

**AGENDA**  
**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**  
**AUGUST 14, 2007**

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**Item 1      Drake Option Agreement/Marjorie Harris Carr Cross Florida Greenway  
Drake Addition Project**

**REQUEST:** Consideration of an option agreement to acquire 34.88 acres within the Marjorie Harris Carr Cross Florida Greenway Drake Addition project from Robert P. Drake, as Trustee.

**COUNTY:** Marion

**LOCATION:** Section 01, Township 16 South, Range 22 East

**CONSIDERATION:** \$865,000.00

| <u>PARCEL</u>               | <u>ACRES</u> | APPRAISED BY<br>Benson<br>(5/23/06) | APPROVED<br>VALUE | SELLER'S<br>PURCHASE<br>PRICE | TRUSTEES'<br>PURCHASE<br>PRICE | OPTION<br>DATE                 |
|-----------------------------|--------------|-------------------------------------|-------------------|-------------------------------|--------------------------------|--------------------------------|
| Robert P. Drake,<br>Trustee | 34.88        | \$870,000                           | \$870,000         | \$75,000*                     | \$865,000**<br>(99%)           | 120 days after<br>BOT Approval |

\* Purchased July 11, 2001 through an estate.

\*\*\$24,800 per acre

Noted Features related to the appraised value of the Drake Parcel, Marion County:

The property is located in an unincorporated area of Marion County, approximately two miles southeast of Ocala. The neighborhood is suburban with a residential subdivision in the immediate area.

The Zoning and Land Use is agricultural, allowing a maximum of one dwelling unit per ten acres.

The land has no jurisdictional wetlands.

Value is based on a price per gross acre with a highest and best use for residential development.

The property is bisected by a 120-foot-wide railroad right-of-way, which runs from the northwest to the southeast corner of the site.

The property currently has no legal access. Due to the configuration of the site, which is bisected by a railroad spur, separate access would be required to both the northeast and southwest portions of the site. This was considered in the appraisal. The property is adjoined on either side by existing State lands, so access for management purposes will be available.

**STAFF REMARKS:** The Marjorie Harris Carr Cross Florida Greenway Drake Addition project has been identified on the Department of Environmental Protection (DEP), Office of Greenways and Trails' (OGT), Florida Forever approved acquisition list. DEP, Division of State Lands, on behalf of OGT, negotiated this acquisition under the Florida Forever Greenways and Trails program. If the Board of Trustees approves this agreement, the project will be complete.

**Federal Acquisition Procedures**

This property is being acquired using federal acquisition procedures in accordance with the Federal Intermodal Surface Transportation Efficiency Act and the Code of Federal Regulations Title 49. On June 22, 1999, the Board of Trustees approved a recommendation to substitute the land acquisition procedures of the Federal Highway Administration for the State of Florida's procedures outlined in section 259.041, F.S., for the projects that qualify for federal enhancement funding, as administered by the Florida Department of Transportation. Under the federal guidelines, DEP is required to disclose the full appraised value of the parcel at the beginning of negotiations.

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**Item 1, cont.**

**Property Description**

The property is within the Marjorie Harris Carr Cross Florida Greenway (CFG), a unique conservation and recreation project managed by OGT. Traversing Citrus, Levy, Marion, and Putnam Counties, the 110-mile greenway occupies much of the land that was formerly the Cross Florida Barge Canal.

This parcel is identified in the CFG management plan as a Priority 1 parcel to acquire. The parcel lies south of the Marion County Rotary Sportsplex. Acquisition of the parcel would close a gap within the CFG boundary and provide for a continuous paved trail and a series of unpaved trail loops along the greenway. Proposed trail uses include hiking, off-road biking and equestrian. This parcel provides an excellent route for the Florida National Scenic Trail and provides connectivity between the internationally known Santos Trailhead and Baseline Road Trailhead which includes a Boundless Playground on CFG lands.

**Encumbrances**

The site is bisected by a 120-foot railroad right-of-way which runs from the northwest to the southeast corner of the site. The property owner has a license to access the subject over the railroad right-of-way under the terms of a license agreement with Florida Northern Railroad, which leases the rail line from CSX. Both portions of the parcel adjoin property owned by the state and managed by OGT as part of the CFG.

**Closing Information**

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.

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

**Florida's Statewide Greenways & Trails System**

The major components of the Florida Statewide Greenways and Trails Program were established through a legislatively adopted plan. This plan was developed through the work and consensus of a broad range of groups and stakeholders, such as recreational users, conservation groups, and private landowners. The foundation for its development consisted of various legislative actions and efforts which occurred throughout the more than 20 years prior to its adoption in 1999. OGT is charged with overseeing the establishment of the statewide system of greenways and trails, in coordination with the Florida Greenways and Trails Council (Council).

One important component of the Florida Greenways and Trails Program is the identification of ecological and recreational connections (opportunity areas) throughout the state. These areas have been identified, mapped, prioritized, and are the basis for developing and evaluating acquisition projects.

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**Item 1, cont.**

**OGT's Application Process**

Applicants apply for OGT's 1.5 percent (\$4.5 million) annual allocation of Florida Forever funding through an application process. The applicants must meet criteria specified by chapter 260, F.S., and detailed by rule in chapter 62S-1, F.A.C. Applications are initially reviewed by OGT staff and biologists and then forwarded to the Council for review and approval. The Council consists of 21 members, as outlined in chapter 260, F.S. At a public meeting, the council evaluates the projects before recommending a final acquisition list. The list is then forwarded to the Secretary of DEP for final approval.

In order to be eligible, applicants must apply for and receive a Certificate of Eligibility. A Certificate of Eligibility is approved by OGT staff if: (1) the proposed project meets the definition of a greenway or trail, as defined in chapter 260, F.S.; (2) the planned project corridor is located within or adjacent to at least one opportunity segment on one or more of the Recreational Prioritization Maps; (3) at least 80 percent of the planned project corridor has a landowner willing to negotiate; and (4) the project has a willing manager. Once the Certificate of Eligibility is approved, the project application may be submitted to OGT during an open cycle period. Proposed projects are evaluated based on the following criteria: (1) the rank (high, medium, or low) assigned to the project based on the Recreational Prioritization Maps; (2) percentage of any matching funds available or committed to the project; (3) the percentage of acreage that is proposed for less-than-fee acquisition; (4) ecological values; (5) recreational attributes; and (6) historical and cultural resources.

**Management**

OGT will be the long term manager of the property and will manage as part of the Marjorie Harris Carr Cross Florida Greenway.

**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.

(See Attachment 1, Pages 1-32)

**RECOMMEND APPROVAL**

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**Item 2      Broussard Option Agreement/Conversation Easement/Osceola Pines Savannas Florida Forever Project**

**REQUEST:** Consideration of an option agreement to acquire a perpetual conservation easement over 1,432.4 acres within the Osceola Pine Savannas Florida Forever project from William J. Broussard Revocable Trust and Allen Broussard Conservancy, Inc., a non-profit Florida corporation.

**Board of Trustees  
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**Item 2, cont.**

**COUNTY:** Osceola

**LOCATION:** Sections 14 through 17, 20, and 21, Township 28 South, Range 33 East

**CONSIDERATION:** \$7,287,500

| PARCEL    | ACRES   | APPRAISED BY:      |                        | APPROVED<br>VALUE | SELLER'S<br>PURCHASE<br>PRICE | TRUSTEES'<br>PURCHASE<br>PRICE | OPTION<br>DATE                 |
|-----------|---------|--------------------|------------------------|-------------------|-------------------------------|--------------------------------|--------------------------------|
|           |         | Page<br>(04/12/07) | Richards<br>(04/12/07) |                   |                               |                                |                                |
| Broussard | 1,432.4 | \$9,240,000        | \$8,600,000            | \$9,240,000       | unknown*                      | \$7,287,500**<br>(79%)         | 120 days after<br>BOT approval |

\* This parcel was acquired in five separate transactions between 1969 and 1999.

\*\* \$5,088 price per acre.

**Noted Features of Subject Property:**

Fee value is \$13,250,000. Purchase price is 55% of the fee simple value.

The property is located on U.S. Highway 441, in a rural area south of Holopaw, Osceola County.

The zoning and land use is agricultural, allowing a maximum of one dwelling unit per five acres. A 203.3-acre portion of the subject is a Planned Development, allowing up to 140 lodging units for eco-tourism guests.

The land is approximately 24% wetlands based on the national wetlands inventory maps.

Value is based on a price per overall acre for a perpetual conservation easement.

The property has several building improvements including single family residences for employees, equipment sheds, a stable, and other typical ranch improvements.

There is ownership by a third party of a one-half interest in oil, gas, and other minerals. This third party does not appear to have the right of exploration or entry. The valuations are predicated upon the assumption that no right of exploration or entry by the third party is present.

**STAFF REMARKS:** The Osceola Pines Savannas project is an "A" group project on the Florida Forever Less Than Fee/Full Fee Project List approved by the Board of Trustees on February 27, 2007. The project contains 46,650 acres, of which 19,176.4 acres have been acquired or are under agreement to be acquired. If the Board of Trustees approves this agreement, 27,473.6 acres, or 59 percent of the Osceola Pine Savannas Florida Forever project, will remain to be acquired.

**Project Summary**

By purchasing a conservation easement over this 1,432.4-acre property, we will be helping to preserve a large tract of land that is essential to the connection between Three Lakes Wildlife Management Areas, Bull Creek, and Triple N Ranch Wildlife Management Area. This conservation easement will aid in the continuation of extensive public use and education that is currently being conducted on this property. Additionally, this easement will aid in the continuation of the Florida Cracker horse and Florida Cracker/Pineywoods cattle operation. This corridor is also essential for Florida panther and black bear. The property, which is known as Crescent J Ranch and Forever Florida, is currently managed by Dr. William J. Broussard. Dr. Broussard has continued to conduct prescribed burning that has created a view-shed on portions of the property. Education of the public is also a major component of the ranch, as eco-tours and school programs teach others about the environment. Additionally, the public can register for camping activities through the visitor's center that is located on adjoining property.

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**Item 2, cont.**

**Project Description**

Many kinds of wide-ranging wildlife use the open rangelands - pastures, pine flatwoods, and palmetto prairies - of Osceola County. The Osceola Pine Savannas project will conserve a large part of these lands, maintaining a link of natural lands between Bull Creek and Three Lakes Wildlife Management Areas; helping to ensure the survival of wildlife like swallow-tailed kites and caracara; and, together with the two wildlife management areas, providing a large area for the public to enjoy hunting, wildlife observation and other activities.

**Prohibited Uses**

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:

- dumping of soil, trash, liquid or solid waste (including sludge), unsightly, offensive, or hazardous materials, wastes or substances, toxic wastes or substances, and pollutants or contaminants will be prohibited;
- 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, except as reasonably necessary to combat erosion or flooding, or except as necessary and lawfully allowed for the conduct of allowed activities;
- no 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 the easement;
- 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;
- 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;
- planting of nuisance exotic or non-native plants as listed by the Exotic Pest Plant Council or its successor will be prohibited;
- no 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, except as otherwise provided for in the retained rights section of the easement;
- no 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 in the retained rights section of the easement;
- construction or creation of new roads or jeep trails will be prohibited;
- operation of motorized vehicles will be prohibited, except on established trails and roads,

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**Item 2, cont.**

unless necessary: (i) to protect or enhance the purposes of this easement, (ii) for emergency purposes, (iii) for cattle ranching purposes, (iv) fence maintenance, (v) for prescribed burns, and (vi) controlling wild hogs;

- areas currently improved for agricultural activities, as established by the baseline documentation, may continue to be used for those activities; areas that are currently in improved pasture as depicted in the baseline documentation shall not be converted to more intense agricultural use, and lands that are depicted in the baseline documentation as being natural areas shall remain natural areas; and cattle shall be kept out of wetland areas, not part of improved pasture;
- any subdivision of the land will be prohibited;
- no signs, billboards, or outdoor advertising of any kind erected or displayed on the property, except that grantee may erect and maintain or replace signs designating the property as land under the protection of grantee; grantor may maintain his existing entrance sign and signs associated with the ecotourism activity, including educational and interpretive signs, parking signs, and signs marking the Florida National Scenic Trail;
- commercial water wells on the property will be prohibited;
- commercial timbering on the property will be prohibited; and
- no hunting or fishing on the property; grantor may remove exotic and nuisance species by any legal means.

**Owner's Rights**

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 right to observe, maintain, photograph, introduce and stock native fish or wildlife on the property, to use an area of improved pasture to create habitat suitable for a wading bird rookery, or improve areas for alligator habitat;
- the right to conduct controlled or prescribed burning on the property;
- the right to mortgage the property, however the mortgagee's lien shall be inferior to and lower in priority than the easement;
- the right to contest tax appraisals, assessments, taxes, and other charges on the property;
- the right to continue to use, maintain, repair, and reconstruct, 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 baseline documentation, except that the existing horse barn may be enlarged not to exceed a total of 15,000 square feet and grantor may enlarge the existing feed shed not to exceed 10,000 square feet and dirt necessary for maintenance of existing roads may be taken from improved pasture, provided that the borrow area is sloped and contoured to create a pond with a littoral area planted with native wetland vegetation;
- the right to exclusive use of the improvements depicted in the baseline documentation; the right to maintain grantor's cattle operation, which is limited to a foundation herd of Charolais and a herd of Florida Cracker/Pineywoods cattle, pursuant to management guidelines as may be promulgated by the American Livestock Breeds Conservancy with

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**Item 2, cont.**

no less protection than provided by the Water Quality Best Management practices for Cow/Calf Operations prepared by the Florida Cattlemen's Association; no new breed of cattle shall be introduced on the property;

- the right to continue to raise and maintain Florida Cracker horses;
- the right to continue to maintain and operate grantor's existing native plant nursery and to plant and cultivate native plants and trees in the area designated as nursery area in the baseline documentation; grantor may convert the nursery area into other agricultural activities that are allowed by this easement; fertilizer application shall be in accordance with agricultural best management practices recommended by the Florida Department of Agriculture and Consumer Services;
- the right to continue existing agricultural practices as described in the baseline documentation;
- the grantor shall have the right to conduct ecotourism activities, including motorized coach tours, hiking, non-motorized biking and horseback riding tours over existing roads and trails, and to conduct walking tours over boardwalks installed in accordance with permits obtained for the purpose from authorities with jurisdiction;
- the right to construct 32 of the 140 lodge units allowed by the Planned Unit Development (PUD) approved by Osceola County, which may consist of a main lodge, villas, or cabins, and retains the right to construct ancillary food service structures, observation and educational facilities, a conference building, picnic facilities, up to three residences for management employees, and maintain the existing landing strip; the ancillary food service structures, observation and educational facilities, for management employees, and landing strip are intended for use by lodge residents and staff and are not intended to be commercial enterprises for unrestricted public use; the total area of the structures referred to herein shall not exceed a footprint of 50 acres, and no development may occur within 150 feet of an area designated as wetland in the baseline documentation; and
- the grantor reserves the right to construct one residence for his and family use, the residence and associated outbuildings may not be located in any area designated as a natural area in the baseline documentation, and all structures must be located at least 150 feet from any area designated as wetland in the baseline documentation.

**Encumbrances**

All mortgages and liens will be satisfied or subordinated at the time of closing. There is an outstanding one-half interest in the oil, gas, and mineral rights to a third party. Further due diligence is being completed to confirm that their interest does not include the right of exploration or entry. The Bureau of Geology has indicated that there is a low potential for oil, gas, or mineral exploration. There are three typical utility easements in favor of Florida Power Corporation that are located by the existing power lines. The improvements include 140 plus miles of electric fence stretched across the property, one residence, one mobile home, two equipment/storage pole barns, corral building, pump shed and small tack house, 28 plus two-inch to four-inch wells, open arena area, two stables, nursery with associated small structures, an airstrip, large ranch house for workers, one room cracker home, a bath house, screened

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**Item 2, cont.**

dining/meeting hall, a bunkhouse/lodge building, and camp improvements. There are five rights-of-way within the Allen Broussard Conservancy, Inc. property. Due diligence has determined that these road rights-of-way do not provide public access on the property. The appraisers considered the outstanding oil, gas, and mineral interests, utility easements, all the improvements, and the rights-of-way in their valuations of the property. The future conservation easement monitoring agency, Department of Environmental Protection (DEP), Office of Environmental Services (OES) can monitor the easement with these conditions. 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. Therefore, DEP staff will review, evaluate, and implement an appropriate resolution for these and any other title issues that arise prior to closing.

**Closing Information**

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

**Management**

The property will be monitored by DEP, OES.

**Comprehensive Plan**

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

(See Attachment 2, Pages 1-76)

**RECOMMEND APPROVAL**

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**Item 3      Island Town Yacht Club, LLC Recommended Consolidated Intent/Lease**

**REQUEST:** Consideration of an application for (1) a five-year sovereignty submerged lands lease containing 55,416 square feet, more or less, for a 104-slip private residential multi-family docking facility (76 slips over sovereignty submerged lands).

**COUNTY:**      Volusia  
                    Lease No.  
                    Permit No. 4-127-97080-2  
                    Application No. 4-127-97080-2

**APPLICANT:** Island Town Yacht Club LLC



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**Item 3, cont.**

**LOCATION:** Section 17, Township 17 South, Range 34 East, in the Indian River, Class III Waters, within the local jurisdiction of the city of New Smyrna Beach  
Aquatic Preserve: No  
Outstanding Florida Waters: No  
Designated Manatee County: Yes, with an approved manatee protection plan  
Manatee Aggregation Area: No  
Manatee Protection Zone: shore-to-shore slow speed zone

**CONSIDERATION:** \$33,269.25 representing (1) \$9,785.07 as the initial annual lease fee computed at a base rate of \$0.14126 per square foot, and including the initial 25 percent surcharge payment; and (2) \$23,484.18 as the one-time premium pursuant to section 18-21.011(1)(c), F.A.C. Sales tax and county discretionary sales surtax will be assessed pursuant to sections 212.031 and 212.054, F.S. The lease fee may be adjusted based on six percent of the annual income pursuant to section 18-21.011(1)(a)1, F.A.C.

**STAFF REMARKS:** In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., the attached "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 that 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, St. Johns River Water Management District (District) 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 land, whether or not the activity qualifies for a permit, the District will issue a "Consolidated Notice of Denial."

**Project Synopsis:**

The proposed project consists of a 104-slip private residential multi-family docking facility, with 76 slips over 55,416 square feet of sovereignty submerged lands. The facility will be for the exclusive use of the upland residents and accommodate private recreational vessels ranging in lengths from 24 to 40 feet with a maximum draft of 2.0 feet.

**Background**

On June 17, 2005, the District issued Environmental Resource Permit No. 40-127-97080-1 authorizing construction of a surface water management system serving a 14.39-acre multi-family residential development that consists of 7 multi-family residential buildings with 202 units and a 8,970-square-foot commercial complex. No wetland impacts were associated with project development. On September 23, 2005, a modification to Environmental Resource Permit No. 40-127-97080-1 was submitted seeking authorization for the construction of a private residential multi-family docking facility.

The applicant has provided evidence of sufficient upland interest through warranty deeds and a lease. The uplands at the site are filled, formerly submerged, sovereignty lands conveyed by Board of Trustees' Deed No. 18059-A in 1959 to the city of New Smyrna Beach. The city of New Smyrna Beach subsequently deeded all but 20,000 square feet of this conveyance to private parties; including the applicants predecessors in title. The remaining 20,000 square feet has been leased to the applicant from the city of New Smyrna Beach for a term of 40 years.

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**Item 3, cont.**

**Project Detail**

The project is not expected to have adverse impacts to natural resources. The marina configuration has been designed to eliminate impacts to seagrass areas or sensitive benthic communities.

The proposed size of the lease area, pursuant to section 18-21.004(4)(a), F.A.C., does not exceed the 40 to 1 criteria, using 1,477 linear feet of shoreline.

Pursuant to section 18-21.004(4)(g), F.A.C., a proprietary conservation easement will be placed over the entire shoreline (1,477 linear feet) of the subject parcel to prohibit construction of additional docks on sovereignty submerged lands in association with the private residential multi-family docking facility. This has been included as a special approval condition.

**Noticing**

The applicant has provided notice of the proposed sovereignty submerged lands lease to adjacent property owners within 500 feet of the proposed project. The District has received correspondence from two individuals objecting to the proposed project and requesting notice of any proposed agency action. These individuals are included on the distribution list for this project. District staff sent a letter to the objectors explaining the proposed project. The applicant has worked with both objectors to resolve their issues.

**Permit Summary**

The environmental resource permit prohibits liveaboards, sewage pumpout facilities, and fueling facilities. The applicant has committed to operate the marina under the Department of Environmental Protection's Clean Marina guidelines.

**Commenting Agency**

The recommendations of the Florida Fish and Wildlife Conservation Commission (FWC) regarding the protection of manatees have been addressed in the permit and/or included as special lease conditions. Volusia County is a designated manatee county with an approved manatee protection plan. FWC stated the proposed project is consistent with the plan.

**Comprehensive Plan**

A local government comprehensive plan has been adopted for this area pursuant to section 163.3167, F.S.; the proposed action is consistent with the adopted plan according to a letter received from the City of New Smyrna Beach.

(See Attachment 3, Pages 1-27)

**RECOMMEND APPROVAL SUBJECT TO THE SPECIAL APPROVAL CONDITION,  
THE SPECIAL LEASE CONDITIONS, AND PAYMENT OF \$37,146.75**

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**Item 4 Gulfstream Natural Gas System, L.L.C. Recommended Consolidated Intent/  
Easement**

**REQUEST:** Consideration of an application for (1) a 25-year sovereignty submerged lands public easement for a 1.7-mile subaqueous natural gas transmission pipeline; and (2) a letter of consent for the temporary pipeline construction activities outside of the proposed easement area.

**COUNTIES:** Hillsborough and Pinellas  
Easement No. 40846  
BOT No. 520232143  
Application No. 29-0166697-037

**APPLICANT:** Gulfstream Natural Gas System, L.L.C.

**LOCATION:** Section 22, Township 30 South, Range 17 East, in Old Tampa Bay, within the local jurisdiction of the city of St. Petersburg  
Aquatic Preserve: Pinellas County Aquatic Preserve  
Outstanding Florida Waters: Class II  
Designated Manatee County: No  
Manatee Aggregation Area: Yes, Progress Energy Bartow, St. Petersburg  
Manatee Protection Speed Zone: No

**CONSIDERATION:** \$125,389.38 for a 25-foot-wide easement as a one-time easement value and enhanced value fee at the rate of \$5.5913 per linear foot (based on a minimum width of ten feet) that crosses sovereignty submerged lands, and prorated for any increases in width due to the placement of gabions or mats, covering the pipeline. Sales tax and county discretionary sales surtax will be assessed pursuant to sections 212.031 and 212.054, F.S., if applicable. The one-time easement value and enhanced value fee shall be determined based upon receipt of an acceptable survey and legal description of the easement area.

**STAFF REMARKS:** In accordance with rules adopted pursuant to sections 373.427(2) and 253.77(2), F.S., this "Recommended Consolidated Intent" 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. 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."

**Project Synopsis**

The applicant has proposed a 25-foot-wide public easement for the installation and operation of a subaqueous natural gas pipeline. The easement will cross 1.7 miles (8,970 linear feet) of sovereignty submerged lands and contain approximately 224,258 square feet (5.15 acres). The applicant is also requesting authorization for the construction of the pipeline outside the easement area. The construction area is approximately 100 feet on each side of the centerline of

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**Item 4, cont.**

the easement, the width of which is dictated by the larger construction vessel and anchoring system required to handle working in offshore conditions. Because the construction activities are temporary and short-term, they qualify for a letter of consent.

**Background**

On January 23, 2001, the Board of Trustees approved a 30-year public easement for the construction of a 753 mile, 16- to 36-inch-diameter subaqueous pipeline to transport natural gas from plants in Mississippi and Alabama to markets in central and southern Florida. The 36-inch diameter portion extending across the Gulf of Mexico and Tampa Bay, made landfall at the Port Manatee facility in northern Manatee County. The offshore portion of the project was completed in 2002 and the onshore portion in 2006.

**Project Detail**

The proposed 20-inch-diameter natural gas pipeline spur will connect to the existing 36-inch diameter natural gas pipeline (Line 200) at a point about two miles west of Port Manatee in Tampa Bay and run 17.74 miles north to the existing Progress Energy Bartow Power Plant on the east shore of St. Petersburg.

The proposed corridor extends approximately 15.5 miles along the submerged bottom of Tampa Bay through a portion of Hillsborough County; however, former sovereignty submerged lands in Hillsborough County, pursuant to a legislative act, are owned and managed by the Tampa Port Authority. Approximately 2.24 miles of corridor is within Pinellas County, of which 1.7 miles (8,970 linear feet) is on sovereignty submerged lands and within the Pinellas County Aquatic Preserve. The remaining 0.54 mile lies within the boundaries of Board of Trustees' Deed No. 21268 to Florida Power Corporation.

The purpose of the pipeline is to meet the increased demand for natural gas largely for electrical power generation. Florida Power Corporation (d/b/a Progress Energy Florida, Inc.) is scheduled to re-power its 472 megawatt oil fired Bartow Plant in Pinellas County with three combine cycle gas turbines that will generate 1,100 megawatts of power. The main environmental benefits of the project are cleaner air from burning natural gas instead of coal and oil and the reduction of the risk of spills incurred through the transportation and handling of refined oil.

The applicant studied several different alignment alternatives in order to determine which alignment would be the least impacting to the marine environment. Also, taken into account in choosing the alignment were the engineering parameters associated with pipe installation, safety factors such as the location of existing underwater obstacles such as shipping channels, shipwrecks and rocks, and stability factors such as currents and submarine relief features.

Five horizontal directional drills will be conducted over the entire 17.74 miles of the project including one drill 0.94-mile long within the Pinellas County Aquatic Preserve. The purpose of the horizontal directional drill is to go a minimum of 10 feet beneath the Bartow Channel which barges use to carry fuel to the power plant and to bypass seagrass beds and other valuable

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**Item 4, cont.**

resources in the aquatic preserve. The other 0.76 mile within the aquatic preserve contains no sensitive resources and will be trenched with excavated material to be backfilled over the pipe.

During the Phase I pipeline construction in the Terra Ceia Aquatic Preserve, the applicant encountered unanticipated obstacles in the form of limestone formations not previously detected in its geotechnical surveys. Attempts were made to cut through the limestone with a plow, the applicant's planned construction methodology for the particular area. When using a plow, the pipeline is installed at the same time. Upon discovering that the plow would not excavate to the required depth, no other construction methodologies could be used. Due to the interference of the pipe, the trench could not be excavated to design specifications. As a result, the pipeline had to be partially installed above grade with large amounts of sand and rock having to be brought in to cover the pipe. The placement of the sand, in particular, caused the generation of large turbidity plumes which are harmful to the marine environment.

To address the risk of possible additional unanticipated environmental impacts, the applicant shall provide DEP with financial assurance in the form of a Letter of Credit, Surety Bond, or some other pre-approved financial instrument for inadvertent or non-permitted environmental damage in the amount of \$5,000,000 in order to compensate the state for the costs of reasonable measures taken to prevent or limit environmental damage and for clean-up and restoration of the environment to its previous state; and to cover costs where responsibility for the damage cannot be determined, or where those liable are insolvent.

The proposed public easement is nonexclusive and, if approved, would contain a standard condition that provides the Board of Trustees, as grantor, the right to grant to third parties compatible uses of the easement property.

The subject application is being presented to the Board of Trustees pursuant to section 18-21.0051(4), F.A.C., because the size and nature of the project may elicit heightened public concern.

**Public Interest**

To construct the pipeline through the aquatic preserve, the applicant must show the project to be in the public interest pursuant to section 18-20.004(1)(b), F.A.C. Staff is of the opinion that the proposed project is in the public interest because of the applicant's offer to remove exotic plant species consisting of Australian Pine and Brazilian Pepper on approximately 2.75 acres of uplands located in the Weedon Island Preserve. The lands are located in the immediate vicinity of the proposed project and managed by the Pinellas County Lands Division. The proposed public interest has been reviewed and approved by DEP's Office of Coastal and Aquatic Managed Areas (CAMA). CAMA reported that the exotic removal and the required follow up monitoring for a three year period will help ensure that the native species planted in two previously restored areas in the preserve are allowed to regain a foothold. Allowing the native species to thrive will improve habitat for nesting and shore birds in the Pinellas County Aquatic Preserve.

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**Item 4, cont.**

**Noticing**

The project was noticed pursuant to section 253.115, F.S. Other than Florida Power Corporation, there are no property owners within a 500-foot radius of the proposed easement area. All interested parties on the county and statewide mailing lists were noticed; no comments or objections were received prior to the end of the 30-day comment period.

**Commenting Agency**

The recommendations of the Florida Fish and Wildlife Conservation Commission regarding the protection of manatees have been addressed in the environmental resource permit.

**Comprehensive Plan**

A consideration of the status of the local government comprehensive plan was not made for this item. DEP has accepted the applicant's claim of preemption by regulation under the Federal Energy Regulatory Commission process.

(See Attachment 4, Pages 1-55)

**RECOMMEND APPROVAL SUBJECT TO THE SPECIAL APPROVAL  
CONDITION, THE SPECIAL EASEMENT CONDITIONS, AND  
PAYMENT OF \$125,389.38**