

**AGENDA  
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND  
NOVEMBER 9, 2004**

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**Item 1      Oceans Informational Presentation**

On September 20<sup>th</sup>, the U.S. Commission on Ocean Policy, appointed by President George W. Bush, culminated more than two years of work with the release of an extensive review of the nation's ocean policy – the first major assessment in 30 years. The report is extensive and provides hundreds of recommendations to the nation on how the United States can improve the management of our ocean resources. Some of the key recommendations include promoting ecosystem-based management, enhancing regional approaches, using sound science to make wise decisions, and improving ocean education. The release of this report provides an ideal opportunity for Florida to demonstrate our ongoing commitment to stewardship of our coast and oceans. This informational agenda item will be a powerpoint presentation that will provide an overview of the report findings, highlight some of the key issues for Florida, and inform the Board of Trustees about what DEP is doing to increase ocean protection in the State of Florida and within our regions.

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**Item 2      Palm Beach Option Agreement/ Pal Mar Florida Forever Project**

**DEFERRED FROM THE SEPTEMBER 21, 2004 AGENDA**

**REQUEST:** Consideration of an amendment to an option agreement to (1) increase the acreage acquired by an additional 2,617.26 acres; and (2) reduce the title interest from 100 percent fee title to a 50 percent undivided title interest held jointly with Palm Beach County over the entire 5,222.56 acres within the Pal Mar Florida Forever project from Palm Beach County.

**COUNTY:** Palm Beach

**LOCATION:** Sections 05 through 09, Township 41 South, Range 41 East; Sections 01 through 04, Township 41 South, Range 40 East, Sections 10 through 13 Township 41 South, Range 40 East

		APPRAISED BY:			SELLER'S	TRUSTEES'	OPTION
<u>PARCEL</u>	<u>ACRES</u>	Banting (01/16/97)	Edwards (12/27/96)	APPROVED <u>VALUE</u>	<u>PURCHASE PRICE</u>	<u>PURCHASE PRICE</u>	<u>DATE</u>
Parcels A & B (100% of Fee)	4,823.51*	\$5,200,000	\$4,220,000	\$4,393,877	\$4,689,985		120 days after BOT approval
Parcel C [a.k.a. 37.03, 37.04 & 37.05] (100% of Fee)	399.05	(05/14/99) \$475,000		\$445,739	\$445,739		
Total Undivided	5,222.56				\$4,839,616	\$5,135,724	
50% Interest	5,222.56			\$2,420,000**	\$2,567,862	\$2,420,000***	

\* Adjusted to actual surveyed acreages. Appraised acreage was 5,280.79.

\*\* Rounded

\*\*\* \$464 per acre for 50 percent undivided interest in 5,222.56 acres.

**STAFF REMARKS:** Pal-Mar Florida Forever project is an "A" group project on the Florida Forever Full Fee Project List approved by the Board of Trustees on February 26, 2004. The project contains 35,668 acres, of which 19,114 acres have been acquired or are under

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agreement to be acquired. After the Board of Trustees approves this agreement, 13,936.99 acres, or 39 percent of the project, will remain to be acquired.

Pursuant to a multi-party acquisition agreement entered into between Palm Beach County (County) and the Department of Environmental Protection's (DEP) Division of State Lands (DSL), Palm Beach County purchased the subject property from the John D. and Katherine T. MacArthur Foundation. On June 12, 2003, the Board of Trustees approved the purchase of a portion of the parcel containing 2,605.3 acres from Palm Beach County in 100 percent fee ownership for \$2,423,512. DSL staff is requesting the Board of Trustees' consideration of an amendment to the option agreement to (1) add an additional 2,617.26 acres to the acquisition; and (2) change the interest to be acquired from 100 percent fee interest to an undivided 50 percent fee interest over the entire tract held jointly with Palm Beach County.

Generally, joint acquisitions with local governments provide that the Board of Trustees fund 50 percent of the purchase while receiving 100 percent of the title interest in the property. The benefit to the local government with this practice is the preservation of lands available for use by its citizens free of the pressures imposed on local governments for more active land uses. If approved, this will be the Board of Trustees' first joint acquisition with a local government retaining an undivided title interest in a parcel and will reverse a long-standing Board of Trustees' policy of not sharing title with local governments. The local government still receives the benefit of use of the land by its citizens but the Board of Trustees loses its control over the land as the state's land conservation agency.

With concurrent ownership, each co-owner has a possessory interest in the whole of the lands involved. This right of equal possession is present regardless of the undivided interest held. Each co-owner may sell its interest or mortgage it. Either co-owner may lease its interest, including its right to possess the whole of the property. Each co-owner is liable for contribution to the other for the expenses of the property, and both are liable to third parties for damage or injury arising out of ownership and management of the property. Due to these incidents of joint ownership, the amendment provides for numerous deed covenants and restrictions in an effort to protect the Board of Trustees and the use of the property for conservation.

All mortgages and liens will be satisfied at the time of closing. There are outstanding oil, gas and mineral rights, various power, telephone, and drainage easements on property. The appraisers considered these in their appraisals. Palm Beach County can manage the property with these conditions. Because these issues were discovered during preliminary due diligence, further research may change the facts and scope of each issue and, therefore, DEP staff will review, evaluate and implement an appropriate resolution for any title issues that arise prior to closing. On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to DEP the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately.

A title insurance policy, a survey, an environmental site evaluation and, if necessary, an environmental site assessment will be provided by the purchaser prior to closing. The seller will reimburse the purchaser for the purchaser's cost of the title insurance.

Agriculture and residential development have reduced natural areas in the interior of southeast Florida to fragments. One of the largest and best fragments, part of what was once a transition zone between pine flatwoods and the sawgrass marshes of the Everglades, will be protected by the Pal-Mar project. Public acquisition of this project and the protection of these flatwoods

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and marshes, will protect habitat for the endangered Florida panther and snail kite, among other kinds of wildlife; will preserve natural lands linking the J.W. Corbett Wildlife Management Area with Jonathan Dickinson State Park; and, will provide land to the public of this fast-growing region for hiking, bicycling, camping and learning about the original nature of this part of Florida. Hunting is not a permitted activity. Hunting is prohibited on all Palm Beach County's natural areas under the Natural Areas Ordinance (94-13), except for management purposes such as control of feral hogs.

The property will be managed by Palm Beach County as the Pal-Mar Natural Area.

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

(See Attachment 2, Pages 17)

**RECOMMEND DENIAL**