

AGENDA
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
AUGUST 15, 2006

Item 1 August 2006 Florida Forever Report/Florida Forever Priority List

REQUEST: Consideration of (1) the August 2006 Florida Forever Report of the Acquisition and Restoration Council; and (2) the August 2006 Florida Forever Priority List.

STAFF REMARKS: The August 2006 Florida Forever Report was prepared pursuant to chapter 259, F.S., and chapter 18-24, F.A.C. During the Acquisition and Restoration Council (ARC) meetings of February 10, April 21, and June 9, 2006, ARC added three new projects, amended the boundaries of three projects, and moved four projects and the Phase II portion of another project from Group B to Group A on the August 2006 Florida Forever Priority List. The August Report includes the August 2006 Florida Forever Priority List of acquisition projects approved by ARC on June 9, 2006 and proposed for adoption by the Board of Trustees.

<u>Projects Added to List</u>	<u>Acres</u>	<u>County</u>
Clay Ranch (LTF)	2,379	Putnam
North Nokuse Plantation (LTF)	3,685	Walton
Ochlockonee Bluffs (LTF)	1,760	Liberty

<u>Projects with Boundary Amendments</u>	<u>Acres</u>	<u>County</u>
Econ-St. Johns Ecosystem	622	Orange
Upper St. Marks River Corridor	1,671	Leon/Jefferson
Wakulla Springs Protection Zone	152	Wakulla

<u>Projects Moved From Group B to Group A</u>	<u>Reason</u>	<u>County</u>
Belle Meade	Everglades Restoration	Collier
Clear Creek/Whiting Field (Phase II)	Military Support	Santa Rosa
Econ-St. Johns Ecosystem	New Owner	Seminole/Orange
Pierce Mound Complex	Archaeological Site	Franklin
Twelvemile Slough	Panther Habitat	Hendry

All property within the boundaries of the Florida Forever projects, unless specifically noted otherwise, is proposed to be purchased, in fee-simple or a lesser interest, for conservation purposes.

The Florida Forever Tool for Efficient Resource Acquisition and Conservation (F-TRAC) and Single Resource Ranking are analyses produced every six months by the Florida Natural Areas Inventory (FNAI) to provide scientific support to ARC in advance of its semi-annual vote on Florida Forever land acquisition projects. The analyses provide a concise overview of the natural resource values of each existing and proposed Florida Forever project. A Single Resource Ranking is provided for 10 resource types outlined in the Florida Forever Act. The F-TRAC 2010 Scenarios show which projects offer the greatest return in resource protection given the estimated acreage likely to be acquired by Florida Forever. Complete documentation for the F-TRAC and Single Resource Ranking analyses may be downloaded from the FNAI website (www.fnai.org).

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The F-TRAC and Single Resource Ranking analyses evaluate projects only according to natural resource values. Other considerations such as willing sellers, active negotiations, completing projects, management feasibility, development threat, etc., are always part of any decision regarding project status. The information provided in these analyses is not intended to substitute for the informed judgment of expert decision makers. The analyses are a tool to guide decision-making, not a final conservation plan that must be followed. Nevertheless, the F-TRAC and Single Resource Ranking provide sound direction for Florida Forever, and decisions made to the contrary should be justifiable.

Since 1999, the state's land acquisition programs have been extremely successful as evidenced by the protection of: over 458,000 acres of Strategic Habitat Conservation Areas (Florida Fish and Wildlife Conservation Commission); over 845,000 acres of habitat conservation areas (FNAI), and over 1,180 listed species locations of 328 different species, 143 of which are state-listed as endangered, 52 state-listed threatened, and 23 species of special concern; over 680,000 acres of ecological greenways (Office of Greenways & Trails); over 107,000 acres of under-represented natural communities; almost 125,000 acres of natural floodplains; over 1,120,000 acres important to significant water bodies; over 27,000 acres of fragile coastline; almost 580,000 acres of functional wetlands; over 1,000,000 acres of significant groundwater recharge areas; about 242,000 acres of land to support priority recreational trails; and, over 425,000 acres of sustainable forest land. Also, over 5,400 acres of archaeological and historic sites have been protected and over 133,926 acres have been added to the Division of Recreation & Parks and Coastal & Aquatic Managed Areas. Note: these acreages were derived from the most recently updated Florida Forever data layers, which are continuously amended to reflect the most current scientific analyses of Florida's natural resources. Additionally, the acreages recorded for each measure often overlap, and thus should not be added together. Collectively, the State of Florida has protected nearly 1.2 million acres of land under the Florida Forever program since 1999.

The August 2006 Florida Forever Priority List is consistent with section 187.201(9), F.S., the Natural Systems and Recreational Lands section of the State Comprehensive Plan.

The August 2006 Florida Forever Report is being submitted in digital format.

(See Attachment 1, Page 1)

RECOMMEND ACCEPTANCE OF THE AUGUST 2006 FLORIDA FOREVER REPORT AND APPROVAL OF THE AUGUST 2006 FLORIDA FOREVER PRIORITY LIST

Item 2 Flenner Revocable Trust Purchase Agreement/Survey Waiver/Florida Keys Ecosystem Florida Forever Project

REQUEST: Consideration of (1) a purchase agreement to acquire 1.04 acres within the Florida Keys Ecosystem Florida Forever project from James A. Flenner Revocable Trust; and (2) the authority to waive the survey requirement.

COUNTY: Monroe

LOCATION: Section 25, Township 66 South, Range 27 East

CONSIDERATION: \$416,250

<u>PARCEL</u>	<u>ACRES</u>	APPRAISED BY Magenheimer (08/04/05)	APPROVED <u>VALUE</u>	SELLER'S PURCHASE <u>PRICE</u>	TRUSTEES' PURCHASE <u>PRICE</u>	CLOSING <u>DATE</u>
Flenner	1.04	\$333,000*	\$333,000	\$31,000**	\$416,250*** (125%)	120 days after BOT Approval

* The property was originally appraised with 10 ROGO allocations, the seller retained one ownership and the appraisal was amended on April 14, 2006 to reflect the new value less one ROGO allocation.

** Property was purchased July 26, 1994.

*** \$400,240 per acre or \$46,250 per ROGO allocation, (9 ROGO allocations per the appraisal).

Noted Features of Subject Property:

Value based on potential sale as ROGO points.

STAFF REMARKS: The Florida Keys Ecosystem project is an "A" group project on the Florida Forever Small Holdings Project List approved by the Board of Trustees on February 14, 2006. The project contains 11,854 acres, of which 5,071.89 acres have been acquired or are under agreement to be acquired. If the Board of Trustees approves this agreement, 6,781.07 acres, or 57 percent of the project, will remain to be acquired.

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

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 Department of Environmental Protection (DEP) the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately. Therefore, DEP staff will

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review, evaluate and implement an appropriate resolution for any title issues that arise prior to closing.

A title insurance policy and environmental site evaluation will be provided by the purchaser prior to closing. It is the opinion of the 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.

The unique pine rocklands and hardwood hammocks of the Florida Keys, forest of West Indian plants that shelter several extremely rare animals, are being lost to the rapid development of the islands. Public acquisition of the Florida Keys Ecosystem project will protect all the significant unprotected hardwood hammocks left in the Keys and many rare plants and animals, including the Lower Keys marsh rabbit and Key deer. It will also help protect the Outstanding Florida Waters of the Keys, the recreational and commercial fisheries, and the reefs around the islands, and give residents and visitors more areas for enjoying the natural beauty of the Keys.

This property will be managed by Monroe County.

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 1-18)

RECOMMEND APPROVAL

Substitute Item 3 Maxwell Family Partnership, Ltd. Option Agreement/Conservation Easement/Wekiva-Ocala Greenway Florida Forever Project

REQUEST: Consideration of an option agreement to acquire a perpetual conservation easement over 571.83 acres within the Wekiva-Ocala Greenway Florida Forever project from the Maxwell Family Partnership, Ltd.

COUNTY: Lake

LOCATION: Sections 03 and 11, Township 18 South, Range 27 East

CONSIDERATION: \$2,631,400

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<u>PARCEL</u>	<u>ACRES</u>	<u>APPRAISED BY:</u>		<u>APPROVED VALUE</u>	<u>SELLER'S PURCHASE PRICE</u>	<u>TRUSTEES' PURCHASE PRICE</u>	<u>OPTION DATE</u>
		<u>(Benson) 11/22/05</u>	<u>(Clayton) 11/21/05</u>				
Maxwell	571.83	\$2,600,000	\$2,860,000	\$2,860,000*	\$1,600**	\$2,631,400*** (92%)	120 days after BOT

approval

* Conservation Easement Approved Value.

** Property inherited by Robert Maxwell from his father in June of 1969.

*** Price per acre is \$4,602; Fee Value is \$7,800 per acre; Conservation Easement Purchase Price is 59% of the Fee Value.
The purchase price is 92% of the Conservation Easement Approved Value.

Noted Features of Subject Property:

The neighborhood is characterized as a rural area, used primarily for agriculture, rural residential, and recreation.

The property includes two non-contiguous parcels (Parcel A, 348.21 acres & Parcel B, 223.62 acres) which are separated by about 2/3 mile.

Combined, the two parcels contain a total of 571.83 acres, of which, 84% is designated as uplands and 16% is designated as jurisdictional wetlands.

Both parcels are zoned Agricultural by Lake County which allows a maximum of one dwelling unit per 5 acres.

The Future Land Use is designated as Rural which is compatible with the zoning and also permits one dwelling unit per 5 acres.

STAFF REMARKS: The Wekiva-Ocala Greenway project is an "A" group project on the Florida Forever Full Fee Project List approved by the Board of Trustees on February 14, 2006. The project contains 76,698 acres, of which 44,757 acres have been acquired or are under agreement to be acquired. If the Board of Trustees approves this agreement, 31,369.17 acres, or 41 percent of the project, will remain to be acquired.

Under the proposed conservation easement, the 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:

- The dumping of soil, trash, liquid or solid waste (including sludge), or unsightly, offensive, or hazardous materials, wastes or substances, toxic wastes or substances, pollutants or contaminants will be prohibited;
- The exploration for and extraction of oil, gas, minerals, peat, muck, marl, limestone, limerock, kaolin, fuller's earth, phosphate, common clays, gravel, shell, sand, and similar substances will be prohibited;
- Activities that will be detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation unless otherwise provided in this easement will be prohibited;
- Acts or uses detrimental to the preservation of the structural integrity or physical appearance of any portions of the property having historical or archeological significance will be prohibited;
- The removal, destruction, cutting, trimming, mowing, alteration, or spraying with biocides of trees, shrubs, or other natural vegetation, including but not limited to cypress trees, except as otherwise specifically provided in this easement will be prohibited;

Substitute Item 3, cont.

- There shall be no planting of nuisance exotic or non-native plants as listed by the Exotic Pest Plant Council or its successor. The grantor shall, to the extent practical, control and prevent the spread of nuisance exotics or non-native plants on the property;
- Commercial or industrial activity, or ingress, egress or other passage across or upon the property in conjunction with any commercial or industrial activity including but not limited to swine, dairy, and poultry operations and confined animal feed lot operations will be prohibited;
- New construction or placing of temporary or permanent buildings, mobile homes or other structures in, on or above the ground of the property except as may be necessary by grantor for maintenance or normal operations of the property or during emergency situations or as may otherwise be specifically provided for hereinafter will be prohibited;
- The construction or creation of new roads or jeep trails will be prohibited;
- There shall be no operation of motorized vehicles except on established trails and roads unless necessary: (i) to protect or enhance the purposes of this easement, (ii) for emergency purposes, (iii) for cattle ranching purposes, and (iv) to retrieve game that has been hunted legally;
- Areas currently improved for agricultural activities as established by the Baseline Documentation (BD) may continue to be used for those activities. Areas that are currently in improved pasture as depicted in the BD shall not be converted to more intense agricultural use. Lands that are depicted in the BD as being natural areas shall remain natural areas;
- If the property is in a spring recharge area, fertilizer use for agriculture activities shall be in accordance with agricultural best management practices recommended by the Natural Resources Conservation Service or the Florida Department of Agriculture and Consumer Services (DACS), whichever is more stringent, as those best management practices may be amended from time to time. No agricultural activities shall occur within a 100-foot buffer around sinkholes and other karst features that are connected to spring conduits;
- Actions or activities that may reasonably be expected to adversely affect threatened or endangered species will be prohibited;
- Any subdivision of the land will be prohibited. However, the sale of one parcel, independent of the other, will not be considered to be a subdivision;
- There shall be no signs, billboards, or outdoor advertising of any kind erected or displayed on the property, except that grantee may erect and maintain signs designating the property as land under the protection of grantee; and
- There shall be no commercial water wells on the property.

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:

Substitute Item 3, cont.

- The right to observe, maintain, photograph, introduce, and stock native fish or wildlife on the property, to use the property for non-commercial hiking, camping, and horseback riding. Seller reserves, and shall continue to own, the hunting and fishing rights on, or related to, the property and may lease and sell privileges of such rights;
- The right to conduct controlled or prescribed burning on the property;
- The right to mortgage the property; provided, however, that the mortgagee's lien shall be inferior to and lower in priority than this easement;
- The right to contest tax appraisals, assessments, taxes, and other charges on the property;
- The right to continue to use, maintain, repair, and reconstruct, but not to relocate or enlarge, all existing buildings, barns, dog pens, outbuildings, fences, roads, ponds, drainage ditches, and such other facilities on the property as depicted in the BD;
- The right to exclusive use of the improvements depicted in the BD;
- The right to continue existing agricultural practices as depicted in the BD;
- The right to cultivate and harvest sod from the existing pasture areas, as depicted on the BD; provided, however, at least seventy-five percent of the improved pasture shall remain un-harvested in any one calendar year;
- The right to engage in silviculture in those areas depicted on the BD as silvicultural or agriculture areas or as planted pine plantation, in accordance with the best management practices of DACS, Division of Forestry or its successor. There shall be no harvesting in wetlands. There shall be no harvesting of cypress trees under any circumstances;
- The right to construct four new residential structures on the property, along with access driveways and appropriate-sized outbuildings such as barns, as more particularly described hereinafter. Each of the four residential structures shall be limited to 5,000 square feet, including overhangs, porches, and other such non-heated and cooled areas, and have no more than two related outbuildings limited to 2,000 square feet each. The new residential and outbuilding impacts shall be limited to 2.5 contiguous acres each, including new access driveways, all of which shall be located at least 150 feet from any wetland area as identified in the BD; and
- The right to continue to maintain existing fox pens on the property, as identified in the BD, subject to compliance with all applicable statutes, rules, and regulations that might apply.

All mortgages and liens will be satisfied or subordinated at the time of closing. The property is improved with a 3,200-square-foot metal shed, a pole barn, an eight-inch well, perimeter and cross-fencing, a concrete building, a diesel generator building, and numerous satellite antennas. These types of building improvements are considered typical for mid-to-large size acreage tracts and are not considered to add any measurable contributory value to the underlying land. Any contributory value of the building improvements was considered in the reconciled unit value per gross acre, which is typical in this market. The parcel west of County Road 439 is partially encumbered by several utility easements. There are two guying

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easements along County Road 42. These guying easements are 10 feet wide by 35 feet long and encumber 0.02 acre. There is a 20-foot wide by 800-foot long easement along the south side of County Road 42 that encumbers approximately 0.37 acre. There is a 10-foot wide easement along the west side of County Road 439 that encumbers approximately 0.91 acre. These types of easements are considered typical and are not considered to have a measurable impact on the market value or marketability of the subject property. The appraisers are not aware of any outstanding oil, gas or mineral reservations located on the subject property.

The two value estimates for Parcel B (the Southern parcel, 223.62 acres) were predicated on the owner obtaining a 50-foot wide access easement prior to closing. The 50-foot-wide non-exclusive perpetual access easement was conveyed on July 26, 2006, as recorded in OR Book 3220, Page 2190 of the Official Records of Lake County, Florida. Therefore, the value is as reflected in the appraisal.

On June 22, 1999, the Board of Trustees approved a staff recommendation to delegate to the Department of Environmental Protection (DEP) the authority to review and evaluate marketability issues as they arise on all chapter 259, F.S., acquisitions and to resolve them appropriately. 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 these and any other title issues that may arise prior to closing.

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

The springs, rivers, lakes, swamps, and uplands stretching north from Orlando to the Ocala National Forest are an important refuge for the Florida black bear, as well as other wildlife such as the bald eagle, swallowtailed kite, Florida scrub jay, and wading birds. The Wekiva-Ocala Greenway will protect these animals and the Wekiva and St. Johns River basins by protecting natural corridors connecting Wekiva Springs State Park, Rock Springs Run State Reserve, the Lower Wekiva River State Reserve, and Hontoon Island State Park with the Ocala National Forest. It will also provide the people of the booming Orlando area with a large, nearby natural area in which to enjoy camping, fishing, swimming, hiking, canoeing, and other recreational pursuits.

The conservation easement will be monitored by DEP's Office of Environmental Services.

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 3, Pages 1-44)

RECOMMEND APPROVAL

Substitute Item 4 BOT/SJRWMD Acquisition and Ownership Agreement/Joshua Creek Property/Econ - St. Johns Ecosystem Florida Forever Project/Substitute Procedures

REQUEST: Authority to (1) enter into an acquisition and ownership agreement with the St. Johns River Water Management District for the Joshua Creek property, owned by Land South Hunter's, LLC in Econ - St. Johns Ecosystem Florida Forever project; and (2) substitute other reasonably prudent procedures as meeting the Standards for Acquisition by the Board of Trustees pursuant to section 259.041(1), F.S.

COUNTIES: Seminole and Orange

LOCATION: Section 35, Township 21 South, Range 33 East; Sections 02 through 11, Township 22 South, Range 33 East; and Sections 01 and 12, Township 22 South, Range 32 East

STAFF REMARKS: The Econ - St. Johns Ecosystem project is a "B" group project on the Florida Forever Full Fee Project List approved by the Board of Trustees on February 14, 2006. This project was moved to the "B" group list because the previous owners were unwilling to sell. In the spring of 2006, a willing seller of a large parcel in the Econ - St. Johns Ecosystem project contacted the state about our willingness to purchase. As this transaction evolved, staff requested the project be moved to the "A" group list because the transaction changed from a 161 agreement to an acquisition and ownership agreement with the St. Johns River Water Management District (District). On June 6, 2006, the Acquisition and Restoration Council approved moving this project from the "B" group list to the "A" group list. The Florida Forever project list is being presented for approval to the Board of Trustees on this agenda.

Originally staff proposed to purchase the property in accordance with section 259.041(17), F.S., utilizing the procedures set out in section 373.139, F.S., allowing the District to acquire lands to be held jointly by the Board of Trustees and the District. The District requested that they have the ability to convey up to 50 percent interest of its portion of the acquisition to Orange County. Since the Board of Trustees can only hold title with the District, another acquisition plan was proposed. The proposed plan mimics a 161 agreement except for the shared title. Therefore, staff recommends substituting for the procedures of section 259.04, F.S., the provisions of section 373.139, F.S., 40C-9, F.A.C., and the District's Acquisition Procedures as reasonably prudent procedures that meet the Standards for Acquisition by the Board of Trustees, pursuant to section 259.041(1), F.S.

Substitute Item 4, cont.

District and Department of Environmental Protection (DEP) staff agreed to divide the property with approximately 50 percent of the total parcel being conveyed to the District (South Parcel) and approximately 50 percent of the total parcel, less the conservation easement, being conveyed to the Board of Trustees (North Parcel). This will allow the District to convey an undivided 50 percent interest in the South Parcel to Orange County.

To facilitate the acquisition of this project, the District has offered to take the lead in the acquisition of the entire Joshua Creek property (4,458 acres). DEP staff has prepared an agreement that would allow the District to acquire the property within the Econ - St. Johns Ecosystem Florida Forever project using District procedures, with the Board of Trustees providing approximately 50 percent of the purchase price and receiving approximately 50 percent of the property. The District has identified this property as needed for water management, water supply, and the conservation and protection of water resources.

On August 8, 2006, the agreement will be brought to the Governing Board of the District for approval and execution. Incorporated into the agreement are a number of assurances that the District will be giving the Board of Trustees in return for its consideration of this agreement. The District has agreed to: (1) comply with the procedures set out in section 373.139, F.S.; (2) defend the Board of Trustees against all title and survey disputes or defects and environmental contamination associated with the acquisition of the North Parcel negotiated by the District that were either known or should have been known by the District at the time the District acquired the parcel, but were not disclosed to DEP's Division of State Lands; and (3) be responsible for responding to any audit, legal or other investigation pertaining to any phase of its acquisition of any parcel covered by the agreement.

Pursuant to the proposed agreement, District staff will obtain and review appraisals, negotiate a purchase contract and secure the approval of its Governing Board. The District will provide DEP with a board resolution requesting reimbursement of the Board of Trustees' share of the purchase price. DEP staff will seek approval for the Board of Trustees' share of the purchase price based on the District's contract to purchase the entire parcel. In addition, the agreement provides for the District, under some circumstances, to be reimbursed its pro-rata share, based upon the value of the respective parcels, of costs associated with its attempt to acquire lands within the project, including pre-acquisition and closing related costs, with the pre-acquisition costs and certain closing costs being reimbursed even if the District is unsuccessful in acquiring any property. If the Board of Trustees approves this specific purchase, the District will proceed to closing with the District holding fee simple title to the South Parcel and the Board of Trustees holding fee simple title to the North Parcel.

Substitute Item 4, cont.

The existing conservation easement over the easterly portion of the property is presently in favor of the District and DEP; however, it will not be part of DEP's acquisition. The District will, however, provide DEP a blanket access easement over any existing roads and trails. Additional details will be provided when the contract is presented to the Board of Trustees in the near future.

The Econ - St. Johns Ecosystem project will be managed by the Department of Agriculture and Consumer Services' Division of Forestry under a multiple-use management regime consistent with the State Forest system.

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

(See Attachment 4, Pages 1-10)

RECOMMEND APPROVAL

Item 5 Carrabelle Boat Club, LLC Recommended Consolidated Intent

REQUEST: Consideration of an application for (1) a five-year sovereignty submerged lands private easement containing approximately 24,409 square feet, more or less; and (2) authorization to dredge 1,124 cubic yards of sovereignty material from portions of an existing access way from a commercial marina located on Postum Bayou to the Carrabelle River.

COUNTY: Franklin
Lease No. 192545749
BOT No. 190339151
Private Easement No. 40751
Application No. 19-0233018-002-DF

APPLICANT: The Carrabelle Boat Club, LLC

LOCATION: Sections 19 and 30, Township 07 South, Range 04 West, in Postum Bayou, Class III Waters of the State, Unclassified Shellfish Harvesting Area, within the local jurisdiction of Franklin County
Aquatic Preserve: No
Outstanding Florida Waters: No
Designated Manatee County: No
Manatee Aggregation Area: No
Manatee Protection Speeding Zone: No

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CONSIDERATION: \$18,105 representing (1) \$16,700 for the private easement, including 10 percent of the enhanced value; and (2) \$1,405 for the severance of sovereignty material computed at the rate of \$1.25 per cubic yard pursuant to section 18-21.011(3)(a)3, F.A.C. Sales tax will be assessed pursuant to section 212.031, 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 chapter 253, F.S. The Board of Trustees is requested to act on those aspects of the activity, which require authorization to use sovereignty submerged lands. If the Board of Trustees approves the request to use sovereignty submerged lands, and the activity also qualifies for a permit, the Department of Environmental Protection (DEP) will issue a "Consolidated Notice of Intent to Issue" that will contain general and specific conditions. If the Board of Trustees denies the use of sovereignty submerged lands, whether or not the activity qualifies for a permit, DEP will issue a "Consolidated Notice of Denial."

The site was originally approved in 1996 for a 9-slip docking facility with a 6-foot-wide by 73-foot-long marginal dock and a boat ramp, under the name of Clifford Nunery (File No. 192545749). The site was sold to Coastal Drystack in 1999 and the dock was expanded to add three slips adjacent to the marginal dock, add a haul out basin and construct a 100-unit dry slip facility on the upland. The site was sold to Freda White in 2004 with no modifications to the facility. Carrabelle Boat Club, LLC purchased the property in 2005 and received a wetland resource permit under File number 19-0233018-001-DF and lease modification to expand the number of wetslips from 9 to 16 and increase the number of dry slips from 100 to 285. In addition, the haul-out basin was expanded from 23.5 feet wide to 40 feet wide; in order to accommodate two forklifts and the boat basin and boat well were dredged to -4 feet mean low water (MLW).

The applicant originally proposed to dredge the entire 1,739-foot-long by 25-foot-wide access channel to a depth of -5 feet MLW. The application has been reduced in scope and has been modified to dredge three portions of the existing 1,739-foot-long marked navigational access channel located in Postum Bayou. The combined lengths of the three areas will be 665 feet long with a top width of 25 feet. The private easement portion will be approximately 25 feet wide by 952 feet long. The area is proposed to be dredged to -4 feet MLW and will contain a total of 1,124 cubic yards of material. The water depths in the existing navigational channel range from -2 feet MLW to -5.5 feet MLW. The dredging will be accomplished by using a clamshell dredge located on a barge. The spoil material will be transported in sealed trucks to an off-site spoil cell located on Kapes Bayou. The boat basin area and boat well will not be maintenance dredged. No permit has been found for any previous dredging of Postum Bayou, except for the area located around the boat basin area and the boat well, which was dredged under File number 19-0233018-001-DF. The maximum draft of the vessels using the facility is

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three feet. The channel extends from Carrabelle Boat Club located at the southern end of Postum Bayou to the Carrabelle River located at the northern end of the channel. No submerged aquatic vegetation has been found in the area where the project is proposed. Based on aerial photographs and testimony from the applicant's hydrographic engineer, there is some evidence spoil material may have sloughed off an U.S. Army Corps of Engineers spoil pile located at the northern mouth of Postum Bayou, thus contributing to the siltation of the channel. The hydrographic studies submitted by the applicant's engineer indicate that the proposed dredging may improve the flushing within the system. DEP's hydrographic engineer offered no objections to the project on March 2, 2006.

DEP's Bureau of Appraisal hired an independent appraiser to conduct an appraisal to determine the value of the easement and the enhanced value of the easement. The applicant paid for the appraisal. DEP's Bureau of Appraisal accepted the conclusion of \$8,400 for the easement value with \$83,000 as the enhanced value. The Board of Trustees typically assesses 10 to 25 percent of the enhanced value of the easement, depending on the degree of preemption by the proposed project. The dredged area may still be used for navigation by the public to access the sewage pumpout facility located in the applicant's existing marina. A special easement condition and a specific condition in the permit will require that the sewage pumpout facility be open to the public. Therefore, DEP recommends that the Board of Trustees assess 10 percent of the enhanced value. This is consistent with previous Board of Trustees' actions.

On July 31, 2006, the Florida Fish and Wildlife Conservation Commission (FWCC) recommended that the applicant comply with the standard manatee protection construction conditions for all in-water construction. This recommendation has been addressed as a specific condition in the wetland resource permit and as a special easement condition. Comments from the Department of Community Affairs (DCA) have been requested; however, DCA has declined to comment due to the confusion regarding the inclusion of the site within both Franklin County and the city of Carrabelle's comprehensive plans. The Florida Department of Agriculture and Consumer Services, Shellfish Environmental Assessment Service (SEAS), stated no objections to the project on July 31, 2006, as the project is located in Class III Waters of the State, Prohibited for Shellfish Harvesting. The Florida Department of State, Division of Historical Resources, stated in a letter, dated July 27, 2006, that no significant archaeological or historical sites are recorded within the project area; however, the agency has requested that a specific condition be added to the wetland resource permit regarding fortuitous finds or unexpected discoveries.

This project has been noticed to 51 adjacent property owners as required, pursuant to section 253.115, F.S., and 15 objections were received. DEP has received numerous letters from the public both supporting and objecting to the project. The objection letters indicate that the proposed dredging will be detrimental to the marsh located on the eastern side of Postum Bayou as the marsh functions as a nursery area for the Carrabelle River system. DEP is of the opinion that as neither the wet slip docking facility, nor the dry slip docking facility are being

Item 5, cont.

modified, and that the same boats currently using the facilities will continue to use the facilities, therefore, no additional impacts to the marsh should occur. Objectors also indicate that the northern end of the bayou has two oyster bars that may be impacted due to siltation of the bars by the proposed dredging. SEAS does not consider this area to be a Conditionally Approved Shellfish Harvesting Area and therefore does not have a record of the location of oyster bars within this area. As such, SEAS does not consider the oyster bars to be of significant quantity nor of commercial quality. To address DEP's concerns about potential impacts to the marsh, the applicant has reduced the scope of the dredging from a depth of minus five-feet mean low water to minus four-feet mean low water and has reduced the amount of cubic yards from 1,798 cubic yards to 1,124 cubic yards. This has been accomplished by dredging only portions of the channel rather than the entire length and by deleting the dredging around the existing slips. DEP's wetland resource permit requires turbidity controls to address potential impacts. The supporters of the project indicate that the proposed dredging will increase flushing by removing silt and sedimentation from the bayou. DEP's hydrographic engineer indicated that dredging will not cause a hydrographic concern or cause the water quality standards to be violated.

The city of Carrabelle stated in a letter, received on March 30, 2006, that the proposed action is inconsistent with several of the city of Carrabelle's ordinances and comprehensive plan. Specifically the city of Carrabelle objects to the proposed dredging, as its ordinance only allows maintenance dredging, not new dredging. As such, this project was determined to be a project of heightened public concern and deemed to require Board of Trustees' approval.

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S.; however, DCA determined that the plan was not in compliance. In accordance with the compliance agreement between the DCA and the local government, an amendment has been adopted which brought the plan into compliance. The proposed action is consistent with Franklin County's adopted plan as amended according to a letter received from Franklin County on March 2, 2006.

(See Attachment 5, Pages 1-37)

**RECOMMEND APPROVAL SUBJECT TO THE SPECIAL EASEMENT
CONDITIONS AND PAYMENT OF \$18,105**