swamps and salt marshes along Charlotte and Placida Harbors will protect the water quality of the estuary, habitat for Florida's rare wildlife, and provide residents and visitors with opportunities for public outdoor recreation.

Property Description

The 8.68-acre subject property is in western Charlotte County and shares its western boundary with Don Pedro Island State Park (Park) and Charlotte County managed lands. The Park consists of lands on both the mainland and on the barrier island of Don Pedro Island along the Gulf Coast. The subject property is located on mainland and within the Park's optimum boundary.

Item 10, Cont.

Acquisition of the subject property would serve as a valuable buffer space, facilitate natural resource management, and would provide the Park with an eight-slip boat basin, additional dock space, concrete seawall, and launch ramp. The improvements would expand boating opportunities to the Park from Lemon Bay.

Mortgages and Liens

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 (Department) the authority to review and evaluate marketability issues as they arise on all Chapter 259, F.S., acquisitions and to resolve them appropriately. Therefore, the Department will review, evaluate, and implement an appropriate resolution for any title issues that arise prior to closing.

Closing Information

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

Management Agency

The subject property will be managed by the Department's Division of Recreation and Parks as an addition to Don Pedro Island State Park.

Comprehensive Plan

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

(Attachment 10, Pages 1-67)

RECOMMEND: APPROVAL

Item 11 Anne Kavanaugh/LTI Nassau, LLC/Nassau TI Holdings, LLC/ Tiger Island-Little Tiger Island Florida Forever Project/ Survey Waiver

REQUEST: Consideration of (1) an option agreement to acquire 565 acres within the Tiger Island/Little Tiger Island Florida Forever project from Anne B. Kavanaugh, LTI Nassau, LLC, and Nassau TI Holdings, LLC; and (2) the authority to waive the survey requirement, pursuant to Rule 18-1.005, F.A.C.

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

COUNTY: Nassau

Item 11, Cont.

LOCATION: Sections 09, 16, 17, 51 through 53, 58 and 60, Township 03 North, Range 28 East

CONSIDERATION: \$1,965,000 (If approved, the Board of Trustees' consideration could be reduced by up to a total of \$1,000,000 from a Coastal Wetlands Planning Protection and Restoration grant awarded by the United States Fish and Wildlife Service through Florida Fish and Wildlife Conservation Commission provided the supporting acquisition documentation is approved. The Board of Trustees' portion will be \$965,000 or 49 percent.)

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY Eyrick <u>(8/30/22)</u>	APPRAISED BY Phipps <u>(8/30/22)</u>	APPROVED <u>VALUE</u> \$2,000,000	SELLER'S PURCHASE <u>PRICE</u> \$**	TRUSTEES' PURCHASE <u>PRICE</u> \$1,965,000*** (98%)	OPTION <u>DATE</u> 120 days after BOT approval
Kavanaugh	200.2*	\$1,965,000	\$2,000,000	\$2,000,000	\$**	\$1,965,000*** (98%)	120 days after BOT approval

*Total acreage above mean high-water line (MHWL); however, the approved value is based on 41 upland acres, as the wetland acreage had no contributory value.

**Ms. Kavanaugh inherited the subject property in September 2000. Portions of the property were sold to LTI Nassau, LLC, in 2012 for \$100,000, and in 2014 to Nassau TI Holdings, LLC, for \$200,000.

***\$47,927 per upland acre.

STAFF REMARKS: The subject property is located within the Tiger Island/Little Tiger Island Florida Forever project, ranked number 11 in the Florida Forever Climate Change Lands project category, approved by the Board of Trustees on March 29, 2022. The project contains 1,463 acres, all of which have been acquired or are under agreement to be acquired; thus, this will complete the project.

Project Description

The Tiger Island/Little Tiger Island project is located in Nassau County, adjacent to the Fort Clinch State Park Aquatic Preserve. This project connects a network of national and state preserves as well as parks that stretch from St. Andrews Sound in Georgia to the St. Johns River in Florida. The project will protect estuarine tidal marsh along the St. Mary's River, Amelia River, and a network of smaller connecting rivers and creeks as well as maritime hammock on the elevated islands in the extensive tidal marsh ecosystem.

The project area has one of the highest nesting concentrations of Worthington's marsh wren and MacGillivray's seaside sparrow along the Florida coast and provides critical habitat for wintering populations of the piping plover. Additionally, the project will protect important cultural resources that document pottery-making aboriginal populations who inhabited the coastal islands as early as the second millennium B.C.

Property Description

The subject property includes Little Tiger Island and a portion of Middle Island. The deeds for the subject property contain approximately 565 acres, of which approximately 200 acres are above the mean high-water line (MHWL) with the remaining 365 acres being sovereignty lands. Little Tiger Island is an approximately 170-acre island of salt marsh and maritime forest with an upland area totaling 41 acres.

Item 11, Cont.

The Middle Island parcel is directly south of Little Tiger Island and contains approximately 30 non-upland acres. It is situated southwest of Cumberland Island and southeast of the City of St. Marys. The subject property is surrounded by St. Marys River and is west of Fort Clinch State Park (State Park). Preservation of this ecologically rich property ensures that natural and cultural resources are protected; safeguards the area against flooding, erosion, and storm surge; and keeps the natural viewshed of historic Fort Clinch intact.

Mortgages and Liens

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 the authority to review and evaluate marketability issues as they arise on all Chapter 259, F.S., acquisitions and to resolve them appropriately. Therefore, the Department will review, evaluate, and implement an appropriate resolution for any title issues that arise prior to closing.

Survey Waiver

It is the opinion of the Department'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 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.

Closing Information

A title insurance policy and environmental site evaluation will be provided by the buyer prior to closing.

Management Agency

The subject property will be managed by the Department's Division of Recreation and Parks as an addition to Fort Clinch State Park.

Comprehensive Plan

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

(Attachment 11, Pages 1-40)

RECOMMEND: APPROVAL

Item 12 Tupelo AG LLC /Managing Agency Designation/ Management Policy Statement Confirmation/ Telogia Creek Florida Forever Project

REQUEST: Consideration of (1) an option agreement to acquire 12,439 acres within the Telogia Creek Florida Forever project from Tupelo AG LLC; (2) designation of Florida Fish and Wildlife Conservation Commission (FWC), as the managing agency; and (3) confirmation of the management policy statement.

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

COUNTY: Liberty

LOCATION: Sections 06, 07, 18, 19, 30 Township 01 South, Range 06 West, Sections 01, 09 through 16; Sections 17, 20 through 28 and Sections 34 and 35, Township 01 South, Range 07 West.

CONSIDERATION: \$18,098,745

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY		<u>APPROVED</u>	<u>SELLER'S PURCHASE</u>	<u>TRUSTEES PURCHASE</u>	<u>OPTION</u>
		Carlton	Griffith				
Tupelo AG LLC	12,439	\$18,347,525	\$18,161,000	\$18,347,525	\$9,880,000*	\$18,098,745** (98%)	120 days after BOT Approval

*Seller purchased the property on September 11, 2018.

**\$1,455 per acre. The approved value and purchase price may be adjusted up or down based on the final surveyed acreage.

STAFF REMARKS: The subject property is located within the Telogia Creek Florida Forever project, ranked number 37 in the Florida Forever Critical Natural Lands project category, approved by the Board of Trustees on March 29, 2022. The project contains 12,428 acres and will be complete if the subject property is acquired.

Project Description

The Telogia Creek project will provide ecological diversity and manage habitat for both imperiled and common wildlife as well as fish and wildlife-based public outdoor recreational opportunities for the public, while also providing enhanced water quality and meeting the quantity needs of the region. Additionally, it would conserve and protect significant landscape-scale habitat, provide wildlife corridors for rare and imperiled species, and increase linkages and corridors between public land and private conservation easements in the region. Its acquisition would help meet Florida Forever goals of increasing the protection of Florida's biodiversity at the species, natural community, and landscape levels; protect, restore, and maintain the quality and natural functions of land, water, and wetland systems of the state; ensure sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state; and would increase natural resource-based public recreation and education opportunities.

Item 12, Cont.

Property Description

The 12,439-acre subject property is located on the south side of State Road 20, between Bristol and Hosford in northern Liberty County. Telogia Creek runs along the property's western boundary for three linear miles, its southern boundary for five linear miles, and is approximately 12 miles upstream of Telogia Creek's confluence with the Ochlockonee River.

Preservation of the subject property allows for the protection of a large amount of contiguous habitat with diverse natural communities and contributes to the conservation of several imperiled species, such as the gopher tortoise, Apalachicola alligator snapping turtle, and eastern indigo and Florida pine snakes; protects valuable water resources used by the region; and provides for wildlife-based public outdoor opportunities.

Mortgages and Liens

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 (Department) the authority to review and evaluate marketability issues as they arise on all Chapter 259, F.S., acquisitions and to resolve them appropriately. Therefore, the Department will review, evaluate, and implement an appropriate resolution for any title issues that arise prior to closing.

Closing Information

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

Management Agency

Pursuant to section 259.032(7)(d), F.S., the Department's Division of State Lands (DSL) staff recommends that the Board of Trustees designate the FWC as the managing agency for this site.

Management Policy Statement

Section 259.032(7)(d), F.S., requires that the Board of Trustees, concurrent with its approval of the initial acquisition agreement within a project, evaluate and amend, as appropriate, the management policy statement for the project as provided by section 259.035, F.S., consistent with the purposes for which the lands are acquired. The Department's DSL staff recommends that the Board of Trustees confirm the management policy statement as follows:

Telogia Creek will be managed by FWC as a Wildlife Management Area (WMA). The WMA will provide resource-based public outdoor recreation and educational opportunities, while protecting the natural and historical resources. All management activities will be implemented according to a management plan approved by the Acquisition and Restoration Council.

Comprehensive Plan

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

(Attachment 12, Pages 1-43)

RECOMMEND: APPROVAL

Item 13 Florida Oyster Farms, LLC Aquaculture Leases

REQUEST: Approval to issue new five-acre and three-acre, ten-year sovereignty submerged land aquaculture leases to authorize use of the full water column.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Franklin

APPLICANT: Florida Oyster Farms, LLC

LOCATION: St. George Sound, Apalachicola Bay

CONSIDERATION: An annual fee of \$217.30 for the five-acre parcel and \$130.38 for the three-acre parcel, representing a base annual rental fee of \$33.46 per acre or fraction thereof; and an annual surcharge of \$10.00 per acre or fraction thereof, pursuant to Rule 18-21.022, F.A.C. The annual fee and surcharge collected will be deposited in the General Inspection Trust Fund, pursuant to sections 597.010(5)(b) and (7), F.S.

STAFF REMARKS:

The requested lease parcels are approximately five acres and three acres, which are located in St. George Sound, Apalachicola Bay, Franklin County. The Applicant is requesting authorization from the Board of Trustees, pursuant to section 253.68(1), F.S., for two new aquaculture leases for the purpose of culturing oysters in floating gear using the full water column.

The Applicant is a current holder of an Aquaculture Certificate of Registration and is in compliance with all applicable Department of Agriculture and Consumer Services' (FDACS) Aquaculture Best Management Practices. The proposed leases will be subject to the terms and conditions applied to other aquaculture leases issued throughout the state for the same purposes, including the provision that the transfer or sale of the leases will not be approved during the first five years of the lease term. Upon approval, the leases will be surveyed by the Applicant.

Agency Review

FDACS has conducted a resource assessment and determined that the proposed leases and associated aquaculture activities will not result in adverse impacts to seagrasses, existing shellfish beds, natural reefs, or other sensitive habitats. The proposed leases are not located in an aquatic preserve. FDACS has coordinated review and comments of the proposed lease with the Florida Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, the Florida Department of State's Division of Historical Resources, and the Franklin County Board of County Commissioners, pursuant to Rule 18-21.021, F.A.C.

Special Conditions

The proposed leases will be subject to the terms and conditions applied to other aquaculture leases issued throughout the state for the same purposes, including the provision that the transfer or sale of the lease will not be approved during the first five years of the lease terms. The requirement to obtain

Item 13, Cont.

a permit from the USCG for Private Aids to Navigation will be a special condition of the leases. The proposed leases are located within Gulf Sturgeon critical habitat. Pursuant to FDACS' Programmatic General Permit (SAJ-99, SAJ-2007-03138) Live Rock and Marine Bivalve Aquaculture in the State of Florida, Special Condition 16; the off-bottom basket methodology is prohibited on new leases within Gulf Sturgeon critical habitat, but the floating basket and suspended basket or longline methodologies are allowed for shellfish aquaculture. The Applicant is planning to use the floating basket method for shellfish production, so this activity will be covered under the Programmatic General Permit. The proposed gear is authorized under the FDACS general permit from the Army Corps of Engineers.

Public Interest

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

Noticing

The proposed leases were noticed pursuant to section 253.70, F.S. and no comments were received.

Comprehensive Plan

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

(Attachment 13, Pages 1-29)

RECOMMEND: APPROVAL

Item 14 Jelp Barber Aquaculture Lease

REQUEST: Approval to issue a new, five-acre, ten-year sovereignty submerged land aquaculture lease to authorize use of the full water column.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Gulf

Item 14, Cont.

APPLICANT: Jelp (JP) Barber

LOCATION: Indian Lagoon

CONSIDERATION: An annual fee of \$217.30 for the five-acre lease parcel, representing a base annual rental fee of \$33.46 per acre or fraction thereof; and an annual surcharge of \$10.00 per acre or fraction thereof, pursuant to Rule 18-21.022, F.A.C. The annual fee and surcharge collected will be deposited in the General Inspection Trust Fund, pursuant to sections 597.010(5)(b) and (7), F.S.

STAFF REMARKS:

The requested lease parcel is approximately five acres and is located in the Indian Lagoon, Gulf County. The Applicant is requesting authorization from the Board of Trustees, pursuant to section 253.68(1), F.S., for a new aquaculture lease for the purpose of culturing oysters in floating gear using the full water column.

The Applicant is a current holder of an Aquaculture Certificate of Registration and is in compliance with all applicable Department of Agriculture and Consumer Services' (FDACS) Aquaculture Best Management Practices. The proposed lease will be subject to the terms and conditions applied to other aquaculture leases issued throughout the state for the same purposes, including the provision that the transfer or sale of the lease will not be approved during the first five years of the lease term. Upon approval, the lease will be surveyed by the Applicant.

Agency Review

FDACS has conducted a resource assessment and determined that the proposed lease and associated aquaculture activities will not result in adverse impacts to seagrasses, existing shellfish beds, natural reefs, or other sensitive habitats. The proposed lease is not located in an aquatic preserve. FDACS has coordinated review and comments of the proposed lease with the Florida Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, the Florida Department of State's Division of Historical Resources, and the Gulf County Board of County Commissioners, pursuant to Rule 18-21.021, F.A.C.

Special Conditions

The proposed lease will be subject to the terms and conditions applied to other aquaculture leases issued throughout the state for the same purposes, including the provision that the transfer or sale of the lease will not be approved during the first five years of the lease terms. The requirement to obtain a permit from the USCG for Private Aids to Navigation will be a special condition of the lease. The proposed lease is located within Gulf Sturgeon critical habitat. Pursuant to FDACS' Programmatic General Permit (SAJ-99, SAJ-2007-03138) Live Rock and Marine Bivalve Aquaculture in the State of Florida, Special Condition 16; the off-bottom basket methodology is prohibited on new leases within Gulf Sturgeon critical habitat, but the floating basket and suspended basket or longline methodologies are allowed for shellfish aquaculture. The Applicant is planning to use the floating

Item 14, Cont.

basket method for shellfish production, so this activity will be covered under the Programmatic General Permit. The proposed gear is authorized under the FDACS general permit from the Army Corps of Engineers.

Public Interest

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

Noticing

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

Comprehensive Plan

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

(Attachment 14, Pages 1-22)

RECOMMEND: APPROVAL

Item 15 Pasco Gibson and The Florida Oyster Trading Company, LLC Aquaculture Leases

REQUEST: Approval to issue two new, ten-acre, ten-year sovereignty submerged land aquaculture lease to authorize use of the full water column.

VOTING REQUIREMENT FOR APPROVAL: Three votes

COUNTY: Santa Rosa

APPLICANT: Pasco Gibson and The Florida Oyster Trading Company, LLC

LOCATION: Escambia Bay

Item 15, Cont.

CONSIDERATION: An annual fee of \$434.60 for each parcel, representing a base annual rental fee of \$33.46 per acre or fraction thereof; and an annual surcharge of \$10.00 per acre or fraction thereof, pursuant to Rule 18-21.022, F.A.C. The annual fee and surcharge collected will be deposited in the General Inspection Trust Fund, pursuant to sections 597.010(5)(b) and (7), F.S.

STAFF REMARKS:

The requested lease parcels are approximately 10 acres and are located in Escambia Bay in Santa Rosa County. The Applicants are requesting authorization from the Board of Trustees, pursuant to section 253.68(1), F.S., for two new aquaculture leases for the purpose of culturing oysters in floating gear using the full water column.

The Applicants will be required to apply for an Aquaculture Certificate of Registration and comply with all applicable Department of Agriculture and Consumer Services' (FDACS) Aquaculture Best Management Practices. The proposed leases will be subject to the terms and conditions applied to other aquaculture leases issued throughout the state for the same purposes, including the provision that the transfer or sale of the leases will not be approved during the first five years of the lease term. Upon approval, the leases will be surveyed by the Applicants.

Agency Review

FDACS has conducted a resource assessment and determined that the proposed leases and associated aquaculture activities will not result in adverse impacts to seagrasses, existing shellfish beds, natural reefs, or other sensitive habitats. The proposed leases are not located in an aquatic preserve. FDACS has coordinated review and comments of the proposed leases with the Florida Department of Environmental Protection, the Florida Fish and Wildlife Conservation Commission, the Florida Department of State's Division of Historical Resources, and the Santa Rosa County Board of County Commissioners, pursuant to Rule 18-21.021, F.A.C.

Special Conditions

The proposed leases will be subject to the terms and conditions applied to other aquaculture leases issued throughout the state for the same purposes, including the provision that the transfer or sale of the lease will not be approved during the first five years of the lease terms. The requirement to obtain a permit from the USCG for Private Aids to Navigation will be a special condition of the lease. The proposed leases are located within Gulf Sturgeon critical habitat. Pursuant to FDACS' Programmatic General Permit (SAJ-99, SAJ-2007-03138) Live Rock and Marine Bivalve Aquaculture in the State of Florida, Special Condition 16; the off-bottom basket methodology is prohibited on new leases within Gulf Sturgeon critical habitat, but the floating basket and suspended basket or longline methodologies are allowed for shellfish aquaculture. The Applicants are planning to use the floating basket method for shellfish production, so this activity will be covered under the Programmatic General Permit. The proposed gear is authorized under the FDACS general permit from the Army Corps of Engineers.

Item 15, Cont.

Public Interest

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

Noticing

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

Comprehensive Plan

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

(Attachment 15, Pages 1-30)

RECOMMEND: APPROVAL
