

## **EXECUTIVE SUMMARY**

**Approve an Agreement for Sale and Purchase for 2,499.31 acres under the Conservation Collier Land Acquisition Program, at a cost not to exceed \$33,328,279 (Lake Trafford Ranch LLLP).**

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**OBJECTIVE:** Request approval of the attached Agreement for Sale and Purchase (Agreement) between the Board of County Commissioners (Board) and Lake Trafford Ranch LLLP (Seller).

**CONSIDERATIONS:** On January 29, 2008, Agenda Item 10F, the Board approved a Conservation Collier Land Acquisition Advisory Committee (CCLAAC) recommended Active Acquisition List (AAL), with changes, and directed staff to actively pursue acquisition of the properties under the Conservation Collier Program. The Lake Trafford Ranch LLLP property (aka Pepper Ranch) was approved as an A1+ property, giving it the highest priority on the AAL as a qualified acquisition project.

Pepper Ranch consists of ten parcels totaling 2,499.31 acres located within Sections 22, 26, 27, 28, 33 & 35, Township 46 South, Range 28 East. In accordance with the approved Conservation Collier Purchasing Policy, the purchase price of \$33,200,000 was based upon the average of two independent, state-certified general real estate appraisers, one giving value at \$34,000,000 (Calloway and Price, Inc.) and the other at \$32,400,000 (Anderson and Carr, Inc).

The attached draft Agreement provides that should the County elect not to close this transaction for any reason, except for default by the Sellers, the County will pay the Sellers \$10,000 in liquidated damages. While the draft Agreement is in a form acceptable to the County Attorney's office, there are still terms that the Seller might want to discuss and revise at the Conservation Collier Committee meeting.

Pursuant to Ordinance 2007-65, Section 13(8), a Project Design Report for the property is provided herewith.

At the July 22, 2008 BCC meeting, staff was directed by the Board to report back regarding the market value of Panther Habitat Units (PHUs) in general and specifically, whether the County might realize PHUs to offset mitigation needs for internal County infrastructure projects through the acquisition of Pepper Ranch. Staff is researching these questions for presentation to the Board. Staff's current understanding is that the market value for PHUs is \$1,500 each, based on an existing County contract for PHUs through Florida Panther Conservation LLC, a mitigation bank located in Hendry County, and that there is potential for the County to obtain a significant number of PHUs as part of the Pepper Ranch purchase. Staff will be meeting with a U.S. Fish and Wildlife representative on October 16<sup>th</sup> to discuss the issue of PHUs in more detail.

There are two environmental challenges involved in the Pepper Ranch purchase, the presence of one historic cattle dipping vat and the presence of three oil wells. The cattle dipping vat is a source for concentration of arsenic above Florida Department of Environmental Protection (FDEP) Protection Target Cleanup Levels. Staff has negotiated removal of the cattle dipping vat by the Seller at Seller's expense. Considerable funds have already been spent by the Seller to determine the extent of the

contamination and the Seller has agreed to remove the source of the pollution by digging out, removing soils and capping the location with clean soil and asphalt. Additionally, the affected portion of the property will be segregated legally and physically. Legally, segregation will consist of separating out an approximately twelve (12)-acre parcel with the cattle dipping vat at its center. Record of the cleanup actions will be preserved as part of a management plan and no public use will be made of this parcel until soil and groundwater monitoring shows the pollution to have dissipated. Physical segregation can be achieved through fencing the remediated area so no public or wildlife will come into contact with the soils. The second environmental challenge relates to the presence of three oil and gas wells located on the western side of Pepper Ranch, in two quarter-sections where the current owners will retain oil, gas and mineral rights. There will be no opportunity for extraction of surface minerals, such as limestone, as owners have retained mineral rights only below 150 feet from the surface. Two wells are currently active and the third is in the process of becoming active. All three wells are expected to continue operation until they are no longer producing. As with all oil wells, these wells do present some level of liability concerns for the County if there are spills by petroleum products or brine. The owner has spent considerable funds in assessing the current extent of contamination, which is considered by FDEP to be minimal, and staff has been working closely with FDEP staff in the Oil and Gas section to develop monitoring protocols. Staff has also requested that the Seller obtain agreement from the oil operator, Newport Oil, for specific actions including commitment for use of best management practices, ongoing soils and groundwater monitoring through established monitoring wells, and to immediately address and take financial responsibility for any future environmental concerns related to the wells. Staff has requested a letter from FDEP providing assurances that the agreements and protocols being established are adequate to protect County interests. Department of Environmental Protection staff has agreed to provide such letter to staff by October 20<sup>th</sup>.

Oil and Gas Leases for the existing oil wells are currently being renegotiated. Seller will provide the Leases to the County prior to execution for review.

Although there is no current proposal for a cattle lease, The Agreement provides that Seller shall have the option at closing to enter into a Cattle Lease with Purchaser whereby Seller will lease back a portion of the Property for grazing cattle. If the Seller elects this option, the County's form Cattle Lease and its terms will be used. This option must be exercised at closing.

**FISCAL IMPACT:** The total cost of acquisition will not exceed \$33,328,279 (\$33,200,000 for the property, \$17,000 for the appraisals, \$6,664 for a Phase I Environmental Site Assessment, \$11,540 for a Phase II environmental Site Assessment, \$23,500 for a Mitigation Potential Study and approximately \$69,575 for the title commitment, title policy, and recording of documents). All necessary funds have either already been or will be withdrawn from the Conservation Collier Trust Fund (172). As of October 13, 2008, property costs for Conservation Collier properties, including this property and those under contract, total \$103,328,279.

Due to present uncertainties regarding the County's desire to partner with the Corkscrew Regional Ecosystem Watershed (CREW) Trust, there is no partnership as part of the Agreement. There may be future opportunities to partner with the CREW Trust on this property.

The financing process was commenced on October 1, 2008 by requesting commitments for financing from a selection of major financial institutions. By late October the County will have received the commitments and the Board will be requested to consider a limited general bond resolution. This resolution may be considered by the Board as a companion to the Agreement.

**GROWTH MANAGEMENT IMPACT:** Fee simple acquisition of conservation lands is consistent with and supports Policy 1.3.1(e) in the Conservation and Coastal Management Element of the Collier County Growth Management Plan. The 2,500-acre Pepper Ranch is part of the Rural Lands Stewardship Area (RLSA). There is a 985-acre portion of the ranch that has a Stewardship Sending Agreement (SSA#7) placed over it where stewardship credits have been removed, constituting a conservation easement. In addition to general consistency with the GMP for fee simple acquisition of conservation lands, the Future Land Use Element, RLSA Overlay section, (VII) Policy 1.18, (VII) Policy 1.4 and (VII) Policy 3.8, clearly contemplate the potential to augment the RLSA Program through fee simple acquisition of lands identified as the highest priority for natural resource protection even if they are within Stewardship areas. Pepper Ranch is within such an area (Florida Forever CREW Project Boundary) identified by the state of Florida (Florida Forever Program), the University of Florida, The Florida Natural Areas Inventory and the Florida Fish and Wildlife Conservation Commission as a conservation area of the highest priority.

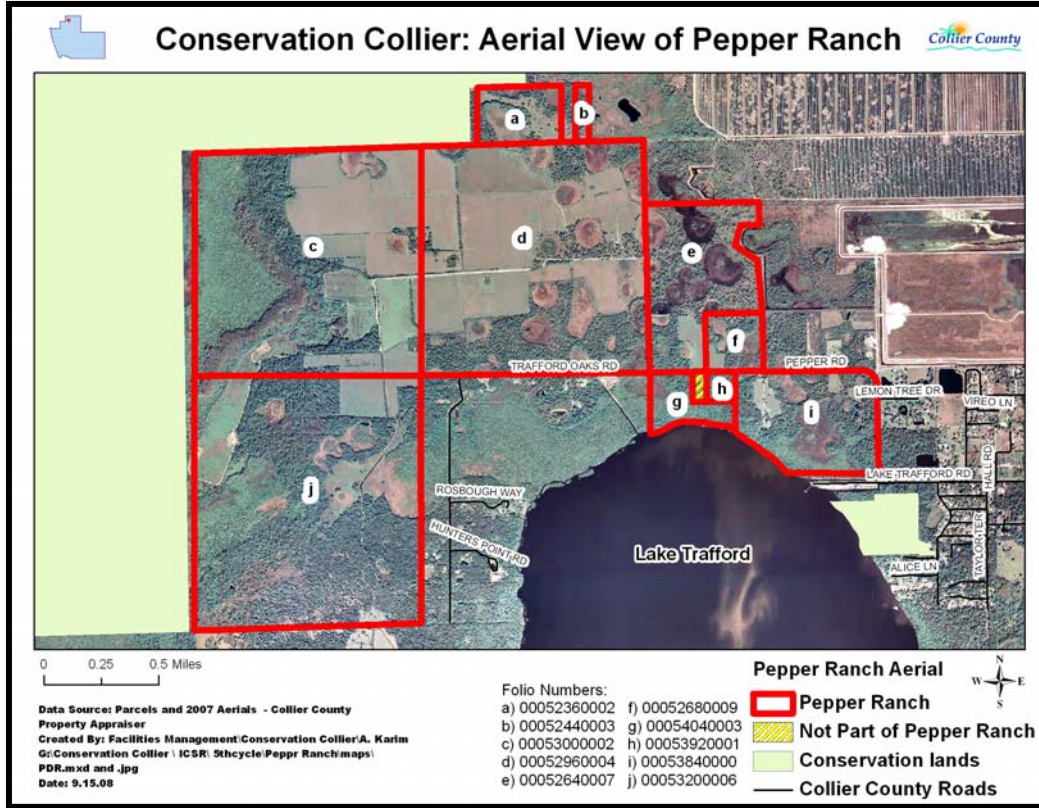
**LEGAL CONSIDERATIONS:** The Conservation Collier Ordinance (2007-65) provides a legal framework for property acquisition for the Conservation Collier Program. The process for acquiring this property falls within the legal framework of Ordinance 2007-65. The Agreement has been reviewed and approved by the County Attorney's Office.  
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**RECOMMENDATION:** Staff is recommending that the CCLAAC:

1. Approve the attached draft Agreement; and
2. Recommend to the Board approval and authorization for the Chairman to execute the Agreement on behalf of the Board.

**PREPARED BY:** Cindy Erb, SR/WA, Senior Property Acquisition Specialist, Real Property Management, and Alexandra J. Sulecki, Coordinator, Conservation Collier Program Department of Facilities Management

**Conservation Collier Land Acquisition Program**  
**Project Design Report**  
**Pepper Ranch**  
 Date: October 13, 2008



**Property Owner(s):** Lake Trafford Ranch LLLP

**Location:** West of Immokalee, Florida in Sections 22, 26, 27, 28, 33 & 35, Township 46, Range 28

**Size:** +/- 2,500 acres

**Appraisal/offer amount:** \$33.2 million

**History of Project:**

Received application	Selected for the Active Acquisition List (AAL) by CCLAAC	Approved by BCC as A-list property on AAL	Approved by BCC to make offer	Purchase offer made to owners	Offer Accepted
9/12/07	12/10/07	1/29/08	7/22/08	7/23/08	7/27/08

Folios	Acreage*
(a) 00052360002	60
(b) 00052440003	10
(c) 00053000002	640
(d) 00052960004	640
(e) 00052640007	185.51
(f) 00052680009	40
(g) 00054040003	100
(h) 00053920001	10
(i) 00053840000	173.81
(j) 00053200006	640

\* = based on Property Appraiser's Website

**Purpose of Project:** Conservation Collier, with portions potentially to be restored through mitigation for wetland impacts and listed species (e.g., Florida panther) impacts of other County projects.

**Program Qualifications:** This property met 6 out of 6 of the Initial Screening Criteria pursuant to the Conservation Collier Ordinance, 2002-63, including presence of native habitat, potential for nature-based recreational and educational opportunities, protection of water resource values and wetland dependent species habitat, presence of significant biological/ecological values, listed species habitat, connectivity and restoration potential.

Pepper Ranch contains significant areas of intact and high quality native vegetation with some areas, primarily along internal roads and at pasture edges, impacted by invasive, exotic plants. A Florida Land Use and Cover Classification System (FLUCCS) map prepared in May 2008 by a County consultant identified fourteen types of intact native plant communities on the property. These native vegetation communities include woodland pasture, herbaceous, pine flatwoods, upland hardwood forests, oak-cabbage palm forest, cabbage palm, mixed hardwood conifers, mixed wetland hardwoods, cypress, cypress domes, cypress-pine-cabbage palm, mixed wetland forest, freshwater marsh and wet prairie. There are undoubtedly more listed plant species on the property than have been directly observed by staff. Those directly observed include common but listed bromeliad species and a native Florida orchid species. Brazilian pepper was found by the County Consultant to occupy approximately 200 acres or approximately 8% of the property. Other exotic plant species present include climbing fern, torpedo grass, Caesar's weed and common guava.

The purchase of Pepper Ranch would be the first Conservation Collier purchase in the Immokalee area, and would further the goal of "equitable geographic distribution" of acquired lands. Access to the ranch exists via Lake Trafford Road and Pepper Road, both paved public roads. Pepper Road becomes Trafford Oaks Road west of the ranch entrance; Trafford Oaks Road is accessible to the owners of the private parcels to the north and west of Lake Trafford via a private gate. Trafford Oaks Road runs along the southern boundaries of Pepper Ranch parcels *d*, *e* and *f* and along the northern boundaries of parcels *g* and *h*. A main interior, unpaved road running east to west and a number of offshoot north/south unpaved tracks and trails facilitate access throughout the ranch. The main ranch road can easily accommodate street vehicles, while the north /south branches vary from easily accessible dirt tracks to rough mowed openings that are wet in some areas. The ranch has many trails already existing that could be used for hiking, biking and horseback riding. Because the ranch lands are so varied in habitat, with large open areas providing scenic vistas, acquisition would enhance the aesthetic setting of Collier County.

The presence of surface water in ponds and marsh areas throughout the property indicate that wetlands are present. They are typically several to many acres in size and contain pickerelweed, sagittaria, sedges and other wetland dependant plant species. Mapped soils on the ranch include both hydric and upland soils types, approximately half and half. Hydric soils exist in the depressional wetland marshes scattered throughout the ranch, along the western edge of the Corkscrew Marsh, and adjacent to Lake Trafford. Upland soils are in the pasture and hardwood hammock areas. Numerous wetland dependent plant species were observed onsite. Wetland dependent wildlife observed by staff include: sandhill cranes, numerous species of wading birds, common moorhens and alligators. Audubon Society volunteers conducting the Audubon

Christmas Bird Count between 2001 and 2006 have observed a great variety of wetland dependent bird species, including many that are listed as threatened and endangered by the State of Florida.

Acquisition of this property would offer opportunities for protection of water resource values, including moderate recharge of the surficial and lower Tamiami aquifers and protection of wetland dependent species habitat. A primary benefit to preserving the ranch in an undeveloped state would be protection of the Corkscrew swamp and marsh complex and wetlands associated with Lake Trafford. The Corkscrew swamp and marsh complex provides recharge for the Lower Tamiami aquifer, a source of drinking water for many county and private wells east of County Road 951. Acquisition of the Pepper Ranch would protect the quality of this water source by buffering it from development and resulting non-point source pollution.

The Pepper Ranch property offers significant biological values, listed species habitat, restoration potential and ecological quality. Species surveys done on the ranch show that wildlife of all types is present. The property's location is within Priority One Panther Habitat, sightings, telemetry points and presence of prey species indicate the ranch is used by panthers. Many other native wildlife species have been documented on the ranch lands. Acquisition of the ranch would provide connectivity between the Corkscrew wetlands, Lake Trafford wetlands and the Camp Keais Strand, extending south into the Florida Panther National Wildlife Refuge, Fakahatchee Strand Preserve State Park and Everglades National Park. There is significant restoration potential for formerly cleared pasture lands.

**Projected Management Activities:**

No hydrologic changes are necessary to maintain wetland characteristics of the wetlands present on the ranch. Projected management activities include: the removal of invasive, exotic plants, the development of a plan to control exotic animals, the development/delineation of a public parking area, the installation of ADA restroom facilities or remodel of lodge to ADA standards, the development of public access to selected portions of the ranch and exploration to potentially use portions of the property for wetland and panther habitat mitigation activities.

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